

JOINT LEGISLATIVE FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, December 15, 2017

MEMBERS PRESENT:

Rep. Neal Kurk, Chair

Rep. Ken Weyler

Rep. Lynne Ober

Rep. Cindy Rosenwald

Rep. Dan Eaton

Sen. Gary Daniels

Sen. Regina Birdsell

Sen. Lou D'Allesandro

Sen. Andy Sanborn

Sen. John Reagan

(The meeting convened at 10:00 a.m.)

(1) Acceptance of Minutes of the October 20, 2017 meeting.

NEAL KURK, State Representative, Hillsborough County, District #02 and Chairman: Good morning, everyone. I'd like to open the December Fiscal Committee meeting, December 2017, and go to Item number one on our agenda. I point out to members that several of us need to leave earlier than perhaps we might like to. So I hope we can go through some of these items more quickly than we might otherwise do so.

First item before us is acceptance of the minutes of the October 20th, 2017, meeting. Is there a motion?

**** JOHN REAGAN, State Senator, Senate District #17:** Move to approve.

CINDY ROSENWALD, State Representative, Hillsborough County, District #30: Second.

CHAIRMAN KURK: Senator Sanborn moves to approve -- excuse me -- Senator Reagan moves to approve, seconded by Representative Rosenwall -- Rosenwald. Oh, boy.

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**}

(2) Old Business:

CHAIRMAN KURK: Turning now to Old Business. Does anyone wish to remove any of the items from the table? There being no motions, we'll proceed to item number three.

(3) RSA 14:30-a, III Audit Topic Recommendation by Legislative Performance Audit and Oversight Committee:

CHAIRMAN KURK: This is a request under RSA 14:30-a, III, for audit topic recommendation approvals. As you all know, these will be approved unless there is a unanimous vote in opposition by this Committee. Is there a motion?

** SEN. REAGAN: I move to approve the four items.

KEN WEYLER, State Representative, Rockingham County, District #13: Second.

CHAIRMAN KURK: Senator Reagan moves to approve, seconded by Representative Weyler. Discussion? There being none are you -- Senator D'Allesandro.

LOU D'ALLESANDRO, State Senator, Senate District #20: Thank you, Mr. Chairman. I'm on the Committee but Police Standards and Training we have just done them. No?

DANIEL EATON, State Representative, Cheshire County, District #03: I can help.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: Mr. Kane.

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: We have not. It did come up a couple years ago as a topic which was not approved by the Committee.

SEN. D'ALLESANDRO: It was not approved.

REP. EATON: Mr. Chair.

CHAIRMAN KURK: Senator -- Representative Eaton.

REP. EATON: We had them on agenda for a recommendation for audit for in excess of two years and we tabled each time over, and since that point they've gone from penalty assessment to General Fund --

SEN. D'ALLESANDRO: Right.

REP. EATON: -- which sort of merits the perusal.

SEN. D'ALLESANDRO: Okay. Thank you. Thank you.

CHAIRMAN KURK: Further discussion or questions? There being none, are you ready for the question? The motion is to approve the request by this Oversight Committee for the four audits. 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}

CONSENT CALENDAR

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

CHAIRMAN KURK: We turn now to Consent Calendar item number four, request for transfers. There are three items here. Does anyone wish to remove any of them from the Consent Calendar?

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

ANDY SANBORN, State Senator, Senate District #09: 202.

CHAIRMAN KURK: Senator Sanborn removes Fiscal 202.

REP. EATON: Neal.

REP. ROSENWALD: That's the one I wanted to remove.

CHAIRMAN KURK: So we will be voting on the remaining two items, Fiscal 17-193 and Fiscal 17-201. Is there a motion to approve those two items?

** SEN. D'ALLESANDRO: So move.

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

(Representative Weyler raises his hand.)

CHAIRMAN KURK: Representative Weyler. Ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and those two items are approved.

*** {MOTION ADOPTED}

CHAIRMAN KURK: We now turn to Fiscal 17-202, a request from the Department of Health and Human Services for authorization to transfer \$951,639 in General Funds through June 30th, 2018. Is there somebody from the Department who could answer some questions for us?

Good morning to both of you. Could you identify yourselves for the record, please?

MARY CALISE, Deputy Chief Financial Officer, Department of Health and Human Services: Good morning. I'm Mary Calise. I'm the Deputy Chief Financial Officer for Health and Human Services.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

TODD BICKFORD, Administrator, Glencliff Home, Department of Health and Human Services: Good morning. I'm Todd Bickford, the Administrator for the Glencliff Home.

CHAIRMAN KURK: Thank you for being here. Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chairman. Thank you so much for coming in and Merry Christmas. Might be the last time we see each other before Christmas.

So when I first saw this item I was mistaken and thought it was coming out of the Commissioner's Office for just Glencliff; now enlightened after that. But my concern is if we're pulling, you know, nearly a half million dollars out of the Commissioner's budget, which I would assume was relatively set based upon positions that they have, A, I guess my two questions are, how much money is in that account, and why is there such a surplus? And B, if there isn't such a surplus, are you guys going to come back later on to refill because, obviously, you're taking out of salary and benefits. So tell me a little bit about what's really happening here.

MS. CALISE: So the funds are approximately 840,000, total funds in that account, were put into that account during the budget to cover the 15% additional nursing enhancement for the positions at Glencliff.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: So, specifically, the Finance Committees took the 15% and just baked it into that GL account?

MS. CALISE: It's a Class 17 account. We normally don't use Class 17 and it was specifically for the nursing enhancements at Glencliff. I cannot speak to why it wasn't put in the Glencliff budget specifically. All I know is that it was put into that Class 17 for this nursing enhancement.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

SEN. SANBORN: Last follow-up. All right. You baked 800,000 into the GL account. Now you're only taking five of it out. Do you anticipate coming for the other three?

MS. CALISE: We do not.

SEN. SANBORN: That will just lapse out?

MS. CALISE: Correct.

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

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: Same question.

CHAIRMAN KURK: Further questions? There being none, are we ready for a motion?

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

CHAIRMAN KURK: Senator D'Allesandro moves we approve the item, seconded by Representative Rosenwald. 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's approved. Thank you both.

*** {MOTION ADOPTED}

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

CHAIRMAN KURK: We turn now to item number five on the agenda, and I think we will have to deal with these individually, as I'm told there are questions on at least three of them. So we'll take them up in order.

Fiscal 17-203, a request from the Department of Environmental Services for authorization to accept and expend

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

\$15 million in Federal funds through June 30th, 2019. Is there a motion?

****** LYNNE OBER, State Representative, Hillsborough County, District #37: Move to approve.

CHAIRMAN KURK: Representative Ober moves to approve, seconded by?

SEN. SANBORN: Are we on 203? I apologize.

CHAIRMAN KURK: I'm on --

REP. OBER: 203.

CHAIRMAN KURK: -- 203.

SEN. SANBORN: Yeah, I have questions on it.

CHAIRMAN KURK: Is there a second?

GARY DANIELS, State Senator, Senate District #11: Second.

CHAIRMAN KURK: Second by Senator Daniels. Is there somebody from the Department who would be in a position to answer some questions?

Good morning, Miss Carlson. Good to see you.

SUSAN CARLSON, Chief Operations Officer, Department of Environmental Services: Good morning, Mr. Chairman, Members of the Committee. For the record, my name is Susan Carlson with Department of Environmental Services. I apologize. I am fighting a bad cold so my voice is going.

CHAIRMAN KURK: Thank you. Senator Sanborn has a question and is recognized to ask it.

REP. OBER: We're glad that she's sitting far away.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

SEN. SANBORN: My first question is can you move back ten feet? So thank you very much. Merry Christmas. Thanks for coming in. So holistically you know that I've always had some -- I support the concept of clean water and all that. I've always had questions relative to whether or not the State of New Hampshire should be a bank and, if so, to what extent, and how do we mechanically operate a system that seems like it's running in perpetuity. So we put money into it, we collect interest on it. The money stays in the fund, the thing's growing, and there's really no cap or control on it ever. So now you know where my concerns holistically are.

MS. CARLSON: Yes.

SEN. SANBORN: So how much do we have out now total of what's in the fund, what's out of the fund in loans, and how much do we get in the year in interest?

MS. CARLSON: Hum -- well, I brought -- and I apologize for not making copies for the entire Committee, but we have out on our website our Annual Report that we file with the Department of Environmental Protection and that report contains a lot of the detailed information that you are asking about. I would recommend -- I can -- I can give you this copy, and I apologize to the Committee for not bringing enough for everybody. But what we've done in this Annual Report is provide all this detailed information by, you know, what loans we have, who has them, the periods that we have them for. And -- but I can tell you if -- you'll have to excuse me. I've been -- I am not fully myself today. Hum -- I will -- I have right here on this summary page of the financial statements for this program -- hum -- which also for your information show in the State's CAFR. Right now for the Clean Water SRF Program, and I assume that's the question you're asking or you asking for both the clean water and drinking water combined?

