

JOINT FISCAL COMMITTEE

Legislative Office Building, Room 210-211

Concord, NH

Friday, November 22, 2013

MEMBERS PRESENT:

Rep. Mary Jane Wallner, Chair

Rep. Ken Weyler

Rep. Peter Leishman

Rep. Bernard Benn (Alt.)

Rep. Naida Kaen (Alt.)

Sen. Jeanie Forrester

Sen. Bob Odell

Sen. President Chuck Morse

Sen. Sylvia Larsen

Sen. Andy Sanborn

(The meeting convened at 9:37 a.m.)

1. Acceptance of Minutes of the October 18, 2013 meeting

CHAIRWOMAN WALLNER: Good morning. And let's open the Fiscal Committee meeting of November 22nd. I'm sorry that we're running a few minutes late. And the first thing we need to do is take a look at the minutes from the meeting of October 18th. And do I see any corrections to those? Everyone had a chance to take a look at them? Seeing no corrections --

** REP. WEYLER: Move approval.

CHAIRWOMAN WALLNER: -- or changes.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: Representative Weyler moves that the minutes be accepted and Senator Larsen seconds. All in favor? Any opposed? The motion passes.

*** {MOTION ADOPTED}

2. Old Business:

CHAIRWOMAN WALLNER: Now we go to Old Business. And I believe on the table we still have an item about an audit of the Police Standards and Training. Anyone like to have that one removed from the table? Seeing no -- seeing no recommendations to remove it from the table, we'll leave it on the table till the next time.

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

CHAIRWOMAN WALLNER: Moving into Tab 3. It is Department of Safety request to transfer \$1.4 million. Do I see a motion?

** REP. BENN: So moved.

CHAIRWOMAN WALLNER: Representative Benn moves.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: And Senator Larsen seconds. Any discussion? Seeing none. All in favor? Any opposed? The motion passes.

*** {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:

CHAIRWOMAN WALLNER: Next we come to consent items. We have one, two, three, four, five items. Is there anyone who would like to take any of them off consent?

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REP. LEISHMAN: Yes, Madam Chair.

SEN. SANBORN: Yes, ma'am.

REP. LEISHMAN: 239, DES request.

CHAIRWOMAN WALLNER: Representative Leishman, would like to take off Item 239 and --

SEN. SANBORN: Madam Chair, 254, please.

CHAIRWOMAN WALLNER: Senator Sanborn would like to take off Item 254. And any further items to come off?

SEN. SANBORN: Hum -- no, ma'am.

REP. LEISHMAN: 257, Madam Chair.

CHAIRWOMAN WALLNER: And Representative Leishman would like to take off Item 257. So that leaves us with two items on Consent, 245 and 256. Let's vote on those, and then we can move into the items we've taken off.

All in favor of Item 245 and 256? Any opposed? No, I need to get a motion. I'm sorry. Can I have a motion to --

** SEN. LARSEN: Move approval of Items 245 and 256.

CHAIRWOMAN WALLNER: Thank you, Senator Larsen. Senator Larsen moves. And --

REP. KAEN: Second.

CHAIRWOMAN WALLNER: And Representative Kaen seconds that we approve 245 and 256. All in favor? Any opposed? None opposed. So the matter passes. Those two items pass.

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*** {MOTION ADOPTED}

REP. LEISHMAN: Madam Chair, I apparently made a mistake on 239. I'd written on my note see Page 15 in that package which is actually referring to Item 245 that Senator Sanborn removed. So I apologize. I have no problem with 239.

CHAIRWOMAN WALLNER: Okay.

** SEN. ODELL: Move acceptance of 239.

CHAIRWOMAN WALLNER: Senator Odell moves acceptance.
And --

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: Senator Forrester seconds. All in favor? Any opposed? So 239 is also passed.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: And let's move to 254, and I believe Senator Sanborn and Representative Leishman both have questions about that item. So if someone from Department of Resources could join us that would be great. Start by introducing yourself.

BRAD SIMPKINS, Interim Director, Division of Forests and Lands, Department of Environmental Services: Good morning, Madam Chair, Members of the Committee. My name is Brad Simpkins. I'm the Interim Director of the Division of Forests and Lands within the Department of Resources and Economic Department. And with me today I have Susan Francher who's the Administrator of the Planning and Community Forestry Bureau, and she's also the one who administers the Forest Legacy Program for the agency.

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CHAIRWOMAN WALLNER: Thank you. Thank you for being here.

SEN. SANBORN: Be happy to defer to the gentleman from Peterborough.

CHAIRWOMAN WALLNER: Okay. Representative Leishman, any questions about this item?

REP. LEISHMAN: Thank you to the gentleman from Bedford. I just have a quick question on Page 15. There's a section that's 2.J, Permitted Excavation, and it says that local approval is necessary before any such activities exist and that's down further on 2.L and under permitting.

MR. SIMPKINS: Hm-hum.

REP. LEISHMAN: Are those towns or areas Cambridge, Wentworth Location? Is there any population there or who covers like the local control aspect of permitting? Is that a County thing?

MR. SIMPKINS: Yes, Coos County does that. This project is in three towns, Errol, Wentworth Location and Cambridge. Errol is incorporated, has its own -- its own government. The other two towns being unincorporated, they go to the county, Coos County.

REP. LEISHMAN: So any gravel removal permits or any other activities would require County approval?

MR. SIMPKINS: Correct.

REP. LEISHMAN: No municipal.

MR. SIMPKINS: Same with timber sales, too. The intent to cut and stuff would go to the County.

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REP. LEISHMAN: Thank you very much. That's all I have, Madam Chair.

CHAIRWOMAN WALLNER: Senator Sanborn.

SEN. SANBORN: Thank you, Madam Chair. Thank you both for coming, truly appreciate it. I just have a couple general questions because, obviously, this is the first time I'm seeing this, and knowing they don't want to stop great conservation and we find people that want to come to the table. But I hear from residents and constituents up especially in the Errol area on a regular basis just about how much conservation has gone on and the fact that I think now 75 or 80% of the lake is now inhibited. And now I'm seeing kind of a push heading west. So talk a little bit about what is the plan and how much more conservation people are looking at or might be on the table for discussion, acknowledging what some of the concerns are for the locals about just how much of the town has really been restricted at this point?

MR. SIMPKINS: Sure. That's a great question. A couple years ago the Coos County Commissioners actually sent a letter to the Congressional delegation asking that a moratorium with anymore Federal dollars being put into land conservation up there. The primary issue was the ownership by the Federal Government, the expansion of the Umbagog National Wildlife Refuge.

SEN. SANBORN: Yes.

MR. SIMPKINS: There were a series of several meetings set up there. I attended those meetings. The concern was when the land goes to Federal ownership it changes some of the traditional uses, the working forests, those types of things. This easement was discussed at several of those meetings and there was great support for this easement.

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Because what the easement does it allows the ownership of the land to remain private. This would not be held by the State. The State would retain the easement on the development rights and access to recreation. So what this easement actually does is perpetuate the traditional uses of that property versus being owned and fed by the Federal Government. One of the interesting things about this project, and there is a map with your packet.

SEN. SANBORN: Yes.

MR. SIMPKINS: Part of the easement area is actually within the acquisition boundary of the Umbagog National Wildlife Refuge, and we actually had to get permission from the Fish and Wildlife Service in order to do that, because normally they plan to own everything within their acquisition boundary and fee.

SEN. SANBORN: Right.

MR. SIMPKINS: One of the reasons they agreed to that was because of this issue where we are actually going to have an easement within their acquisition boundary but the land will stay in private hands versus Federal ownership, and we'll have the easement on it. So it kind of -- it fulfills their mission of keeping the land conserved and, you know, making sure it's not developed, but it also helps fulfill our issue and the issues of the residents around there about continuing Federal acquisition.

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

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: Are there any additional plans at this point that you're aware of of trying to conserve any additional land up in that neck of the woods after this

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program's committed?

SUSAN FRANCHER, Administrator, Planning and Community Forestry Bureau, Department of Resources and Economic Development: We do have a Forest Legacy Project that is south of Androscoggin Headwaters in the Mahoosuc Region around Success Pond.

SEN. SANBORN: Hm-hum.

MS. FRANCHER: It's a fairly large acreage project as well. Again, a lot of local support. The formula will pretty much be the same where we would have a conservation easement over land that would remain primarily privately owned and in Forest Legacy for New Hampshire these easements are working forest easements.