SEN. SANBORN: I apologize. I thought you would have the information on the top of your head so I was kind of asking for all of it.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MS. CARLSON: Okay.

SEN. SANBORN: If you don't have it --

MS. CARLSON: I have -- I can give you financial information on both. For clean -- what I have in front of me today is clean water. For clean water we have a balance at the end of Fiscal Year 17 of \$478 million.

SEN. SANBORN: Extended and available?

MS. CARLSON: Extended and available, the whole thing. We currently have out approximately over \$300 million in loans outstanding that we are working -- that we are working on that are either inactive or in payment status. We have over 40 loans out there, and I can provide you with information on any of the detailed loans.

As far as interest income we received last year -- hum -- we received approximately \$1.9 million -- excuse me -- \$7.3 million in interest fees -- in interest.

SEN. SANBORN: Pretty good rate.

CHAIRMAN KURK: Further question.

MS. CARLSON: It's not a high rate. Our rates are below market.

SEN. SANBORN: Thank you, Mr. Chair. In the other fund what's the total amount?

MS. CARLSON: I didn't bring the drinking water with me today, but it's approximately about half of that. Drinking water is ten years younger and a smaller pool of funds.

SEN. SANBORN: So in total about 700 million between both funds?

MS. CARLSON: Yes.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

SEN. SANBORN: Thank you very much.

CHAIRMAN KURK: Question. What happens to that seven point something million dollars of interest?

MS. CARLSON: It goes into the repayment -- what we don't use for management fees, it goes into the repayment fund and reloaned out.

CHAIRMAN KURK: Management fees go to whom?

MS. CARLSON: It's the cost to run the program. It's what we pay for salary and benefits for staff.

CHAIRMAN KURK: And none of that money is used for any other purpose?

MS. CARLSON: No.

CHAIRMAN KURK: Thank you. Further questions? Is there a motion?

REP. OBER: Yes, it's on the table.

CHAIRMAN KURK: I'm sorry?

REP. OBER: We have it. I made it.

REP. WEYLER: There is a motion.

CHAIRMAN KURK: Thank you. Further questions or discussion?

SEN. SANBORN: Discussion.

CHAIRMAN KURK: Yes.

SEN. SANBORN: As Chair of Finance and that built their finance, sitting here some of you know that I've talked about for a long period of time I have supported clean water like all

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

of us do. But this is a fund now that's \$700 million into it that's collecting seven plus million dollars a year, and at what point do we debate the question, we ask whether or not the State of New Hampshire should be a bank, which I would suggest that's not the role of our government.

In addition to that, whether or not the Finance Chair is ever going to look at it and make a decision that there should be a cap and what should happen to the interest expense. I just ask you guys to consider that, probably worthwhile discussion to have.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I will say in response to Senator's question when the Agency comes for their budget hearings before Division I, we do go through this. Miss Carlson brings us the data. We look at it. We look at the request, and we look at what we're doing with it very carefully. So it's not like it isn't looked at and I think Miss Carlson can testify to that as well that we are looking into that every time.

MS. CARLSON: Right.

CHAIRMAN KURK: And this money is Federal funds?

MS. CARLSON: It's a combin -- this 15 million, yes.

CHAIRMAN KURK: Further discussion? There being none, are you ready for the question? The motion is to approve the item. If you're in favor of that, please now indicate by saying aye? Opposed? The ayes have it. The item is approved.

MS. CARLSON: Thank you very much.

CHAIRMAN KURK: Thank you, Miss Carlson.

*** {MOTION ADOPTED}

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: We turn now to Fiscal 204, request from the Department of Health and Human Services for authorization to accept and expend \$1,251,093 in Federal funds through June 30th of 2019. I understand the Senate has some questions on this. Is there somebody from the Department who can respond? Good morning, again.

ANDREW CHALSMA, Director, DJJS, Community-Based Care Services, Department of Health and Human Services: Hi. I'm Andrew Chalsma with the Department. I'm the Director of Data Analytics and Reporting.

REP. OBER: Is that microphone on?

CHAIRMAN KURK: You need to speak into the microphone.

MR. CHALSMA: How's this?

CHAIRMAN KURK: We can hear you. Senator Sanborn, did you have a question?

SEN. SANBORN: I do, thank you. Again, good morning. Merry Christmas. Again, I didn't think I'd see you again so it goes without saying. So, guys, this is what I refer to as the electronic post office about hospitals that share medical records back and forth that we approved like four years ago.

MR. CHALSMA: This funding is to incentivize providers to connect to that post office. I would say that would be a better description of what the funding is about. Yes, it certainly supports that.

SEN. SANBORN: So, respectfully, when this came out, for the record, on a policy basis the fact that we put, I think, \$600,000 up initially for the government to create a program to allow hospitals to share information back and forth I'm not sure is a role of our government to do; but I lost the vote so it is what it is. But everyone assured me at that time that the \$600,000 we put in to create an electronic interchange of information would be the only expenditure that we had, and that

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

once this system was up and running that the hospitals would be paying a fee to participate so they could share information back and forth, but it looks like the reciprocal has happened. That we created a program and now we're spending \$3 million to pay the hospitals to participate to share information. It's like a poster child for government on amok for me.

MR. CHALSMA: So when -- there's a bit of a history here, and I'll try to be brief.

When Congress authorized the program that you're speaking of and the program that we are speaking to here in 2009, they created two separate funding streams and activities. One was to jump-start Health Information Exchange which is what you're talking about. And then they also created a program to incentivize providers to adopt electronic health records to use those records meaningfully and correctly and to follow security procedures and those kind of things. So that -- the initial funding around information exchange was short-lived. The State money was short-lived. And to my understanding there are -- there are many hospitals and provider groups and even insurance companies contributing to that now.

This funding, which is 100% Federal funds and always has been, is to get providers actually adopt an information system that's certified, to use that system and to demonstrate they're using it appropriately by doing things like connecting through information exchange. So it's a separate -- a separate kind of activity, not what you were discussing.

CHAIRMAN KURK: Let me ask a question. Is this one-time money? In other words, the incentive is provided once and the provider participates or does this require annual subsidies to the provider or incentives to the providers?

MR. CHALMSA: Incentives. For hospitals -- hospitals New Hampshire got three years' worth of payments. Most of the hospitals have gone through the end of that. For providers, to individual physicians, dentists, for example, they have up to six years' of payments, incentive payments. This is all

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

prescribed in the Federal legislation and but the program itself does end permanently in 2021.

SEN. SANBORN: Unless it's re-authorized.

MR. CHALMSA: True.

CHAIRMAN KURK: Further questions? May we have a motion?

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

CHAIRMAN KURK: Senator D'Allesandro moves, seconded by Representative Rosenwald that the item be approved. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? May I see a show of hands? All those in favor raise your hand? One two, three, four, five. Those opposed? One, two, three, four. Who didn't vote or did I count wrong?

REGINA BIRDSELL, State Senator, Senate District #19: Representative Eaton.

CHAIRMAN KURK: You voted in favor or against?

REP. EATON: Favor.

REP. OBER: Dan, you need to vote.

SEN. SANBORN: How did he vote?

CHAIRMAN KURK: The motion carries 6 to 4. Thank you both.

MR. CHALSMA: Thank you.

CHAIRMAN KURK: We turn now to Fiscal 17-205, another request from the Department of Health and Human Services for authorization to accept and expend \$820,478 in Other Funds through June 30th, 2018. I understand there are questions on this as well.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. OBER: Neal, I have questions on the last one.

CHAIRMAN KURK: Not this one?

REP. OBER: Not this one.

CHAIRMAN KURK: Is there somebody from the Department who might answer questions?

REBECCA LORDEN, Administrator, Human Services Division, Department of Health and Human Services: Rebecca Lorden, DCYF Fiscal Administrator.

BRADY SERAFIN, Director of Operation, Sununu Youth Services Center, Human Services Division, Department of Health and Human Services: Good morning. Brady Serafin. I'm the Director of Operations for the Sununu Center but also the Bureau Chief for Community and Family Support.

CHAIRMAN KURK: Questions? Is this money being used to pay for the educational component at the Sununu Center?

MS. LORDEN: No.

CHAIRMAN KURK: Could you explain what it's being used for?

MS. LORDEN: This is education funds that are passed through to School Districts to support Title I programs in their school.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Have the School Districts applied for the Title I through you, then you combine everything into one large grant? Is that what we're looking at?

MR. SERAFIN: Yes.

MS. LORDEN: Yes.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. OBER: Follow-up.

CHAIRMAN KURK: Follow-up.

REP. OBER: That's kind of the way they do it every year.