SEN. SANBORN: How many acres is that project?

MS. FRANCHER: That project is under 20,000 acres, but off the top of my head I couldn't tell you.

SEN. SANBORN: Thank you.

MS. FRANCHER: But it's substantial.

SEN. SANBORN: Substantial.

MS. FRANCHER: As this is.

SEN. SANBORN: Thank you very much. I appreciate it, Madam Chair.

CHAIRWOMAN WALLNER: Further question. Yes, Senator Odell.

SEN. ODELL: Thank you very much, Madam Chair. How long

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has this project been in development?

MS. FRANCHER: Five years, I think.

SEN. ODELL: Five years. And may I follow-up?

CHAIRWOMAN WALLNER: Yes.

SEN. ODELL: And as you come before us today, tell me about the opposition to this easement concept from people in that area?

MR. SIMPKINS: As I mentioned, I've attended I think -- oh, I may have missed one, but I've attended most of the meetings up there regarding, you know, the feedback from the letter the County Commissioners had sent, and we have found widespread support for this easement up there because the land stays in private ownership. But it will keep it, you know, traditional snowmobile use, hunting, fishing, all those types of things that go on the property now as well as working forests. One of the big reasons that that letter was sent in by the County Commissioners was the fear that if the Federal Government purchased the land for the wildlife refuge, there would not be near as much timber cut. So there was a concern about impacts to the forest products industry in Coos County, as well as the timber tax which is a significant portion of the County budget. And so as Susan mentioned, our easements in New Hampshire are working forest easements. So that private landowner will continue to manage that property as it has been. Historically, it's been managed for over 200 years. So the property with this easement will continue to be an economic driver for that part of the county and the state.

SEN. ODELL: Thank you.

CHAIRWOMAN WALLNER: Any further questions? Thank you

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very much --

MR. SIMPKINS: Thank you.

CHAIRWOMAN WALLNER: -- for answering our questions. Do I see a motion?

** SEN. ODELL: I will move the item.

SEN. SANBORN: I'll second it.

CHAIRWOMAN WALLNER: Senator Odell moved and Senator Sanborn second. Any discussion on this item? All in favor? Any opposed? The item passes.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Moving on to Item 257, and this is an item Department of Justice in conjunction with Department of Environmental Services. Should we bring them -- have them both come up for questions? Sure.

ANN RICE, Deputy Attorney General, Department of Justice: Good morning, Madam Chair. My name is Ann Rice. I'm the Deputy Attorney General. With me from the Department of Justice is Allen Brooks who's the Chief of our Environmental Protection Bureau.

MICHAEL WIMSATT, Director, Waste Division, Department of Environmental Services: Mike Wimsatt, Service Director of the Waste Division for the Department of Environmental Services.

CHAIRWOMAN WALLNER: Thank you for coming. Welcome. I think that we do have some questions. Representative Leishman, do you have some questions about this particular item?

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REP. LEISHMAN: I do, but I'll extend the courtesy to my friend from Bedford with questions as well this time.

SEN. SANBORN: Madam Chair. Thank you so much Representative from Peterborough.

Ladies and Gentlemen, thank you so much for coming up today. A couple questions, if I might. You reference that there's a net amount of \$81 million after legal costs and administrative fees. What were the legal costs and administrative fees to settle this thing?

MS. RICE: The legal costs --

ALLEN BROOKS, ESQ., Senior Assistant Attorney General, Division of Public Protection, Department of Justice: I don't have a figure on the legal costs. The -- the breakdown is that it was outside counsel fees which was a contingency fee. That started at about a third and ratchets down as time goes on. Now it's going to be around 15 to 20%. There was over \$10 million in actual court costs. That means paying for experts. You know, copying, presenting, you know, your exhibits at trial. We looked to get all that back at the final judgment because costs are something that we can recover in the Exxon judgment for those that went to trial; but that was basically that brought it down from a total amount of \$136 million to approximately 90, \$91 million. There was an additional portion of that \$91 million that went to the FY13 General Fund, I believe, as administrative expenses and that gets us down to 81 mil.

SEN. SANBORN: Right. I apologize for that. Thank you. Follow-up, Madam Chair.

CHAIRWOMAN WALLNER: Yes.

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SEN. SANBORN: You indicate that you're creating a new remediation bureau within the agency. And because I don't understand, is that also set to sunset once the funds have been expended or you looking to continue that agency? If you're making a new agency, how it's created, how long does it run, and when does it stop?

MR. WIMSATT: Sure. Thank you, Senator, that's a great question. No, we would anticipate that that bureau exists only for the purpose of administrating the settlement funds and the work plan that would go along with them. Once those funds are expended and that work is completed, the expectation is that that would go away and that's why the positions that are being sought seeking approval for here are temporary positions. And the other positions that are being transferred, vacant -- existing vacant positions within DES are being transferred on a temporary basis only for the duration of the work plan implementation.

SEN. SANBORN: If I may follow-up? Part of my question I've been wrapping in both this Item 254 and 257. I thought combined it looked like about 23 positions in total and some of them reference a permanent position. So that's why I was a bit confused. You're looking at 23 FTEs to run this program between both sides as I added up or am I making a mistake?

MR. WIMSATT: No, sir. The total number is 13 positions. It's five -- the item seeks approval for the creation of five new temporary full-time positions, and then an additional eight existing vacant and they're permanent vacant positions within DES. They're positions that we don't believe -- in the programs that they're currently housed in, we don't believe that we either would have funding available through Federal or dedicated funds that should hire those positions. Or they're in programs where the work levels because they're tied to land

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development and the economy are going to be high enough that we will need those positions in the immediate future. So the idea is to transfer those temporarily on a temporary basis to this MTBE Remediation Bureau to do the work of the Bureau using the settlement funds. But once that work is done or once they're needed back in their original programs they would go back. It's not 23 positions. It's a total of 13.

SEN. SANBORN: And last follow-up, if I may?

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: So if you expend the roughly \$81 million that's in this balance, are you looking towards the next settlement, I think the Mobil settlement, to continue the program or would you stop and recommit to something else?

MR. WIMSATT: Our approach on this has been because the verdict funds from the trial are in question, they're subject to appeal, we are treating this as though this is the only money that will be available to address the problem. And the work plan that we are working on in developing is focused on and assumes that we are going to work on priorities because we don't have enough money to address the entire problem that we believe we have. We are looking to address the most significant aspects of that problem. And we're assuming that there will be no additional funds once those \$81 million are expended.

SEN. SANBORN: Thank you for your answer, Mike. I truly appreciate it. Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Yes, Representative Leishman.

REP. LEISHMAN: Thank you, Madam Chair. Now as I understand, this new bureau will implement a plan with the

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approval of the Attorney General's Office. In looking at the Memorandum of Understanding, I'd just like to see one minor change. I do see that any DES approvals over a million dollars would require the Department of Justice, but it's also calling for a report to be given by DES to the Department of Justice quarterly. I think it should be monthly. And if a copy of that report could be provided to the Fiscal Committee, I think it would be helpful.

MR. WIMSATT: Certainly.

REP. LEISHMAN: Thank you.

MS. RICE: I don't think either party would have a problem with that, Representative Leishman.

REP. LEISHMAN: Thanks.

CHAIRWOMAN WALLNER: Thank you. Representative Benn.

REP. BENN: Thank you, Madam Chairman. I just want to address -- go back to your comments before about the -- basically there's a discrepancy between the amount of money that you have, the 82 million, and the scope of the problem of the actual work. And you know that you're not going to have enough money to complete the remediation of all the problem. And so which is it that -- when do you stop? I mean, the new agency that you've created is when the money runs out or is it when the work, somehow if you found new money eventually to complete the work?

MR. BROOKS: Take it first.

MR. WIMSATT: Sure.

MR. BROOKS: As we stated, there won't be any shortage of problems to fix. The jury found that to remedy all of

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the MTBE contamination in New Hampshire would cost \$860 million. We only have about a tenth of that right now, possibly more from litigation, but we have no idea. We are functioning, again, under the assumption we are only going to have \$80 million. So within the work plan that was developed it was focused on if you only had \$80 million what could you do. That included high priority sites. The things that we think need to be done quickly and, most of all, it included a portion of sampling. But the -- as you go through the \$860 million, the largest portion of that is the sampling program and the testing program. Because you have 250,000 private wells in New Hampshire. You have to locate all of those. You have to contact all of those, test all of those. And then once you tested all of them, you found presumably approximately 5,000 wells to be remediated. That's a lot of the chunk of \$860 million before you actually get to start remediating that. So that's kind of the big ticket item that will be, you know, a portion of that will be done. But much of that won't be able to be done under the \$81 million because we do have identified sites with MTBE problems right now that we are going to spend a lot of time and money focusing on the 80 million, and Mike can tell you all about that.