MS. LORDEN: Correct.

SEN. SANBORN: Mr. Chairman. Can I ask --

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you. Can I ask why it goes through DCYF and not the Department of Education if it's education-based money? I just don't know. I'm just asking.

MR. SERAFIN: It's a good question. Honestly, I think this has been the practice for many, many years. I don't know the history. So I -- other than taking a stab at it, I would be just guessing so I apologize.

CHAIRMAN KURK: Why is the Director of the Sununu Center here?

MR. SERAFIN: I oversee the Bureau of Community and Family Support which is -- oversees Title I grant.

CHAIRMAN KURK: So you're not here in your capacity as Director of the Sununu Center.

MR. SERAFIN: Maybe later but right now, no.

CHAIRMAN KURK: Thank you. Just checking.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. OBER: Just for information. Commissioners Edelblut and Meyers were working at swapping two programs, the disability one and then the education functions that reside in HHS. I agreed to file that LSR. However, Education was able to find out that their grant could be moved to HHS with no problem, but Commissioner Meyers did not get as speedy a response from his grant people in D.C. And so the time to pass the LSR are past and didn't get filed. But to the Senator's question, I think both Commissioners are pretty much in agreement that they should be looking at combining proper -- functionality in the proper agency and will continue to work on this kind of partnership. Am I putting words in your mouth?

JEFFREY MEYERS, Commissioner, Department of Health and Human Services: For the record, Jeff Meyers, Commissioner of Health and Human Services. Whether there's actually a movement of the program or some other mechanism, Commissioner Edelblut and I have met now a couple of times with our teams and we are working on this actively. And we are going to come forward with a proposal as to how we combine these funding streams so that they work seamlessly. Thank you.

CHAIRMAN KURK: Further questions? There being none. Representative Weyler. This is a question?

REP. WEYLER: Yes. How many students, how many School Districts, and why does it come through DCYF instead of just going to the School District?

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: This -- because I spent so many years on the School Board in Hudson, but most of the Federal funds go through the Department of Education and are disseminated to the individual School Districts. And the Districts do not apply directly to the Feds. So I would imagine, and I don't remember the exact details of Title I, but we always worked with the

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

Agency, the State Agency that would then get the money from the School Board perspective.

REP. WEYLER: There's a possibility of a double count.

REP. OBER: I can't speak to that.

MR. SERAFIN: I apologize, can you repeat the question?

REP. WEYLER: A student that's under your care, is in a School District, however they're there with a foster family or whatever, they're attending a school. Nobody knows what the arrangement is or how that student got there. That School District could apply for Title I monies and then you apply for Title I monies for the same student. Is there a double count?

MR. SERAFIN: I guess I'm slightly confused by the question but no. It's for a particular program and not student specific. It's based on certainly numbers; but if they were counting students it would -- the student would be counted once. This doesn't serve every School District in the State of New Hampshire. There's about ten schools that are served through this.

REP. WEYLER: May I reply?

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: It goes to low-income areas. Low-income School Districts.

CHAIRMAN KURK: That was a question?

REP. OBER: No, Title I goes to School Districts with students with certain educational deficiencies.

REP. WEYLER: Well, I thought --

MR. SERAFIN: Correct.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. WEYLER: -- my reading of it --

REP. OBER: Commissioner Meyers is shaking his head yes.

CHAIRMAN KURK: Are there further questions?

SEN. D'ALLESANDRO: Mr. Chairman.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: I served in our local School Board for a decade and I think Representative Ober's comments were correct. It's not on a pupil basis. It's on the -- it's on the nature of the school that has to be certified as a Title I recipient.

MR. SERAFIN: Correct.

SEN. D'ALLESANDRO: That's how it works. I don't think there could be any double counting.

MR. SERAFIN: Correct.

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

CHAIRMAN KURK: Further questions. Is there a motion?

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

REP. OBER: Second.

CHAIRMAN KURK: Senator D'Allesandro moves, seconded by Representative Ober that the item be approved. Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

REP. WEYLER: No.

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

*** {MOTION ADOPTED}

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: We turn now to Fiscal -- thank you both. We turn now to Fiscal 17-206, a request from the Department of Justice for authorization to accept and expend \$200,000 in Federal funds through the end of June 30th -- through June 30th, 2019. There are some questions. Is there somebody from the Department? Miss Rice, how nice to see you.

ANN RICE, Deputy Attorney General, Department of Justice: Good morning.

CHAIRMAN KURK: Good morning to you. Would you identify yourself for the record, please?

MS. RICE: My name is Ann Rice. I'm the Deputy Attorney General.

CHAIRMAN KURK: Representative Ober has a question.

REP. OBER: And poor Ann Rice only got a heads up about this in the hall before I came to my seat; but I did give her a heads up.

We have a number of grants that we have given to police departments, the Granite Hammer, et cetera, comes to mind. And what is happening and what we had done in House Finance, but it did not pass through the Senate, was we had looked at those grants and we said because we're arresting predominantly lower level people who then ask for Public Defender, we are bankrupting the Judicial Council's budget that goes to pay for the Public Defender. And we had wanted in House Finance to have a small percentage of each grant set aside to go to the Public Defender in case of arrest. And if there were no arrests, then the overseeing agency, in this case the AG's Office, could release that money to go through.

This looks like a similar one of that, because you're on Page 2, the four components, you're going to provide outreach on gun and gang crime throughout the Manchester area, although I don't think they're the only area with this problem. Stem the

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

flow, which means there are going to be some arrests. Focus on gun and gang crime offenders, which means there's going to be more arrests. Enhancing patrols and parole checks.

And so I did ask Attorney Rice beforehand if it was going to be possible to set aside a percentage and have that available for the Public Defender's Office who will now have to defend the people who are arrested. And she said they would have to go back and this is -- I think I'm paraphrasing you, but I'm going to ask you to confirm that -- she would have to go back and rework some of the grant paperwork, although there is information in the paperwork through prosecution, she wasn't sure, 'cause I don't believe she has that paperwork with her, to see if we could put some percentage into covering prosecution, if needed. Is that correct that you do not -- cannot do that now or you would have to redo this to get it?

MS. RICE: Well, there are two answers to that. The first one is that this is federal grants and the Federal Government has approved the grant as written now. So we would have to go back and reconfigure -- probably resend out an RFP again for this money. I don't know about the deadlines whether -- I think that we would probably not be able to apply again because of Federal deadlines.

The second part of that is I'm not sure that that's even a qualified expenditure under the Federal grant. So we couldn't do that unless the Feds approved it.

REP. OBER: So to the second part you don't know, yes or no, if it is. You have to go back and check the paperwork.

MS. RICE: Correct.

REP. OBER: Why only -- if I might follow-up? Why only Manchester? Because I know there are issues in Nashua. There are issues in other towns, especially some of the border towns. Why is this only for Manchester?

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MS. RICE: I think because Manchester has seen the greatest increase in gun violence recently. And so they wanted to target it in Manchester. And I think because of the limited amount of money that they really could only logically do one particular area. So I think that Manchester was the area that was targeted.

CHAIRMAN KURK: I have a question. How would you know if this program is working? What are the criteria? What are the measurements?

MS. RICE: One of the required components of this is that there be a researcher that's affiliated with the Project Safe Neighborhood Team and that researcher has to look at the level of gun violence at the beginning of the grant period and meet with the team periodically throughout the grant period to look at the stats that are collected and decide whether the strategies that are being used are being effective. So they're looking at the number of guns that have been traced back, illegal guns. One of the things that they're targeting is the illegal guns. They're looking at the number of arrests when they patrol in the hot spots where there's a lot of gun violence.

So the goal of this is to see a 20% decrease in the amount of gun violence crimes in Manchester. So they would be looking at the statistics about, you know, how many patrols are done, tracing the guns and those sorts of things and seeing -- looking at the gun violence statistics.

CHAIRMAN KURK: So we are going to determine that there was a decrease of X percent in gun violence however that's defined. We're going to see that there was a decrease in the number of unregistered or unlicensed guns used in these crimes.

MS. RICE: Yes, that's part of it.

CHAIRMAN KURK: And is there a third or fourth item that we're looking for?

MS. RICE: Well, we're looking for also people who are applying for guns who are not eligible so that there would be a

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

decrease in the number of people that are applying for guns and who shouldn't be getting the guns.

CHAIRMAN KURK: And are there standards by which we expect to say 4% decrease in this area, 7% decrease in this area, or just simply collecting data and we'll have the program continue regardless of whether the decrease is 1% or 10%?

MS. RICE: Well, I think that that's the important piece of having the research component. So the Center For Public Policy is a part of this team, the Project Safe Network Team, and would be looking at those statistics of gun violence to decide whether those strategies are working.

CHAIRMAN KURK: In other words, we're going to collect data but we have no standards.