MR. WIMSATT: That's a great introduction. And what I would expand on is that, you know, of those 250,000 private wells in the state, they're located throughout the state. By prioritizing, we are going to look at the groups of wells that are most likely to be at risk of MTBE contamination, either because of their geographic location to population density and gas stations and that sort of thing or their actual location near known sites. And so this work will focus on that. And it will mean, as Allan said, we won't be in a position to try to get a sample from all quarter of a million private wells in the state. But what we'll attempt to do is look at those wells that are most likely to be at risk and get them analyzed and when we

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find problems, develop solutions to address those problems.

REP. BENN: Just follow-up.

CHAIRWOMAN WALLNER: Yes.

REP. BENN: I understand that part. My question is when you run out of money, what is the next -- what happens at that point? Do you disband this new group that you're creating or do you anticipate trying to go for more money and keeping the group together, keeping the effort moving ahead? I mean, are you --

MR. WIMSATT: I think, you know, to the extent that there are continuing problems out there that we know we need to address and there are funds available, we would come back to the Committee and talk about that. At this point we're assuming that for the next several years that \$81 million is what we have to work with, and we want to do everything we can to find those folks who are drinking contaminated water and don't know it and get a solution for them.

REP. BENN: Thank you.

CHAIRWOMAN WALLNER: Thank you. Further questions? Thank you very much.

REP. WEYLER: We need a motion.

CHAIRWOMAN WALNER: We need a motion on Item 257. There a motion?

** REP. LEISHMAN: Move approval.

CHAIRWOMAN WALLNER: Representative Leishman moves.

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SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: Senator Larsen seconds that we accept this item. Any discussion? All in favor? Any opposed? The item passes.

MS. RICE: Thank you.

*** {MOTION ADOPTED}

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

CHAIRWOMAN WALLNER: Thank you. Now we'll move into Item 13-246. And do we have -- do we have further questions of the Department of Environmental Services concerning this item?

SEN. SANBORN: No, ma'am.

CHAIRWOMAN WALLNER: It's the same. Okay. Do I see a motion?

** SEN. LARSEN: Move approval.

CHAIRWOMAN WALLNER: Senator Larsen moves approval. Do I see a second?

REP. KAEN: Second.

CHAIRWOMAN WALLNER: And Representative Kaen seconds. Any discussion on this item? All in favor? Any opposed? The item passes.

*** {MOTION ADOPTED}

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6. RSA 7:12, Assistants:

CHAIRWOMAN WALLNER: Moving on to Tab 6 in our book. This is Item 252. Do I see a motion?

** REP. LEISHMAN: Move approval.

CHAIRWOMAN WALLNER: I'm sorry. I'm sorry, we have to go back to Item 247. Item 247 sort of up there in the corner. This is the Insurance Department. It's an item to expend \$2.3 million. Do we have questions of the Insurance Department?

SEN. SANBORN: Please.

CHAIRWOMAN WALLNER: Yes, Senator Sanborn has some questions. Could I ask someone to come up? Thank you.

Thank you. Could you introduce yourself?

TYLER BRANNEN, Health Care Policy Analyst, Department of Insurance: Yeah, I'm Tyler Brannen. I am the Health Policy Analyst with the Department. I'm also the Project Director for the Premium Rate Review Grants which this is cycle three and happy to answer any questions. I'm here with Al Couture.

AL COUTURE, Insurance Company Examiner, Department of Insurance: I'm a Senior Examiner with the Insurance Department.

CHAIRWOMAN WALLNER: Thank you. Senator Sanborn.

SEN. SANBORN: Thank you, Madam Chair. Gentlemen, thank you for coming. Obviously, you guys are having some very busy days dealing with all types of issues. And I tip my

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hat how hard all you guys over there are working trying to get your arms around all of these issues we are facing today. Specifically, as it relates to transparency of rates, there seems to be a fair amount of public outcry today about a lack of transparency of rates, especially with the approval and implementation of the ACA. Explain to me how this program is going to help all these people today and tomorrow? 'Cause with the President's order to delay for a year, we are going to be revisiting this next October when all the new policies get cancelled. And how can we provide better transparency to what's going on and how does this program, if we invest the money into it, going to help resolve the angst I'm seeing out there in the community today?

MR. BRANNEN: It's like a little bit going through a storm. You can't do anything about the storm, but you can at least be prepared and bring a raincoat.

New Hampshire, we've been working on this for a few years and working on the grants. New Hampshire's been at an advantage in some ways and a disadvantage in other ways. Our small group market didn't have the same type of disruption due to the ACA as the individual market. The individual market is going through a number of very significant changes, radical premium swings. The one -- two of the more visible things that we've used these types of funds for in the past are a public hearing, annual public hearing that we have held in the fall and we talk about what's going on with rates. We have got the carriers there. We extract a lot of data from them. It's a public hearing so we actually have participation from the public and we had a couple legislators this past fall. And one of the main topic areas was Anthem's narrow network. What is the impact of this? How is it influencing rates, et cetera?

One of the other major projects that was done is an

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economic model of the individual market trying to figure out what was going to happen in 2014 as we made those huge changes. The changes we anticipate to the market rules, well, really that we knew about maybe a year ago, and there were some questions this past summer because of what New Hampshire's market rules would actually end up being would allow us to actually project what was going to happen with those premiums. So going forward to the extent that the President's made some additional changes to the extent we understand a little bit more about the current situation, one of the things we intend to do is revisit that modeling and try and figure out what it means for 2014 and 2015 in light of a lot of these changes.

The other major component of this grant is focusing on what we have done in the area of price transparency to the extent that New Hampshire has the health cost website which has received a huge amount of national attention. It's most simplest level it just tells people prices for common health care services at different hospitals, depending on who they're insured by. But the potential of that website and the information we are delivering to consumers, and I think in the future to providers and insurance companies, is huge. I think it could help our markets function a lot more efficiently, potentially bring in more competition, and I think just better inform policymakers and the public about what's going on, which as you can imagine for both of us has been a huge challenge lately. So I think that's going to be the main advantage of using these funds over the next couple of years.

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

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: Thanks, Tyler. I appreciate that. As I look forward, two things are really concerning me which is

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why I'm trying to figure out when you get this information to go forward with this model. *The Wall Street Journal* announced last week that the cost of insurance for the small business community nationally under 50 employees from 2012 to 2013 has gone up 65%. In addition to that, you know in conversations that you and I have had, I typically don't put a lot of weight on adverse selection but with the President's recent order to force this delay if the Department of Insurance decides to reopen and re-extend the policies that we have, in addition to the new policies, I mean, this is going to be a nuclear event on the pooling on adverse selection. So when do you think you can get that type of information available with these funds because I think there's going to be an incredible storm coming up based upon these decisions being made down in D.C.

MR. BRANNEN: Yeah. Just to make sure everybody understands the question that Senator Sanborn is asking. We deal with kind of assumptions about the risk pools because the health status of the underlying population drives the premiums more than anything else.

To the extent we made a lot of assumptions about 2014, one of them is that all the people in our high-risk pools were to end up in the individual market. So that cube listed population would end up in the individual market, which has historically been a bit of a healthier population, and that would drive the premiums.

The first thing is okay, well, what's going to happen if the high-risk pool stays open for some period of time? Now, okay, what is happening in terms of changing the effective date that the health insurance products need to comply with the ACA requirements? Anthem did a lot of offering sort of early renewal so that people wouldn't have to face those changes right away and now we have got potentially an extension on that. To the extent the

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Insurance Department plays a role in directing the market, a lot of this is still going to be a question about what Anthem actually does. And I say Anthem because Anthem really dominates the individual market with more than 80% of the members. But there are other carriers that we need to keep an eye on as well.

I think that the modeling really would need to start within the next couple of months. Assuming this is approved today and we get G&C approval in a couple of weeks, we are probably looking at findings by March. I mean, that's a guess but that's, I guess, educated guess.

SEN. SANBORN: And, ma'am, last follow-up.

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: Right. For me it's not just the high-risk pool itself, which is one area of risk, and I understand the Commissioner obviously made a public statement to extend but hasn't given any real timelines. But if you had built off your mathematical models or Anthem had that you reviewed, predicated on everyone with an individual policy going into the Exchange, inside or outside, by now the President is saying you're allowed to keep your existing plan and Anthem pushing so hard for renewals of the existing plan, which is fundamentally different than forcing everyone on the narrow network where the cost savings are. That, to me, also really implies we are going to have some real tough rate issues as we start seeing the experience on the new narrow network which, to me, dramatically different than everyone assumed it would be and the holdover. And then, of course, 2014 comes back up and it's going to be a much more even more difficult day for a lot of people. So do you feel comfortable by March you can provide either Fiscal or the Legislature some direction of where you see rates going or at least some

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financial analysis of how the adverse selection is really affecting these pools and what we might be expecting?

MR. BRANNEN: Yeah. My confidence level on a number of things is lower than it normally would be just because things are changing so much, almost on a daily basis. I mean, I'm just thinking about the amount of time it would take to put the RFP together, get somebody on board who knows how to deal with this relatively quickly, provide the information that we have to that vendor and have them run the modeling and get us information. I mean, March might be too aggressive. Maybe April or, oh, gosh, I'd hate to say May. One of the deadlines we all are going to need to be aware of is when we think about the 2015 products what carriers are going to be planning, when they have to get the approvals by the Feds and then New Hampshire state, we are talking really into June. So for this data to be really valuable, we've got to get them out in the spring.

SEN. SANBORN: Thank you, sir. Thank you, ma'am.

CHAIRWOMAN WALLNER: Further questions? I don't see any further questions. Thank you for coming.

MR. BRANNEN: Sure, thank you.

CHAIRWOMAN WALLNER: Do I see a motion?

** SEN. SANBORN: So made.

CHAIRWOMAN WALLNER: Senator Sanborn moved that the item be accepted. And do I see a second?

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: And Senator Larsen seconds. Any discussion of the item? Seeing no discussion. All in

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favor? Any opposed? The item passes. And --

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Now we'll move on to Tab 6 and it's Item 252, Department of Justice. And do we have questions?

** REP. LEISHMAN: So move.

CHAIRWOMAN WALLNER: You're moving. Representative Leishman moves and do I have a second?

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: And Sylvia -- Representative Larsen -- Senator Larsen seconds. Any discussion on this item? Seeing none. All in favor? Any opposed? The item passes.

*** {MOTION ADOPTED}

7. Chapter 144:56, Laws of 2013, Department of Corrections; Transfers:

CHAIRWOMAN WALLNER: Now we move on to Item 248 which is Tab 7, and this is Department of Corrections. Do we have questions of the Department? Yes. Senator Odell has requested some questions from the Department of Corrections.

WILLIAM WRENN, Commissioner, Department of Corrections: Good morning, Madam Chair.

CHAIRWOMAN WALLNER: Welcome.

MR. WRENN: Good morning, Members of the Committee.

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For the record, my name is William Wrenn. I'm the Commissioner at the Department of Corrections. With me today is Mr. Robert Mullen who's the Director of Administration.

CHAIRWOMAN WALLNER: Thank you. And Senator Odell.

SEN. ODELL: Thank you, Madam Chair. Good morning.

MR. WRENN: Good morning.

SEN. ODELL: Just walk us through how the money is being transferred here and what the goal is in terms of what you're trying to accomplish?

ROBERT MULLEN, Director of Administration, Department of Corrections: Thank you for the question. What we're asking to do is to transfer a million dollars to our overtime account, \$20,000 to an account for pharmaceutical supplies, and the balance of \$12,000 to temporary wages or part-time wages. To go through the detail, if I may?

On the overtime account, as indicated in the letter to the Committee, our overtime budget is \$3.4 million. As of the most recent pay period, which is ten pay periods at the middle of November, extrapolated to the end of the Fiscal Year, we are projecting an overtime of \$5.9 million -- \$5.5 million or 2.9 deficit. What has happened the past several years is we are -- our appropriation for overtime is not adequate to meet our overtime requirements. As a result of our vacancy rate, reduced staff, et cetera, we're required to have minimum staffing at all our posts at our various facilities, and in order to do that it necessitates overtime. The overtime is, depending upon the situation, depending upon the week, our correction officer staff work one to two double shifts a week.

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What we're doing on the overtime is, as we have done in prior periods, is we have kept positions vacant. It's -- we are in a vicious circle that in order to meet our overtime budget, our overtime expense compared to our budget, we have to keep positions vacant. This time in this year we have right now over 100 vacancies of which over half of them are correction officers. What we have done in the past is by keeping positions vacant, we are able to address the overtime issue.

Last year what we did is we had to transfer various monies to help the overtime. What we did last year is we transferred 1.1 million in medical in order to address the overtime deficit. What we're asking in this action today is \$675,000 going to -- from medical to the overtime account.

This year in our medical budget, our medical budget it's for contracts for MHM which is our medical provider, hospitals, other types of medical, doctor expenses, our budget is \$4.9 million. Last year our budget was \$5.9 million. It's a million dollars less. Despite that, we still at this point in time today, we feel comfortable that we're able to transfer \$670,000 to address the overtime issue. At a later point in time, based upon the vacancies that we have, again, projected for the rest of the Fiscal Year, we'll be back to the Fiscal Committee to transfer approximately \$1.5 million that we have projected in vacant positions for salaries and overtime.

In a nutshell, it's a million dollars today, it's \$1.5 million that we project for salaries and benefits, and we still have \$400,000 to go. At this point in time, I cannot tell you where -- where we plan on reducing the budget appropriately to address the rest of the overtime deficit.

CHAIRWOMAN WALLNER: Yes, Senator Odell.

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SEN. ODELL: Could I just follow-up and ask? We passed this budget in June. We had hearings. We had conversations. Where are -- we are already in our fifth month of a 24-month biennium. What happened in the last five months to throw off the discussions we had or that you had with Senator Morse about overtime, A; and B, how we could be taking, you know, over 10%, 15% of the medical budget and transferring that to overtime. Isn't somebody -- if this budget was put together for medical care, it's a million dollars less than it was the prior year, it wouldn't be adequately taking care of the people who are incarcerated.

MR. MULLEN: There's -- I have two approaches on that, Senator. First of all, on the overtime budget, overtime budget of 3.4 million, we had asked for 4.9 million. During the House phase of the budget we had asked that that be increased to 5.5 million. That request was denied in the House phase. However, there was a budget footnote proposed in the Senate phase allowing us to come back to Fiscal to ask for more overtime money that was not approved in the Senate phase.

As far as the medical budget goes, our medical budget is based upon what has happened in the prior year. It's based upon the -- the various illnesses, injuries, things of that nature, our inmate population. And what we do is we use the Medical Consumer Price Index of the prior period to project what the expense is going to be. I cannot tell you that our medical budget right now of 4.9 million is -- I can tell you today that I feel comfortable transferring \$670,000. Maybe by the end of the Fiscal Year we'll be lapsing money. Maybe during the Fiscal Year we will not have enough money. It all depends on what's happening today in the prisons. I cannot project who's going to be going on dialysis, who's going to be injured in an assault, who's going to have a heart attack. What I can say as far as the

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medical arena goes that I think we've made great strides in addressing the medical needs of our inmate population, thanks to our medical director aggressively pursuing our medical needs of the Department, along with the MHM, our contractor, I think they've done a tremendous job. Just to give you an example.

A couple weeks ago, an inmate was sentenced for Medicaid fraud. Okay. He was a -- I believe a quadriplegic. The court order and when the judge sentenced him was if the Commissioner of Corrections approved of it, he could be at home on a bracelet. If the Commissioner did not approve it, he would be in our prison. That would be a huge medical expense. He is now at home on a bracelet that he is paying for.

We also recently a couple weeks ago we medically paroled an inmate up at Glencliff. So I think that -- I can't give you an answer. Is the budget adequate? The budget's adequate today that I feel comfortable in transferring the money. I can't tell you tomorrow that we are going to get a quadriplegic in that is going to blow things sky high in our budget.

CHAIRWOMAN WALLNER: Yes.

MR. WRENN: Madam Chair, if I might add?

CHAIRWOMAN WALLNER: Yes, please.