MS. RICE: Well, I think that what the standards are is looking at the statistics at the beginning of the grant.

CHAIRMAN KURK: The standard means that you expect a certain result.

MS. RICE: Hm-hum.

CHAIRMAN KURK: And you'll measure the data to see whether that result has been achieved.

MS. RICE: Correct.

CHAIRMAN KURK: You're telling us we are going to collect certain data, but that you have no standard against which to judge whether the program has been a success. You'll know what the program did or didn't do, but you have no standard by which to say that was a successful or an unsuccessful change in statistics.

MS. RICE: I'm a little confused. I think what we're looking at is whether there is a reduction in gun violence crimes and

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

whether we see that as a -- our goal is the 20%. Are you saying if we see a 15% whether that's successful or not? Is that --

CHAIRMAN KURK: If you're goal is 20%, then 15% is a failure.

MS. RICE: So we do have that standard of 20%.

CHAIRMAN KURK: You do have a standard.

MS. RICE: Yes, that's written into the grant. I'm sorry.

CHAIRMAN KURK: Thank you. Senator Daniels.

SEN. DANIELS: Thank you. Assuming you achieve a 20% decrease, how can you be assured it's because of this program that you achieved the 20% decrease?

MS. RICE: Well, I think that we will be looking at the statistics at the beginning of the grant, looking at the activity that goes on. Obviously, that there may be some other factors that are at play as well. But I think that that's always the case in terms of, you know, making a specific effort at something. We have to take into consideration what other factors may be impacting it. Again, I think that is so important because we have the research assistance here to look at those issues.

CHAIRMAN KURK: Senator Birdsell.

SEN. BIRDSELL: Thank you for coming in. The researcher, is the money for the researcher coming out of the grant or is that person already embedded in your team?

MS. RICE: No, it's \$40,000 of the grant goes to the research, Center For Public Policy.

SEN. BIRDSELL: Okay.

CHAIRMAN KURK: Senator D'Allesandro.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. A couple of things have happened in Manchester. I live in Manchester. I live in an area where the number of hot spots identified are increasing. And the police department published through the newspaper an article talking about where these hot spots are. And I think what we're asking is an enhancement to help the police do a more efficient job of controlling the situation and, in essence, eliminating the situation. The number of gun violence-associated activities have increased dramatically in Manchester.

MS. RICE: Correct.

SEN. D'ALLESANDRO: I've lived in the same neighborhood for 50 years. The gun violence has exacerbated at an enormous rate over the last few years. We now have promoted legislation here that allows for everybody to have a gun in Manchester and they do. So I think supporting this is absolutely essential for the safety of people in the City of Manchester and the results will happen. The results will be present when we get these people off the streets and we eliminate the sale of the weapons. And the kind of weapons that are now being sold in the City of Manchester are truly unbelievable. And they're unmarked weapons with serial numbers taken off and there's traffic in this situation.

So anything we do to enhance the public safety and the ability of our police force to deal with this, I think, is essential as we move forward and we'll see results. And those results will occur when we don't see the number of violent deaths, we don't see the number of crimes, and we do see those who are committing these acts taken care of will be removed from the street, and I think that's the essential aspect of this grant and that's why I'm voting for it. Thank you, Mr. Chairman.

MS. RICE: Thank you, Senator.

CHAIRMAN KURK: Representative Ober.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. OBER: Thank you. Attorney Rice, now did I hear you say that \$40,000 is going to the Center For Public Policy for the research?

MS. RICE: Yes.

CHAIRMAN KURK: Further question.

REP. OBER: Yes, and that is a Federal center, federally-supported center?

MS. RICE: I'm not sure I can answer that. Center for New Hampshire Public Policy is a non-profit here in New Hampshire and I don't know where the funding --

CHAIRMAN KURK: This is the New Hampshire Center for Public Policy Studies?

MS. RICE: Yes.

CHAIRMAN KURK: Steve Norton's shop?

MS. RICE: Yes.

CHAIRMAN KURK: Or used to be Steve Norton's shop.

MS. RICE: Sorry, yes.

CHAIRMAN KURK: Thank you. Representative Ober.

REP. OBER: Why is there nothing in this paperwork that you guys submitted about the research and the data? Because if I look at Page 2, you say there are four main components to the project. None of them include research or data or -- so is there -- did I overlook that one the other pages? All the rest of it seems to be boiler plate Federal language.

MS. RICE: In these we normally provide the award sheets to the Fiscal Committee. It doesn't have the underlying grant document with it. So --

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. OBER: Right. The question is the four main components research is not mentioned. So are you telling us now --

MS. RICE: Correct.

REP. OBER: -- there's a fifth component that was left out of paperwork?

MS. RICE: Well, I think that the four main components are the focus of the activities of the Project Safe Neighborhood, the police departments. The research component is to look at the activities that they are doing. So I suppose we could have added that as a fifth; but it's absolutely a part of -- a required part of the project is to have collection and analysis of the data from the activities.

CHAIRMAN KURK: Further questions? Representative Eaton is recognized for a motion.

** REP. EATON: Mr. Chair, knowing that part of our job here is to protect state treasures and believing this will help keep Senator "D" safe, I would move approval.

CHAIRMAN KURK: Is there a second?

SEN. REAGAN: Second.

CHAIRMAN KURK: Seconded by Senator Reagan. The motion before us is to approve this item. Discussion? Questions?

REP. OBER: Mr. Chairman, one last comment.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I think we cannot continue to accept grants from agencies that work in information silos and do not work across other agencies when one agency is impacting the budget of another agency that needs to be considered. It shouldn't come here for us to point that out. We need them to be more holistic

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

as they go forward so that we don't bankrupt one agency to support another one. Thank you.

CHAIRMAN KURK: Thank you. There being no further discussion, are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

REP. OBER: Aye. I'm opposed.

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

*** {MOTION ADOPTED}

CHAIRMAN KURK: Miss Rice, would you make sure that we get a copy - that this Committee gets a copy of the Center's report?

MS. RICE: Sure.

CHAIRMAN KURK: Thank you.

(6) RSA 124:15 Positions Authorized:

CHAIRMAN KURK: Thank you. We turn now to item six on the agenda, Fiscal 17-208, Department of Information Technology, authorization to increase Class 046 Consultants for the purpose of hiring consultants through June 30th, 2018.

** REP. OBER: Move to approve.

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

*** {MOTION ADOPTED}

(7) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

**Any Non-State Source and RSA 124:15 Positions
Authorized:**

CHAIRMAN KURK: We turn now to agenda item number seven on the Consent Calendar. There are two items here; Fiscal 17-197 and Fiscal 17-207. Does anyone wish to remove either of those items?

SEN. SANBORN: 197.

CHAIRMAN KURK: Then we will do each of those separately.

SEN. SANBORN: Actually both of them.

CHAIRMAN KURK: Fiscal 17-197, a request from the Fish and Game Department for authorization through June 30, 2019, to create a full-time temporary biological technician and accept and expend \$93,640 in Other Funds. Is there -- Does someone have questions on that item?

SEN. SANBORN: I do.

CHAIRMAN KURK: Senator Sanborn has some questions. Mr. Normandeau, good morning.

GLENN NORMANDEAU, Executive Director, Department of Fish and Game: Good morning. For the record, Glenn Normandeau, Director of Fish and Game.

CHAIRMAN KURK: Senator Sanborn has a question and is recognized.

SEN. SANBORN: Merry Christmas, great seeing you. You know in general I love everything you guys do, but I remember when I first became politically active, which was only ten years ago, we had a discussion about State of New Hampshire spending \$50,000 a year to go buy a bunch of butterflies, the Karner blue that have a two-week life span, dropping 50 grand to release butterflies that live for two weeks every single year. Now, don't get me wrong, I love butterflies. They're wonderful

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

things. But, I mean, we just had a conversation about spending 200 grand without data, but we're spending 50 grand to drop out butterflies that will be dead in two weeks and we're still doing it.

MR. NORMANDEAU: We're breeding them in-house and putting them out there. We are. And, remember, it's not just us. These are a federally-endangered species and so this particular grant was a negotiation with the City of Concord for expansion work at the airport into the Blue Karner habitat out there. And so it was a three-way discussion; City of Concord, Fish and Game, and the Fish and Wildlife Service. And this work was identified as an effort to -- as mitigation to make up for the habitat that will be destroyed in the construction process of the airport.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Are you saying that regardless of whether this effort is successful, the destruction is going forward?

MR. NORMANDEAU: The -- this is mitigation for that construction, yes.

CHAIRMAN KURK: Construction.

MR. NORMANDEAU: Construction.

CHAIRMAN KURK: Thank you. Senator Sanborn.

SEN. SANBORN: I think it ought to be destruction of the habitat for construction --

MR. NORMANDEAU: Construction of the airport, that's correct.