MR. WRENN: We are going doing the best we can to manage our medical expenses and we are looking at all parts of our medical expenses. Another area that we really zeroed in on is the scrutiny that we give the bills that we receive from the hospitals. Many years ago this was not done with the level of scrutiny that we are doing today, and we are finding a lot of errors on the bills that are

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presented to us, even to the point where sometimes it's a County inmate that's been sent to the hospital that's been charged to us. So we have been really scrutinizing all these bills and we are seeing some good results because of that. And we are seeing some savings in that area.

We also see savings in the area of dialysis. Dialysis is a big expense. Right now currently we don't have anybody – knock on wood – that's in our system that's requiring dialysis. But there have been times when we've had up to five or six inmates on dialysis, a very, very expensive ongoing treatment. So we are trying to kind of juggle the medical account and trying to get as good a result as we can, at least maintaining proper medical care of the inmates. But what we are trying to do is project out as well if there's going to be additional money that we can utilize for the overtime, because we know the overtime is a problem area. You know, we stated that during the budget process, and we are seeing it -- we're seeing it now. And the overtime account is to maintain minimum -- minimum staffing levels. And what we do is every year now we look at every single position in the Department to determine if that's the position that needs to be filled if it's vacant and when I say vacant, due to sick leave, vacation leave, FMLA, military leave deployment. Whatever the cause of the vacancy is, we look at that position. We determine whether it's absolutely necessary to fill that position to maintain that minimum level of security. So we're trying to manage our overtime account as close as we can as well. But we knew, and we did state this through the budget process, both in the House and the Senate, that we knew this was going to be a problematic area going forward.

CHAIRWOMAN WALLNER: Thank you. Yes, Senator Morse.

SEN. MORSE: I don't think -- I mean, quite honestly, this isn't the Department's problem. I mean, the budget

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came over exactly as he stated, came over with a \$3.4 million appropriation knowing it only -- that it needed more. I think the number was in the \$5 million range. The fact was there was a clause in the budget that said come to Fiscal and get an additional appropriation, which the Senate is not going to agree to. And that's right now they're just making an adjustment to get there. If this is the way that the Department thinks they need to make the adjustment to make it work, we knew this account was going to be short when we passed the budget. It's not something they're doing wrong. I mean, it's been constant. You know, we questioned their lapses over the last couple years. So maybe there are accounts they could transfer out of. But it's -- you're never going to manage this account perfectly and it is always -- it's always been the shortfall.

So I don't -- I just want to say something about the medical account though. And I'm no genius, but part of this whole health care debate that we're having has been about trying to go after Federal money to get matches to what we could for prisoners that are let out to go get services and everything. It's been a year they're trying to address some of those things. That is just one pocket of money that we could use help on, and we failed yesterday on that. But that is -- that's another thing that could help fill this account. So I don't -- beating against the wall on it just like you're beating against the wall on the overtime. They are not telling you something that isn't true, I can tell you that much. We knew this through the whole budget phase.

CHAIRWOMAN WALLNER: Thank you. Representative Weyler.

REP. WEYLER: Thank you, Madam Chair. Gentlemen, normally to me seems to be if we have a hundred vacancies, then we need to fill in our overtime to make up for those vacancies. Normally, the money would come from full-time pay and benefits, but none of the transfers are out of

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those lines.

MR. MULLEN: At this point in time, this transfer request is from medical and utility. As I mentioned earlier, we will be coming back to Fiscal at a later point in time. My projection right now is that we will be transferring \$1.5 million of vacant positions over to the overtime account. This is just the first step.

REP. WEYLER: Would you be taking it out as benefits as well? Sometimes you've taken it out of salary but not out of benefits.

MR. MULLEN: We will be taking it out of both salaries and benefits.

REP. WEYLER: Thank you.

MR. WRENN: And also, Representative, through the budget process, many of those positions were already unfunded. I think it was 65 -- 65 of those hundred positions are essentially unfunded now.

REP. WEYLER: Right.

MR. WRENN: It's only with the additional positions that we can then possibly use that money as we go forward.

REP. WEYLER: Thank you.

CHAIRWOMAN WALLNER: Thank you. Representative Benn.

REP. BENN: Thank you, Madam Chairman. Just a follow-up on Senator Morse's comments that the number that I think you mentioned is \$670,000. I think that was the number that we had considered as a savings if -- had Medicaid Expansion been accomplished yesterday. Is that true that you were

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counting on that 670,000 as potential savings?

MR. WRENN: Well, it's a projection. And it's a projection, frankly, that the Lewin Group had made during the course of their study. And, you know, we -- we have figures that were a little different. But they actually did come up to about the same amount of money. But it's not that we look at that as a true savings that you could take that right out of the budget. It potentially could be. Because what -- when people are inside the prison, Medicaid kicks in when somebody is eligible for Medicaid benefits, but only when they have been an inpatient receiving inpatient care in the hospital for greater than 24 hours. That's the only time Medicaid covers the cost. There is no other Medicaid coverage for any of the medical procedures that we do, except for inpatient care and that's in the system itself. So it's very difficult for us to project out how many inmates per year are going to be in the hospital in greater than 24-hour periods and how much money would Medicaid then pick up of that existing bill. In other words, were they in there for surgery, were they in there for observation? What was the requirement to keep them in greater than 24 hours and then the cost associated with that care.

So it's just a projection that we felt that based on our history that potentially could be a savings. Potentially. The real savings with Medicaid, and I think Senator Morse might have hit upon it, would be the greater eligibility for Medicaid benefits for those that leave the prison system out in the community to continue with their treatment when they're in the community, both medical, mental health treatment, and pharmaceutical coverage in the community.

REP. BENN: Thank you.

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CHAIRWOMAN WALLNER: Further questions.

REP. LEISHMAN: Thank you, Madam Chair. I would just like to repeat from the House side what Senator Morse said, because we all recognized in Division I that this was very problematic, and I hope we can support the request today.

** SEN. LARSEN: Move approval.

REP. BENN: Second.

CHAIRWOMAN WALLNER: Senator Larsen moves approval of the item and Representative Benn seconds. Any further discussion? All in favor? Any opposed? The motion passes.

*** {MOTION ADOPTED}

MR. WRENN: Thank you.

CHAIRWOMAN WALLNER: Thank you for your hard work.

MR. WRENN: Thank you.

8. Chapter 144:95, Laws of 2013, Department of Transportation: Transfer of Funds:

CHAIRWOMAN WALLNER: Let's move on to Tab 8 which is Item 261. It's an item from the Department of Transportation to transfer \$260,000. Do I see a motion?

** SEN. LARSEN: Move approval.

CHAIRWOMAN WALLNER: Senator Larsen moves. And --

REP. WEYLER: Second.

CHAIRWOMAN WALLNER: Representative Weyler second.

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Any discussion? All in favor? Any opposed? The item passes.

*** {MOTION ADOPTED}

9. Chapter 144:177, Laws of 2013, State Employee Health Plan; Application:

CHAIRWOMAN WALLNER: And moving on to Item 9, Tab 9, that item has been withdrawn. We can pass that. And we do have, I believe, a late item. Does everyone have that, Mike?

MICHAEL KANE, Deputy Legislative Budget Assistant, Office of Legislative Budget Assistant: Yes, it's item FIS 13-254. It's a request by the Department of Corrections to expend up to \$18,700 on a Signmasker.

CHAIRWOMAN WALLNER: Are there any questions on that item? Do I see a motion?

** REP. LEISHMAN: Move approval.

CHAIRWOMAN WALLNER: Representative Leishman moves.

SEN. LARSEN: Second.

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

*** {MOTION ADOPTED}

10. Miscellaneous:

CHAIRWOMAN WALLNER: At this point, I'd like to call on Mike Kane to join us to talk about the CAFR.

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MR. KANE: Good morning, Madam Chair, Members of the Committee. For the record, my name is Michael Kane, the Deputy Legislative Budget Assistant. There is one more item under Miscellaneous that requires Fiscal approval relative to health benefit changes. If you'd like, I do have one administrative request relative to release of the CAFR that I can go over now.

CHAIRWOMAN WALLNER: Okay.

MR. KANE: RSA requires all the Comprehensive Annual Financial Reports to be released to the public by December 31st. There are four reports that will be available. We'd like to have the Committee's authority to release those to the public when they are available. They include the State Comprehensive Annual Financial Report for '13, the Comprehensive Annual Financial Report from Turnpikes for Fiscal Year 2013. It also includes the Lottery Comprehensive Annual Financial Report, as well as the Annual Reports for the Unique Program and the Fidelity 529 Program. So we'd ask Committee approval to release those when they're public. At the next Fiscal Committee meeting those reports will be presented in the usual manner.