SEN. SANBORN: So after ten years that I'm aware of that we spent if it's only 50,000 a year so we spent \$500,000 a year to breed and release and breed and release knowing they die every two weeks a butterfly. As the Chair would typically say, how do we know this is making a meaningful effort and we can justify to

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

the people of New Hampshire that after spending \$500,000 in ten years that they're clearly not self-sustaining if we are still breeding and releasing.

MR. NORMANDEAU: We do have some self-sustained out there, but we continue to augment the population and habitat by planting lupine.

SEN. SANBORN: Even though we're taking part of it away today.

MR. NORMANDEAU: Well, it's either that or not do the project I guess is what it boils down to. We do try to expand the habitat around the airport and protect as much of it as possible.

SEN. SANBORN: Again, Director, I'm not picking on you.

MR. NORMANDEAU: No, I get it. In fact, you know, I would invite you to actually go out and see what we do there. Because it's -- and I'd be happy to lead that when things are happening. Because you would be you -- might be surprised by what you see, including how these butterflies get tagged and ID'd, rather impressive. I'm serious.

SEN. SANBORN: God bless you, sir.

MR. NORMANDEAU: It's a lot of work.

CHAIRMAN KURK: Further questions or discussion? Senator Sanborn.

SEN. SANBORN: How big is a tag on a butterfly?

MR. NORMANDEAU: It's actually people with extremely steady hands that use a Sharpie, a very fine-pointed Sharpie.

SEN. SANBORN: So we are spending 50 grand to tattoo butterflies.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. NORMANDEAU: You know, this is -- you know, without making a comment on the value of bio-diversity, I'll simply say that when a species becomes part of the Federal endangered species list, extraordinary measures end up being taken to sustain it.

SEN. SANBORN: Thank you, sir.

CHAIRMAN KURK: Further questions? Is there a motion?

** REP. EATON: Move approval.

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

SEN. SANBORN: Not me.

CHAIRMAN KURK: Representative Rosenwald. Further discussion? Are you ready for the question? All those in favor, please indicate by saying aye? Opposed?

SEN. SANBORN: Opposed.

CHAIRMAN KURK: No. Let me see a show of hands, please. All those in favor, please raise your hand. One, two, three. All those opposed? One, two, three, four, five.

MR. NORMANDEAU: If I may make a comment?

CHAIRMAN KURK: Excuse me.

MR. NORMANDEAU: Sorry.

CHAIRMAN KURK: Motion fails.

*** {MOTION FAILED}

MR. NORMANDEAU: May I?

CHAIRMAN KURK: You may.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. NORMANDEAU: They can't build their project. They will not -- their permits will not be valid without the mitigation approved just so you're aware.

CHAIRMAN KURK: I think that was understood.

MR. NORMANDEAU: Okay.

SEN. SANBORN: Mr. Chair, can I ask him a question?

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Director, I don't know what the project is. I don't know anything about it. All I know is --

MR. NORMANDEAU: I believe it's a -- it's a new apron, airplane apron out there.

REP. EATON: Is a motion to table the item in order?

SEN. SANBORN: We have to reconsideration by the prevailing side, I think.

REP. EATON: Well, it's not dispositive --

CHAIRMAN KURK: There's nothing that prevents this from being brought back at a future meeting; is that correct, Mr. Kane?

MR. KANE: No.

SEN. SANBORN: Can I ask one more question, Mr. Chair?

CHAIRMAN KURK: You may.

SEN. SANBORN: Just because, again, we are -- again, I'm not sure any of us are trying to stop development on the airport. But does Concord have the ability to participate if they feel it's that important for them?

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. NORMANDEAU: Well, they're the ones coming up with the money for this.

SEN. SANBORN: 193,000?

MR. NORMANDEAU: That's -- the grant is from the City to the Department to perform this work.

CHAIRMAN KURK: I think you have some work to do.

SEN. SANBORN: Director, I'd be happy to talk to you about it offline, see if there's a vehicle to bring something back next month. I understand the concern.

CHAIRMAN KURK: We now move to Fiscal -- thank you, Mr. Normandeau.

MR. NORMANDEAU: Yes.

CHAIRMAN KURK: We now move to Fiscal 17-207, a request from the Department of Safety for authorization through September 29, 2018, to amend Fiscal 17-121 approved August 25th, 2017, by reallocating \$17,137 in Federal funds, to accept and expend \$785,666 in Federal funds, and contingent upon approval of that authorization to create temporary full-time positions.

** REP. EATON: Move approval.

REP. OBER: Second.

SEN. SANBORN: I have questions.

CHAIRMAN KURK: Representative Eaton has moved, seconded by Representative Ober that the item be approved. Senator Sanborn has a question. Is there someone from the Department who might answer the question? Good morning.

STEVEN LAVOIE, Director of Administration, Division of Administration, Department of Safety: Good morning. Steve

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

Lavoie, Director of Administration for the Department of Safety. And with me today is Nick Mercuri who's the Bureau Chief at the Division of Fire Standards and Training and Emergency Medical Services.

CHAIRMAN KURK: Senator Sanborn has a question. Thank you for being here. Senator, you're recognized.

SEN. SANBORN: Thank you gentlemen. Good morning. Merry Christmas. I'm trying to reconcile the fact this Legislature's been very proactive in trying to make sure we get the ability for people to get Narcan over the counter without a prescription, make it available at no or low cost so anybody could have it in their house or available to use. But now I see a request for nearly \$800,000 to train people how to use it. So are we -- I'm just having a hard time reconciling. Are we going to now take back people's ability to actually administer by themselves that we have already done and require everyone to get trained? How is this all kind of shiggering (phonetic) out?

MR. LAVOIE: Sure. So this program is -- is a new program for us and it's intended to be comprehensive. It's not just focused on training in a couple different areas. It's also focused on providing -- providing the Naloxone doses to certain at-risk populations as well as first responders.

What we have currently is first responders need to be licensed to administer Naloxone. So there's a requirement that they're trained for certain capacity. Then what we are trying to do is ensure that first responders themselves have the ability to train the population that they're dealing with through a follow-up process. So after administering Naloxone some of these funds are going to be used to build -- build a process where the first responders can revisit that -- that individual and their support system and provide training to them on the proper use and administration of that medication.

SEN. SANBORN: So --

VICE-CHAIRMAN DANIELS: Follow-up.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

SEN. SANBORN: Thank you, Mr. Chair. So the general public does not need to be licensed or trained; but we are going to require that first responders who are medically trained have to be licensed and trained. Seems kind of upside down to me.

MR. LAVOIE: If you'd like to --

NICK MERCURI, Administrator, Fire Standards and Training and Emergency Medical Services, Department of Safety: Yeah, thank you very much. I appreciate the opportunity to provide you a little bit more information.

SEN. SANBORN: Thank you.

MR. MERCURI: This -- the structure that we have right now is we've got about 5,000 emergency responders in the state when you talk about Fire and EMS folks. So that is licensed providers. We have that ability to give Naloxone at this particular point. That is part of our training. What this does is to try to bring more first responders on board. So there are a group of individuals, law enforcement specifically, and there are some firefighters that are not licensed or trained currently to give Naloxone because it's not normally within their job duties. Because of this crisis, the Department of Safety expanded that ability a couple years ago to allow licensed law enforcement providers and some firefighters to be able to deliver Narcan earlier than maybe an ambulance would be able to show up.

So part of this is to try to expand those programs of which we're very happy. There's about 250 officers now that have been licensed to give Narcan that was not available a couple years ago. This will significantly expand that, because we have got about 3,000 certified officers within the state. So we have a group that we could certainly increase their numbers.

The training for us is more in the professional side of it as opposed to the general public. They receive a medication education maybe when they pick it up at the pharmacy that, you

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

know, may be five minutes long. It's just enough to how do you give it and call 9-1-1. Our training and the training specifically in this is not only to increase the amount of first responders, but the funding going to the communities to train first responders. It's not to train us how to give Narcan. It's really how to train us to be public educators to get the at-risk individual and their support system. It's training them directly to be able to give Narcan. So it's going to be more comprehensive than maybe over-the-counter that the pharmacist does right now. We'll be able to actually return to their homes, give them the training that they need that will be a little bit more comprehensive than the pharmacy.

But the other piece of it that doesn't happen is we are going to actually train them in the modified CPR rescue breathing. That's a really important piece of this. That's not happening at the pharmacy now and that is a very important piece of the -- of the whole overall emergency treatment.

A lot of our state is rural. Some of our providers take several minutes to get there. So we are really trying to increase the ability of the at-risk individual who's having an opioid overdose to be treated initially by their family and then giving us time to actually show up. So that training is not what's occurring at the pharmacy right now.

In addition to that, the really exciting piece of this is that we have never been tapped to be kind of a referral mechanism. Our normal course of action right now is take them to an emergency department and there absolutely are some folks that need that. But there are many folks, if you think about the Safe Station Program, that don't need the emergency department. What they need is treatment and recovery.

So that gives us the ability to connect on a statewide basis the folks that are doing the treatment and recovery services and us collaborating with them. And that's a pathway that hasn't been available yet. And that's what a big piece of what this grant will allow us to do is create those pathways so

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

we can actually do some field referral and make sure that those folks get the treatment the right place the first time.

Once again, we do triage the folks that have to go to the emergency department. They will still need to go. This is those group of folks that don't necessarily need to go and we have never been tapped that way before. So it's using a different resource of which I think we can provide significant difference.

CHAIRMAN KURK: Follow-up.

SEN. SANBORN: I appreciate your explanation. I'm still a little uncomfortable that everyday people don't need anything and you guys are training just seems like the whole licensing education part is upside down to me. But, look, I appreciate everything you guys do, and you guys are out there fighting the battle, I'm thankful. Just a little wiggly on.

CHAIRMAN KURK: Senator Daniels.

SEN. DANIELS: Thank you. We have a program in town that's open where the fire or the ambulance teach people how to install car seats. Why can't they do the same thing at something far less than \$800,000?

MR. MERCURI: So right now the car seat program you still need to be a trained technician. This is an area that we're just not used to. So what we need is some specific subject matter expert education. So the \$800,000 a lot of that will end up going -- more than half of that will end up going to the communities to be able to bring in their folks, receive the training, but primarily be able to go out and basically and house calls maybe not the right way to put it, but basically return to a scene which we don't normally do. Normally, we're only at the emergency phase of the actual incident. This will, hopefully, prevent some of that. So it's bringing people in and doing some training that we really have not received before. So it's bringing us into that fold. So that's why the number is where it is at, but it's to support those local programs.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you. Mr. Lavoie, it's horrible when we listen to you, but you said that there was a legal requirement for this training. Could you cite the RSA or the Federal public law that requires that for me?

MR. LAVOIE: A legal requirement for the training. I don't recall making that statement.

REP. OBER: You said there was a requirement for this training. That's why we're spending this money, and I'm curious as to what the law is so I can read that.

MR. LAVOIE: The requirement for the training has to do with the licensure of emergency medical personnel.

MR. MERCURI: Hm-hum.

REP. OBER: What is the law for that?

MR. LAVOIE: Do you have the law for that?

MR. MERCURI: 153-A, I believe it's 11. That you can't provide emergency medical services as a condition of employment as a professional without a license from the Department. And that is a distinction from what you were talking about, Senator, as the general public does not need to be licensed because of some House Bills that actually passed a few years ago so House Bill 270 and 271. That opened up that door --

REP. OBER: In what year?

MR. MERCURI: I'm sorry?

REP. OBER: In what year? House Bill numbers don't help us.

MR. MERCURI: That's true. Very good point. It changed RSA 318. Give me just a moment. 318:28-b, I think, is what those House Bills changed.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. OBER: 318-B.

CHAIRMAN KURK: I understood your answer to be that the State requires licensure for a person to become an EMT.

MR. MERCURI: Hm-hum.

CHAIRMAN KURK: But I thought the question was what is the requirement? Is it statutory or by rule that requires as a condition of getting licensure training in this particular area?

REP. OBER: Hm-hum, that was the question.

MR. MERCURI: I'm sorry if I didn't -- if I wasn't specific. The law itself actually says you need that to provide emergency services or emergency medical --

CHAIRMAN KURK: Need what?

MR. MERCURI: I'm sorry?

CHAIRMAN KURK: Need what?

MR. MECURI: A license from the Department.

CHAIRMAN KURK: Yes, I understand that. But the question is in order to get the license, there are certain criteria that have to be met. Are those criteria statutory, including this particular one, or by rule or how is it that it is a requirement for obtaining a license?

MR. MERCURI: Thank you. Thank you for the clarification. The statute calls for a license. Our EMS rules actually call for education on a national level from the National Registry of EMTs, which also comes from the Department of Transportation. So they set the education standards on the medicines that we can receive.

REP. OBER: They who?

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. MERCURI: Department of Transportation.

REP. OBER: National or state?

MR. MERCURI: National. I'm sorry.

CHAIRMAN KURK: So our rules say that in order to get a license, you have to comply with a national organization's rules and that national organization requires this kind of training.

MR. MERCURI: Requires training on medicines that do change as they come -- become more frequent or they change over time. But yes, the medications that we deliver it is required.

CHAIRMAN KURK: The specific requirement that Narcan training be implemented, not just medicines, but specifically Narcan, comes from this national organization; is that correct?

MR. MERCURI: You won't find actual Narcan within their education standards. You'll find what they are current medications within a certain group. That's what they define because they leave enough flexibility for what's going on within the time frame of the certification.

CHAIRMAN KURK: To cut to the chase, if this fails, we could still license emergency medical technicians.

MR. MERCURI: Absolutely, we could still license them.

CHAIRMAN KURK: Thank you. So this is not a legal requirement. Representative Rosenwald.

REP. ROSENWALD: Thank you, Mr. Chairman. I'm from Nashua where we've had 1200 people participate in Safe Station. So I'm pretty familiar with that. My question has to do with the referral, the follow-up referral side. That's going to take firefighters away from their firefighting duties. And so I'm -- I'm wondering if you can tell us how you have worked with local fire departments to make sure that it's not going to

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

increase overtime costs for local budgets as those professionals are pulled off their regular work.

MR. MERCURI: Thank you very much for that question. You want me to take that?

MR. LAVOIE: That's fine, yeah.

MR. MERCURI: Thank you very much for that. I applaud the departments that are doing the Safe Station. The idea behind the funding and why it is the way it is as far as the number goes, is we are not looking at anybody to be pulled off emergency duties for this. Much like the car seat example, there are folks that come in off duty to do certain other things. Our expectation would not be that emergency services would be reduced. This would be an augmentation so any department that chose to use this to be able to treat other individual folks.

REP. ROSENWALD: Follow-up.

CHAIRMAN KURK: Follow-up.

REP. ROSENWALD: So as an augmentation wouldn't that require overtime pay?

MR. MERCURI: That's something would be very difficult for me to answer because there are a variety of ways that the towns deal with that. I would say there was a potential, yes.

CHAIRMAN KURK: May any money in this grant be used for overtime pay?

MR. MERCURI: Yes, sir.

CHAIRMAN KURK: So if Nashua got a grant --

MR. LAVOIE: The intent is that there's an application process. Like anything, we would accept applications from the municipals, the towns, the cities, on what type of program they'd like to implement, what their needs are, whether it's

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

overtime, other resources, and that would be reviewed and then approved or denied.

REP. ROSENWALD: Last follow-up.

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: Isn't this grant just for the training though, not for the ongoing operation of follow-up visits to refer someone for treatment?

MR. LAVOIE: It's really for all of those elements. There's a portion of this that's for training. There's a portion for locals to be used to implement this follow-up program. If they feel that their -- they would like to invest in training their individuals and using those grant funds that might be an acceptable way to move forward. If they feel they need additional overtime funding for these extra follow-up pieces that would be an acceptable use. It's really up to the community to submit a plan on how they'd like to use those funds. If you want to add anything.

MR. MERCURI: Yes. If I can actually add. There are three pieces that the SAMHSA grant required us to address within our application. One was increasing the number of first responders or the individuals that can deliver Narcan. So that hence the first responders to try to get more of them on board to be able to cover their training, and also increasing the number of folks that were at-risk for an opioid overdose to be able to deliver Narcan. So that was one of their requirements.

The other requirement was to provide them some necessary treatment and the Naloxone itself. The third piece of the grant we needed to address was the follow-up in creating that new pathway. So those three pieces were actually part of the grant requirements and part of the application that we addressed.

CHAIRMAN KURK: Representative Ober.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. OBER: Mr. Lavoie, could you look at Page 2 of your submission and could you walk us through some of this. Because I'm getting the feeling you're talking about training within the state and yet you then started talking about grants. And so now if you could just with the budget you submitted just kind of walk us through where you see spending the dollars and why.

MR. LAVOIE: Sure. So the Class 20 expenditures that are listed here are for the purchase of Naloxone, as well as overdose kits, equipment, brochures, all to support that -- this particular program.

REP. OBER: So that's \$94,000 worth of kits and Narcan?

MR. LAVOIE: Among other -- among other general supplies; but the vast majority of that amount has to do with the Narcan purchases.

The Naloxone alone is 71,000 of that 90. If you move down to the grant line on Class 72, 366,000. Those are the funds that will be available to support the locals in their development of these follow-up programs based on the application process. We have -- the other large costs are the two full-time temporary federally funded positions to help administer the grant to communicate and connect with these locals, review the applications, ensure that data is being collected on all of these measures so we can make sure that we're reaching out to the locals and getting the benefits that we're expecting. Those are the large -- those are the larger pieces here.