CHAIRWOMAN WALLNER: Thank you. Do I hear a motion to release those reports?

** SEN. SANBORN: So moved.

CHAIRWOMAN WALLNER: Senator Sanborn moves and Senator Larsen seconds. All in favor? Any opposed? Thank you. We'll look forward to seeing them in December. Thank you.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: And item under Miscellaneous, are

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you talking about that particular item under Miscellaneous?

MR. KANE: That item is relative to the health benefit changes for the LBA employees consistent with classified, yes.

CHAIRWOMAN WALLNER: So that is Item 13-263. Do I see a motion?

** SEN. LARSEN: So moved.

CHAIRWOMAN WALLNER: And a second?

REP. LEISHMAN: Second.

CHAIRWOMAN WALLNER: Senator Larsen moved and Representative Leishman second. Any discussion? All in favor? Any opposed? The item passes.

*** {MOTION ADOPTED}

11. Informational Materials:

CHAIRWOMAN WALLNER: I believe that leaves us with informational items that everyone can look over at their leisure unless there's questions about any of them. And if you have no questions on the informational items, I'll move into the audits.

AUDITS:

CHAIRWOMAN WALLNER: We have two audits today. The first one is from the Department of Education. Is that the one you're going to do first?

RICHARD MAHONEY, Director, Audit Division, Office of Legislative Budget Assistant: Yes, ma'am.

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CHAIRWOMAN WALLNER: Okay. Department of Education, Internal Control Over Adequate Education Aid Calculations. And if you could join us at the table. Thank you.

MR. MAHONEY: Thank you, Madam Chairman.

CHAIRWOMAN WALLNER: Thank you.

MR. MAHONEY: Good morning to you and Members of the Committee. For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant. I'm joined this morning by Jim LaRiviere. Jim will be presenting the Audit Report to the Committee. And we're also joined by Commissioner Virginia Barry and Deputy Commissioner Paul Leather.

CHAIRWOMAN WALLNER: Thank you. Thank you all for being here.

JIM LARIVIERE, CPA, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chair, and Members of the Committee. Again, for the record, my name is Jim LaRiviere, and I'm here to present our audit report on Internal Control Over the Department of Education Adequate Education Aid Calculation.

Pursuant to statute, the Department is responsible for the calculation and distribution of the State's Adequate Education Aid. During Fiscal Year 2013, approximately 1 billion of aid was distributed to 160 school districts. The Department is also responsible for establishing and maintaining effective internal controls over that process which includes accumulating -- excuse me -- includes collecting, verifying and accumulating school submitted student data to determine the cost of an opportunity for an adequate education. The objective of our audit was to determine whether the Department has established and

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implemented suitable internal controls over its Adequate Education Aid Program for accumulation and verification of data and determination and distribution of the Adequate Education Aid to local school districts. Our Executive Summary begins on Page 1.

The major overarching finding from our Audit is that the Department had not established and documented detailed policies and procedures of significant aspects of its adequate education aid processes. We found the Department has a group of experienced employees and a consultant performing its Adequate Education Aid responsibilities, and the Department largely relies on their personnel. The report has five Observations and recommendations with which the Department concurred with all.

Observations No. 4 and 5 suggest legislative action may be required. Our Observations begin on Page 5. This Observation identifies a number of recommendations for the Department to strengthen its internal controls over Adequate Education Aid Calculations. Specifically, we recommend the Department establish and fully document its policies and procedures for all its aid calculation processes. Establish additional data verification controls, such as performance of on-site audits and reviews in comparing school district reported information for consistency with other similar information collected by other areas of the Department. That they establish controls to ensure that where required school districts report the use of differentiated aid in compliance with statute, improve controls over information technology systems used to identify student data and calculate Aid. Establish appropriate review and approval controls, and retain full control and authority over its operation of the Aid, data, and calculation.

Observation No. 2 and 3 beginning on Page 9 address

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the need for documented policies and procedures to guide and support its Aid calculation processes.

Observation No. 2 notes that the Department relies upon experience and knowledge of its personnel and available prior year documentation to complete Aid calculations. We recommend the Department establish detailed documented policies and procedures establishing the objectives, goals, criteria, and processes for calculating and distributing Aid, if only to ensure calculations can be made in the absence of key employees.

Observation No. 3 addresses the need for policies and procedures to support the Department's processes for identifying and correcting data, anomalies, and conflicts noted on its statewide review report, and when and how to make adjustments to grant payments when changes, corrections, and other variations of data are subsequently recognized. All changes to documented policies and procedures and changes to information systems used should be subject to an effective management review and approval process.

Observation No. 4 beginning on the bottom of Page 12 notes that the Department has not required school districts to account for and report differentiated aid in accordance with RSA 198, section 40-b. We recommend the Department establish appropriate policies and procedures to ensure school districts account for and report differentiated Aid as required by statute.

If the Department determines that the requirements for accounting for and reporting differentiated Aid are no longer necessary, the Department should request an appropriate revision to the statute.

Our final observation, Observation No. 5 on Page 14,

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identifies certain statutes addressing the Aid calculation that appear to be in need of legislative attention due to apparent statutory conflicts and outdated referencing. The Department should request legislation be amended as appropriate.

The Appendix to the report beginning on Page 15 provides the current status of Observations contained in our December 2004 Performance Audit Report of the Department of Education Adequate Education Grant Data and the relevant Observation contained in our Fiscal Year 2000 Financial Audit Report of the Department. As noted in the table at the bottom of Page 16, the Department had fully or partially -- fully or partially resolved 17 of those comments, one remained unresolved, and two comments are no longer applicable due to changed circumstances.

This concludes my presentation. I'd like to thank Commissioner Barry, Deputy Commissioner Leather, as well as Director Judy Fillion for -- and their staff for their assistance and cooperation throughout the audit. I'd like to thank you, the Committee, for your time and would be happy to answer any questions.

CHAIRWOMAN WALLNER: Thank you. Any questions? Yes, Senator Sanborn.

SEN. SANBORN: Thank you, Madam Chair. Everyone, thank you so much for coming in. As always, it's a wealth of information. Commissioner, I'd like to personally thank you for actually working over the weekend compacting the information we have. Shows your strong work ethic, and I truly appreciate it.

VIRGINIA BARRY, Commissioner, Department of Education: Thank you.

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SEN. SANBORN: I am sure we'll resolve all these weekend issues we are having today.

On a global basis, we all understand that acknowledging you're not having the challenges of Department of Insurance is having right now with their change implement, Department of Education has had a challenging year to try to implement some policy changes in these types of calculation. It's created somewhat of a kerfuffle, shall we say, with some of our local communities and they may feel the State's not responding in a quick enough time frame to try to set their tax rates. I guess I consider that part of the calculation that you have to provide to some other agencies, and do you feel confident at this point that by next year you'll have everything in place by which to provide those calculations and whether or not the audit included that type of a load. How do we help ensure our communities that they can continue to do their job acknowledging they're relying on the Department of Education so heavily and this year has been a very rare unfortunate bump in that road.

MS. BARRY: Thank you. I first want to thank the auditing group, that they were very professional and really helped us to look very, very carefully at the policies and procedures that are necessary to be in place.

One of -- prior to the final audit report being prepared, we have been meeting with DRA and LBA and the Governor's Office to ensure that the process is accurate. And it is that we are able together to work as departments to ensure the data in a timely way.

The issue that we have, and I think many of you are aware of this, a year ago there was legislation passed that we would be able to provide data in a one-year turnaround for our schools. This is very problematic for us. In the

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past, we were using data that was two years and we were able to verify that data and we were able to certify it. The problems that we have with our school districts is as they have reduced their staff getting the data, such as the number of children enrolled in special-education, ESL, free-and-reduced lunch, residency, and so on and so forth, is very difficult for the districts to be able to verify on the date that has been established. So working very closely with the districts to be able to help them manage that element, because in order for the Department to provide the accurate data, we need to be able to have accurate data from school districts. So we have put, I believe, a new process in place to work very closely with school districts so they'd be able to certify properly and be able to move the data more effectively in a given year. But we do believe with experts looking that this time frame is going to be almost impossible for us to all meet to be able to get the tax reports prepared.

SEN. SANBORN: When you say -- thank you, Madam Chair -- when you say difficult but if not impossible to meet by what date?

MS. BARRY: Well, right now we have established October 15th was the original date, Ron?