CHAIRMAN KURK: Further questions. Senator -- Representative Eaton.

REP. EATON: Mr. Chairman, I'd like to withdraw my motion and I'm going to ask to withdraw my motion for the purpose that the Department if they choose to resubmit come back with a little bit more detailed information, possibly more in Dick and Jane than government speak. And I'd like to withdraw my motion and make a subsequent motion to table.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. OBER: I would agree.

CHAIRMAN KURK: The motion has been withdrawn at the request of the mover and with the agreement of the seconder.

** REP. EATON: And I'd like to table.

CHAIRMAN KURK: Representative Eaton moves to table.

SEN. DANIELS: Second.

REP. OBER: Second.

CHAIRMAN KURK: Seconded by Senator Daniels. If you're in favor of tabling this motion, please indicate now by saying aye? Opposed?

SEN. SANBORN: Opposed.

CHAIRMAN KURK: Show of hands, please. The motion carries and the item is tabled. Thank you, gentlemen.

MR. LAVOIE: Thank you.

MR. MERCURI: Thank you.

*** {MOTION TO TABLE ADOPTED}

(8) Chapter 156:165, Laws of 2017, Alternative Placement Capacity for Youth: Reporting Requirement

CHAIRMAN KURK: We move now to item eight on the agenda, Fiscal 17-210, a request from the Department of Health and Human Services for approval of the rate structure to provide alternative placement capacity for youth effective January 1st, 2018. Is there someone from the Department who would be able to answer some questions?

MR. SERAFIN: Good morning once again.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: Good morning.

MR. SERAFIN: Brady Serafin, Bureau Chief for the Bureau of Community and Family Support.

MS. LORDEN: Rebecca Lorden, DCYF Fiscal Administrator.

CHAIRMAN KURK: Thank you. Representative Rosenwald has a question.

REP. ROSENWALD: Thank you, Mr. Chair. Thank you for taking my question. Can you just please explain to us why there's such a disparity in the rates among the various providers of certain services?

MR. SERAFIN: Are you speaking of all services that are receiving a rate increase or specifically about placement providers?

REP. ROSENWALD: Well, I'm looking, for example, on the residential facilities.

MR. SERAFIN: Yes.

REP. ROSENWALD: The back page. There's a wide range of rates --

MR. SERAFIN: Sure.

REP. ROSENWALD: -- for those. Some of it, I'm sure, is acuity; but does this mean that if you live way upstate and you need the most expensive rate, the only place you can go to is that? I just don't understand why there's a disparity so broad.

MR. SERAFIN: In terms of the rate increase that's being provided through this rate structure, is that the question, 'cause I can certainly explain that.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. ROSENWALD: No, no. Because the rate increase is the same, right? It's 5%. So I don't understand why there's a disparity among providers in the rates.

MR. SERAFIN: So they provide -- certainly your point of acuity, they provide a different level of care. So each provider that you see there's a different rate because of level of care that they provide and because of the rate that was structured years ago for these particular providers. So what we attempted to do in this -- in terms of trying to level the playing field, I guess, is we looked at the current budgets. We asked all of the providers to submit current budgets, and we then compared it to what we -- what the State pays as a daily rate. And we noticed some providers had a 41% disparity between what their budget -- their daily budgeted rate was and what we currently pay. So we tried to pay them a rate increase that was -- that at least kind of closed that gap, that closed that disparity to some degree. I don't know if that answers your question, but there's only so many providers within the state. So if you live up north and you need a particular level of care, you might have to come to Manchester to receive that particular level of care. I mean, that might be the only provider in the state that provides that level of service.

REP. ROSENWALD: Maybe if I --

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: -- ask it a different way. I think some of us, maybe all of us got an e-mail recently from one of the providers on the back page. And I see that they're the lowest rate provider. They were worried that the children coming out of the Sununu Center would be admitted to their program and they didn't feel either they had the resources or possibly the reimbursement to serve them. So does that mean that they don't have to worry because a child that was more complex would not be going to the Webster House and they shouldn't have to worry?

MR. SERAFIN: That is our hope by increasing capacity in the community that we are better able to match need with the service

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

that's going to be provided to them. By increasing rates at the higher level of care, we're hopeful that young people that are either diverted or released from the Sununu Center are able to go to a program that's able to meet that level of care.

So if we're talking about Webster House specifically, they're an intermediate level group home and they certainly provide a level of care for the young people that are there. But if we have a young person that needs a level of care that's much more significant than what they're able to provide, our hope is that we are able to increase capacity in the community and they will go to a facility that will be able to meet their level of care, such as intensive level group home or treatment facility.

CHAIRMAN KURK: Commissioner.

MR. MEYERS: Thank you, Mr. Chairman. I appreciate your willingness to recognize me. For the record, again, Jeff Meyers, Commissioner of Health and Human Services.

Representative, let me provide some context for a second that I think will help answer your question.

REP. ROSENWALD: Thank you.

MR. MEYERS: So there were a number of provisions of House Bill 517 that made some changes to the State's commitment to New Hampshire laws and at the same time require the Department to provide alternative placement capacity, both residential placement and services in the community as a result of the expectation that the population of the Sununu Center would decrease as a result of the changes to the commitment and detention laws.

The Legislature required the Department spend no less than \$8.75 million for the biennium. It's really 18 months because it was starting January 1st of 2018 through the end of the biennium for the alternative residential placement capacity and for services through rate increases to all providers, not just residential providers, but all providers in order to enhance the

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

service network in the state to provide additional services and appropriate services for this youth population.

So what the Department has done, what is before you is a specific rate proposal that was required to be submitted. So there are two contracts that are going to the Governor and Council next Wednesday that secure additional residential placement in the community. There are two providers, two contracts. That totaled -- I don't have the numbers right in front of me. It's about 5.4 or \$5.6 million. The balance of funding we provided a total amount of funding of 9.2 million. So the balance as contemplated by the Legislature is being put into rate increases for providers across the board. This is separate from and distinct from the 5% increase that the Legislature separately provided for in the budget.

REP. ROSENWALD: Right.

MR. MEYERS: So that 5% has been distributed. And now the balance of what's not spent on the alternative placement for residential services is being put into rates according to the schedule that appears on the back of our item that you have identified this morning to enhance the capacity of all providers across the system to provide services for these justice involved youth. The reason that the rates differ is because we, first of all, we contacted all the providers. We asked for cost information to understand where their rates were. And so relative to what they are providing, what types of services they're providing, we made an initial decision just for this biennium as to what rate increases would help increase capacity across the system.

So rather than put a single rate, again, take that four point whatever, 4.2, 4.4, I can't remember exactly but it's in that range, and rather than just divvy that up equally, we wanted to target rates that addressed what we felt were disparities in the rate structure already and to ensure that a range of services was going to be supported. We know that we're going to have to look at how this is implemented and, you know, and we expect that once we've got six months or 12 months'

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

experience we might want to make some adjustments in the future. But this was our best estimate, if you will, of how we could support services across the entire system.

REP. ROSENWALD: Could I? Just one more.

MR. MEYERS: Is that responsive to your question?

REP. ROSENWALD: Yes, but I just have one more question.

MR. MEYERS: Sure.

REP. ROSENWALD: So we're asking some of these providers to probably provide more services because there are different kinds of children who would be coming into their facilities because they're not going to be at Sununu anymore. For instance, gang-related children who are coming from Manchester according to this other Fiscal item about reducing gun violence. Are we going to be able to serve these kids anywhere near their communities or are they going to go maybe far away?

MR. MEYERS: So I wanted to comment on one aspect of your question. So a kid who is not a serious violent offender, because that's the category the Legislature created in House Bill 517 and the relevant provisions of 51, the kid's not going to have a mark on their head saying I would have gone to Sununu. That's not going to happen. And so the kids -- the gang members that you're referring to, to the extent that they commit serious violent offenses are going to go to Sununu. That's not changing.

REP. ROSENWALD: Right.

MR. MEYERS: It's the kids who are not serious violent offenders that might have gone to Sununu at a Judge's instruction and this is not the Department deciding that they go to Sununu. I want to keep everybody keep in mind this is a judge deciding where they should go. But judges have felt as you all know over time that there have been fewer and fewer options to place kids in the community where they would have preferred to place them in the community. So what we're trying to do here

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

is say we are going to give these rate increases. It's going to support the system as a whole and we are doing an evaluation of the system that will come out in March; but that aside, we are supporting providers in the community so that a youth that might have gone to Sununu is going to be able to be supported.