RONALD LECLERC, Systems Development Specialist, Bureau of Data Management, Department of Education: This year we were able to get the -- the average daily membership information locked on October 8th, and we were able to provide the Department of Revenue a report on the 11th so they could begin with the tax setting process. We allowed the school districts a week from that point. We gave them the information to make any changes. And then we also met, we prepared a document that was released on November 7th to Department of Revenue showing any variations in the Aid calculation. There were some adjustments that they had

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started setting the tax rates and there were some communities that saw some Aid had dropped by minor numbers. So we identified some districts that we had issues with and we asked them to hold off on setting tax rates because we knew that their data they had submitted was incorrect. So we were working with the districts to correct it.

So it is a challenging task, especially when school districts have various closing dates throughout June to get that data finalized. Because of the inter-dependencies of sending/receiving districts, we need everything complete and every anomaly cleaned up before we can actually begin the calculation. At the very earliest, we are looking by October probably to have a report ready for the Department of Revenue to begin taxation process.

CHAIRWOMAN WALLNER: Thank you. Could you identify yourself for our recorder?

MR. LECLERC: Yes, I'm sorry. Ron LeClerc with the Bureau of Data Management. I work on the Adequacy calculation.

CHAIRWOMAN WALLNER: Thank you, thank you, appreciate that. And thank you, Commissioner Barry, for being here and Mr. Leather. Do you have any further comments you would like to make about the audit?

PAUL LEATHER, Deputy Commissioner, Department of Education: I would like to just mention that we are pleased that even after going through this comprehensive audit that there really were no errors found in any of the payments made to the schools, and there's a complex calculation on a very large line item as we all know so we were pleased to see that. The audit does clearly identify the need for additional audits and documentation, including direct audits of schools and that was referenced in terms of the

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differentiated Aid as well. In order to meet these goals, we had limited staff working on this. Really, this is one of the largest line items in State Government and that's something that we are going to need to address.

The legislation has changed quite a bit. There have been many LSRs in the past several years. And there are several corrections that must be made to clear up contradicting laws and to clarify the legislative intent as referenced by the LBA. We need to clearly document our policies and procedures, as well as outline our internal controls that are a process that's consistent and transparent. And we recently brought back our internal auditor, Caitlin Davis, who is leading us in putting that piece of work together internal to the Department. So we did, in fact, agree with all of the observations and findings in the report, and we are working closely with the LBA to make the corrections as needed.

CHAIRWOMAN WALLNER: Thank you. Representative Leishman, you had a question?

REP. LEISHMAN: Thank you, Madam Chair. Do you folks get copies of audits done by local auditors of districts, school districts? And the reason I raise the question is that I just received the other day an audit on the community of New Ipswich, and the auditor raised some real concerns the way how state and local funds are being used. Do you get copies of those?

MS. BARRY: Yes, we do. We do.

REP. LEISHMAN: Do you act if there's a concern by an auditor of a local school district that State and local funds may not have been used correctly? How do you handle that?

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MS. BARRY: Right, that would come to our internal auditor that works on a desk audit or field audit, and then she would be responding to those questions from an attorney or a business administrator that may ask those questions and they're in writing.

REP. LEISHMAN: So if you give me the information, I can e-mail you this audit that I received the other day in the mail? It's rather disturbing, at least my first glance of it.

MS. BARRY: Yes, that be fine.

REP. LEISHMAN: Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Thank you. Yes, Senator Sanborn.

SEN. SANBORN: One more, Madam Chair. Thank you. Again, thank you very much. I guess I want to know for the record is the Department of Education sitting on anymore financial information they have not given to DRA to set the tax rates? Have you concluded all of your work for all communities in the state at this point?

MR. LECLERC: At this point, the document that we released on the 11th -- on the 7th of November is the document that they're using to complete the tax rate setting process. In April, we will be looking at -- we have been keeping track of a log of some minor changes and making the final adjustment to the community -- well, school district payments with the April payment. So there will be another document coming out in April with any further adjustments. And it looks like it's -- well, I'm going to say significant changes but minor changes to some communities.

SEN. SANBORN: Thank you, sir. Thank you, ma'am. Thank

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you, gentlemen.

CHAIRWOMAN WALLNER: Further questions? Thank you very much.

MS. BARRY: Thank you.

REP. WEYLER: Madam Chair.

CHAIRWOMAN WALLNER: Yes.

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

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: Second. We need a second.

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: Senator Forrester seconds. All in favor? Any opposed? The motion passes.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Let's move now to our Department of Corrections Transitional Housing and Work Release Program Audit.

MR. MAHONEY: Thank you, Madam Chairman. I'm joined by Jay Henry from our office. Jay was the Senior Audit Manager responsible to conduct the audit at the Department of Corrections. And we are also joined by Commissioner William Wrenn from the Department, as well as Director of Administration, Robert Mullen.

CHAIRWOMAN WALLNER: Thank you. Thank you all for

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coming and would you like to proceed with the audit report. Thank you.

JAY HENRY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning. My name, for the record, is Jay Henry, and I'm a Senior Audit Manager with the LBA Audit Division. I'm presenting our performance audit of the Department of Corrections Transitional Housing and Work Release Program for State Fiscal Years 2012 and '13. We reviewed how effective the Department is utilizing its transitional housing facilities and Work Release Program to promote inmates' successful re-entry back into society. Page 1 contains our Executive Summary.

We found the Department should re-evaluate how it utilizes and manages its four community-based housing units which are directly overseen by the Division of Community Corrections. The Department has a goal of instituting science-based services to increase its successful re-entry of offenders and to promote public safety. However, the Division has not implemented these evidence-based practices and does not collect data or measurement outcomes. Therefore, the Division cannot provide evidence that it is efficiently and effectively using Department resources.

While evidence-based practices suggest services are most effective when provided closer to the inmate's release date and to those inmates most likely to recidivate, we found the Department has not provided services at these facilities, regardless of the fact that inmates may be there for up to two years.

Page 3 contains our recommendation summary which shows the Department concurs with all six Observations and none of which require legislative action.

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On Page 6 of our background section, Table 1 provides an overview of the four housing units operated by the Division. Currently, male inmates at the lowest security classifications and with less than two years to their earliest possible release date, are eligible for placement in housing outside of the prison. Typically, male inmates are first placed in the Transitional Work Center or TWC where they work on Department grounds outside the walls of the Men's Prison in Concord. If their behavior warrants it, inmates become eligible for the Work Release Program at either the North End House in Concord or Calumet House in Manchester within one year of their earliest possible release date. Female inmates are housed at Shea Farm in Concord and either must stay at the facility or once they are placed in the lowest classification they may find work in the community.

Table 3 on Page 9 shows how inmates leave the Transitional Housing Facilities. While a majority of the inmates are paroled from the housing units, the next highest category is of inmates who were disciplined and sent back to prison. Placement at these facilities is considered a privilege granted for good behavior. Starting on Page 10, we discussed the most programmatic services provided inside the prison and not at these Transitional Housing Facilities.

Table 4 on Page 11 documents services provided at the four facilities during the last two Fiscal Years. The Department has a goal of running its facilities in accordance with evidence-based practices which we describe on Pages 12 and 13. However, as stated in our Observation on Page 15, the Department needs to clearly define the goals for its Transitional Housing Facilities in which inmates are placed within them, because its current method is not based on evidence-based practices. The Division does not have a system designed to identify inmates with the

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greatest needs to be in the units or in the work program, and placement is based on security classification and the time remaining on inmates' sentences as opposed to which inmates could benefit the most.

We found the Division of Transitional -- the Division's Transitional Housing Units operate at or near capacity. As shown on Table 6 on Page 17, inmates reclassified often have long wait times either in prison or at the TWC.

Our analysis of policies and procedures confirm that the Work Release Program was designed for housing inmates for up to six months. In our file review of 60 male inmates who went through either the Calumet House or the North End House, we found that 34 have stayed for less than six months, while 26 or 43% spent an average of nine months in the work program.

In addition to defining its goals and identifying inmates who could benefit the most from transitional housing and the work program, we also recommend the Department monitor the time inmates spent at these facilities and determine if using the housing units other than for the work program is consistent with the Department's goals.

Observation No. 2 starting on Page 18 found the Department is not specifically measuring the effectiveness of its Work Release Program. The Division does not track program efficiency or output measures that could be useful in improving the efficiency of the program. The lack of data hampers the Department's ability to ensure its Work Release Program supports its overall mission to effectively rehabilitate offenders at the least cost to the State.

Starting on Page 20, we recommend in Observation No. 3

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the Department strengthen its policies and procedures for transitional housing residents who are not involved in the Work Release Program. In addition, case counselor and case manager of job responsibilities and the inmate handbook need to be updated.

In Observation No. 4, which starts on Page 22, we recommend the Department develop health care policies for Transitional Housing Unit residents. We found the Department policies need to address inmates who are seeking treatment from non-Department medical providers, who are receiving medications that are not dispensed or monitored by the Department, and who are receiving employee-based health care coverage. The Department also needs to clarify its health care responsibilities for parolees and parole violators required to stay at the Transitional Housing Units.

In Observation No. 5, starting on Page 23, we recommend the Department follow best practices for sexual offender maintenance treatment. Under certain conditions, the Department offers sexual offender maintenance treatment for female inmates but not to male inmates at the transitional housing facilities.

In our review of 170 inmate files, we identified 19 male inmates as sexual offenders who potentially could have benefited from continuous treatment. In fact, three of the 19 inmates spent about nine months at the TWC without additional treatment.

In our last Observation on Page 24, we found the Department should continue implementing evidence-based practices. Specifically, we recommend the Department identify evidence-based practices they can implement immediately, measure the implementation and the effectiveness of these practices, and provide intervention

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to the most -- at the most effective and for the right amount of time to high-risk offenders.

On Page 29 and 30, we present issues we consider noteworthy for further consideration. We found State laws and its rules varied in their scope and detail in allowing felons to be denied licensure in various State-regulated occupations. Of the 43 occupations we researched, 42 had authority to deny licensure. Whether felons should be restricted from certain occupations is ultimately the policy of the Legislature.

We also found the Department needs to demonstrate the benefits of how it's using its existing transitional housing facilities and its plan to use any additional facilities.

Appendix A provides some detail on our methodology and Appendix B presents a status of prior LBA Observations from our 2010 financial audit that are related to this report.

Lastly, we'd like to acknowledge the cooperation we received from the Department and especially the staff at the Transitional Housing Units, and we'd be happy to answer any questions you have at this time.

CHAIRWOMAN WALLNER: Thank you. Do you have any questions? No. Okay. Commissioner Wrenn, would you like to make some comments about the audit?

MR. WRENN: Thank you, Madam Chair. Again, good morning, Members of the Committee.

First of all, I'd like to say to Director Mahoney and to Jay Henry, it was really a pleasure to work with them through this audit. I think we really got some good insight from them as to some of the areas that we need to focus in

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on, and I appreciate their help and support in those areas.

The whole area of community corrections is evolving. We have changed the whole system in the prison system from one that -- that at one time was in the prison, in community corrections, and in the community to one total agency transitioning issue. And we look at an inmate now as transitioning through the whole system as opposed to being in the prison in one section, in community corrections in another system, and being in the community, being in a third system. So when an inmate comes in from day one walking into our reception/diagnostic area, that's day one of a whole transition until they're out the door and they're not in our custody again. We have been focusing on this transition and making the necessary changes within the prison walls itself and that has been our focus for the last couple of years.

We're in the process of changing our whole case management system. We're in the process of and we have changed our risk assessment system that required a lot of training. We also changed our whole methodology of motivational interviewing. We have a new system of that. It required a lot of training, both for our case managers, for our probation/parole officers, and we've also provided all this training for the Parole Board itself. So we have more of an understanding of what everybody does and the role that they play in this whole transitioning system.

One of the things where we focus so much on the prison system, we knew that eventually we were going to have to move out to community corrections and deal with the transitioning issues as they go from the prison and through community corrections and out to the community. This is something we are going to have to address and we explained that to the auditors that some of these areas that they're talking about we concur. And, as a matter of fact, you see

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we concur with all the recommendations there. These things do have to be addressed.

What the changes are, are changes from the traditional methods of Community Corrections to what are the best practices today. The use of what they used to call halfway houses and the minimum security units have now changed. Now it's the Transitional Work Center as opposed to minimum security unit. They're now Transitional Housing Units as opposed to halfway houses. We are slowly changing the whole idea and concept of what that whole Division of Community Corrections is, and it needs to be. It's not the traditional halfway house that we all think of today. It's going to be different. It's part of a process now and part of the system of transitioning that inmate through.

Many of these areas, again, were like the classification system that is referred to in the audit. That classification system we are looking at changing that whole dynamic classification system where it's not so much security based, and as Mr. Henry explained, where it looks at the number of years and behavior and determines the movement, but it's more based on programs and needs and what the inmate essentially needs going out into Community Corrections.

We look at things today and say not everybody needs to go out through Community Corrections. Some people should parole right from the prison without having to go out there, as opposed to the old style where everybody goes from the prison, to community corrections, to the community. We are looking at changing those whole -- that whole dynamic. It's just that we haven't gotten there yet. But we agree that we need to, and we'll be working on that in the future.

CHAIRWOMAN WALLNER: Thank you. Representative Benn.

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REP. BENN: Thank you, Madam Chairman. Commissioner Wrenn, I appreciate your work and your comments. I'm just curious. The last page of the history of the last -- from the last audit was 2010 and the chart's pretty white, in the sense that not many of the items have been checked off. Are these items that have become obsolete or these items that you didn't agree with?

MR. WRENN: Well, no. As a matter of fact, we thought we had addressed some of those items. And if you wanted to pick any one out, I do have our response to that. Mr. Henry and his staff may disagree that we have addressed it as fully as they had recommended it be changed, but we think that in many of the cases we've either substantially complied with or fully complied with that recommendation. So we have addressed the previous audit. We have made changes since then. There may be a disagreement between the auditors and us as to how that recommendation was addressed.

REP. BENN: It's not a matter that you disagree with what they were asking, it's a matter of whether or not you've accomplished it or not, may be a disagreement.

MR. WRENN: Well, there might have been some areas of disagreement at the time that the audit was presented. But those -- certainly, those areas where we concurred or concurred in part we tried to address in some fashion. And then others we have admitted that we have not addressed that particular item at this time, but it's still on the action list and it still will be addressed.

REP. BENN: Thank you.

CHAIRWOMAN WALLNER: Thank you. Any further questions? Discussion? Representative Weyler, have a motion?

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

CHAIRWOMAN WALLNER: Is there a second?

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: Senator Forrester seconds. All in favor? Any opposed? The motion passes.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Thank you very much for coming. Thanks for your hard work.

MR. WRENN: Thank you.

12. Date of Next Meeting and Adjournment

CHAIRWOMAN WALLNER: I think all we have left at this point is the date of our next meeting. Do we need to do a December meeting for the State -- for the CAFR, for the audits?

MR. KANE: Not at this time. We don't anticipate any delays in the CAFR.

CHAIRWOMAN WALLNER: Okay. So we could wait till January?

MR. MAHONEY: Excuse me, Madam Chair.

MR. KANE: Excuse me.

CHAIRWOMAN WALLNER: Yes, I'm sorry.

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MR. MAHONEY: Because by statute the State CAFR is supposed to be released by December 31st, we would ask the Committee's approval for releasing of the Statewide CAFR, the Lottery Commission CAFR, the Liquor Commission CAFR, and the Turnpike System CAFR when those reports are ready in December, as well as the College Tuition Savings Plans reports as well.

CHAIRWOMAN WALLNER: Yeah. We actually -- we actually did that. Maybe you weren't in the room.

MR. MAHONEY: I'm sorry, Madam Chairman. My apologies.

CHAIRWOMAN WALLNER: Thank you for reminding us. Thank you.

REP. WEYLER: Thanks for the backup.

MR. MAHONEY: I didn't know my list was as comprehensive as Mike's list.

CHAIRWOMAN WALLNER: No, we did attend to that. So we have done that. So we probably don't need a meeting in December. You feel comfortable without a December meeting?

SEN. LARSEN: Happy with it.

CHAIRWOMAN WALLNER: Okay. Everybody feels happy that there's no December meeting. Maybe then what about might be second Friday in January?

SEN. SANBORN: Be the 10th.

CHAIRWOMAN WALLNER: What's the date? I'm sorry.

SEN. SANBORN: January 10th.

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CHAIRWOMAN WALLNER: January 10th. Seem reasonable?
Okay. Let's do January 10th and we'll do our usual
10 o'clock. Okay. So Fiscal Committee is adjourned.

(The meeting adjourned at 11:09 a.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
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