As to how that breaks down geographically, we've used the best information that we have from providers and from our own experience to, hopefully, make the right call here. And I would anticipate given how we distributed the money and along with the alternative residential capacity that we're standing up that we are not going to be causing kids to be dislocated in the community. We're going to have to watch that. I mean, this is not a science. You know, we are going to have to see how this works and we'll come back to you on a periodic basis as required to report how it's worked.

REP. ROSENWALD: Thank you.

CHAIRMAN KURK: Commissioner, on Page 1 there's a 5% increase.

MR. MEYERS: Right.

CHAIRMAN KURK: Is that in addition to the 5% across the board that was funded or is this just a statement of that?

MR. MEYERS: I believe it's a statement of that.

CHAIRMAN KURK: Okay.

MR. MEYERS: I believe it's the latter, Mr. Chairman, yeah.

CHAIRMAN KURK: So the changes that you're doing with the extra 3.18 --

MR. MEYERS: Are on the back page.

CHAIRMAN KURK: Yeah, is on the back page.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. MEYERS: Yes, sir.

CHAIRMAN KURK: Have you reserved any money for additional rate increases where -- in cases where you think the Sununu Center is not the appropriate place but the providers in the community cannot without additional funding provide the additional services?

MR. MEYERS: The language in the law that was adopted authorized the Department to spend no less than 8.75. That money comes out of -- I don't have the accounting unit memorized -- but it comes out of our out-of-home placement accounting unit which has a budget of roughly \$21.5 million in each Fiscal Year 18 and Fiscal Year 19.

So I do feel that I have the ability to utilize more money, although I have to say in the same breath that we need to watch our rate of out-of-home placement overall because we can't exceed the budget. So we're going to be tracking this obviously on a month-to-month basis.

CHAIRMAN KURK: Okay. Thank you. By the way, I really appreciate that explanation.

MR. MEYERS: Thank you.

CHAIRMAN KURK: Further questions? There being none, thank you again. Is there a motion on this?

** SEN. REAGAN: Move to approve.

CHAIRMAN KURK: Senator Reagan moves to approve, seconded by Representative Rosenwald. 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}

MR. SERAFIN: Thank you.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: Thank you.

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

CHAIRMAN KURK: We now turn to agenda item number nine, Fiscal 17-211, a request from the Department of Health and Human Services for authorization to fill ten unfunded positions effective on Fiscal Committee approval through the end of the biennium June 30t, 2019. Is there -- are there questions on this?

****** SEN. REAGAN: Move to approve.

CHAIRMAN KURK: Representative Rosenwald, did you have questions on this or Representative Ober?

REP. OBER: No.

REP. EATON: Senator Sanborn.

SEN. SANBORN: I have a question of the Chair.

CHAIRMAN KURK: Yes.

SEN. SANBORN: So my question to you this is part of the whole budget thing we talked about several times. And I thought we had talked about when does it stop or how much money is left before we're backfilling the budget. Is this that same issue where they pulled positions or money out of the budget to get it passed, and now they're putting it back in? And this -- how many more times we see this and how much more money is outstanding?

CHAIRMAN KURK: I don't know the answer to the last question. My understanding is we're going to see this on a regular basis throughout this biennium.

SEN. SANBORN: Okay.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: Senator Reagan moves that the item be approved, seconded by Representative Eaton. Questions? Discussion? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes --

SEN. SANBORN: Opposed.

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

REP. WEYLER: Opposed.

*** {MOTION ADOPTED}

(10) Miscellaneous:

CHAIRMAN KURK: Moving now to agenda item number ten, Fiscal 17-196, a request from the State Treasury for authorization to release -- for the release and distribution of the audited financial statements of the UNIQUE College Investment Plan and Fidelity Advisor 529 Plan for the year ended September 30th, 2017, upon completion of the audits and prior to the presentation of the audit results to the Fiscal Committee.

** REP. WEYLER: Move approval.

REP. OBER: Second.

REP. EATON: Second.

CHAIRMAN KURK: Representative Weyler moves that the item be approved, seconded by Representative Ober. Questions or 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}

(11) Informational Materials:

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: Before we turn to the audits, I believe Mr. Kane has a request.

REP. OBER: He must be scared. He brought a friend.

MR. KANE: Yes, thank you, Mr. Chair, Members of the Committee. My name is Michael Kane. I'm the Legislative Budget Assistant. With me is Steve Smith, Director of our Audit Division. We're at that time of year where the Fiscal Year 2017 CAFR is currently being prepared. It is anticipated that the CAFR will be completed on time; hopefully, before Christmas. I'm here to ask the Committee to -- that we release that report when it becomes available.

CHAIRMAN KURK: Is there a motion to that effect?

** REP WEYLER: So move.

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

*** {MOTION ADOPTED}

CHAIRMAN KURK: Question, Mr. Kane.

MR. KANE: Yes.

CHAIRMAN KURK: Under our rules, an audit is not released until it's been heard by Fiscal and there's a motion to release it. In today's newspaper, *The Union Leader*, there was a complete evaluation of an audit which we are going to hear today which had not been released by the Committee yet. Could you help us understand what happened and what the issues are?

MR. KANE: Sure. So RSA 14:31-a, Roman numeral I, subparagraph (c), requires us to submit a detailed report of every audit pursuant to the section to the Fiscal Committee for

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

their approval. So what happens now is the only people to receive a copy of the report prior to you approving it is the Fiscal Committee because you have to know whether or not to approve the item. The article did mention that it did see the audit and it did state some specific provisions. If that's the direct -- if the Committee, you know, the Committee could consider previously releasing it when the mailing is done, but that's something probably won't decide today and that would allow the members of the public to see it if that's the intent. The reporter did get a copy of the audit. He did not get it from our office.

CHAIRMAN KURK: Is that a violation of State Law?

MR. KANE: I'm not sure if it's -- yeah, so what would you say, Steve? I can't say it would be a violation of State Law. It has not been -- hasn't occurred much in the past. I can't say that no one has ever seen an audit other than Fiscal Committee Members. Members may have shared it. I can't say that has never occurred. I wouldn't say it's a violation of State Law. It just has not occurred before.

CHAIRMAN KURK: Thank you. If anybody wishes to change our practice or take any other kind of action, we'll take that up at our next meeting. Thank you, Mr. Kane.

MR. KANE: Thank you.

CHAIRMAN KURK: At this point I'd like to go to the Informational items. There has been a request to raise some questions about Fiscal 17-213, the Department of Health and Human Services Dashboard. Is there somebody from the Department who can respond to questions? Thank you, Commissioner.

MR. MEYERS: Very happy to do so.

CHAIRMAN KURK: Representative Rosenwald.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. ROSENWALD: Thank you, Mr. Chairman. I do have a few questions if you'll allow me. I read over the Dashboard and I noticed that it doesn't have the financial --

MR. MEYERS: Right.

REP. ROSENWALD: -- projections in it, but I've got sort of a mental spreadsheet. I know that we started the biennium with a \$13.4 million MET revenue shortfall. And we had put in a 2% caseload reduction which you mentioned in the budget overview, which is worth about \$11 million per year per percentage point. Right now we've got about a half a percent decrease. So I'm looking at at least a \$24 million potential.

MR. MEYERS: Yeah, I would disagree and I'm happy to explain why I disagree.

REP. ROSENWALD: Okay. And then I'm going to add those positions that we just funded. So we're 25% of the way through the biennium. I just want to be reassured that July 1st you're not going to come to us and say we have a huge shortfall.

MR. MEYERS: No, I'm not going to do that at all. Let me step back. So with respect to the issue of MET revenue, we did not start the biennium with a deficit. The MET revenue was budgeted in a particular manner. How that MET revenue was budgeted could be hypothetically impacted depending on whether or not Uncompensated Care is reported by the hospitals' drops. That could be affected by ongoing litigation as to the legality of a rule adopted by the current Administration in Washington that impacts how Uncompensated Care is defined and specifically whether or not third-party payments, like Medicare, are included or excluded in a hospital's calculation of uncompensated care. There would only be a shortfall in MET revenue relative to the budget if potentially that rule is upheld by the court which could cause Uncompensated Care to drop below the \$375 million threshold in the settlement agreement, which would then lower -- in turn would lower the tax rate from 5.4% to 5.25% which then, you know, could result in a shortage of revenue, vis-à-vis how it was budgeted. But there's many, many steps that

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

have to take place between now and then. So I don't think it's fair to say we started the biennium with a shortfall in MET revenue.

REP. ROSENWALD: Follow-up.

MR. MEYERS: With respect -- I just want to finish the point to caseloads and then I'm happy to respond to your questions.

With respect to caseloads, it is true the budget assumes a caseload drop of 2% per year in standard -- in standard Medicaid caseloads we're talking about. We are not talking about the expansion group. We're talking about the standard program. It's dropped about .6% actually roughly. But what we have noticed is that within that drop there's been a drop among the higher acuity enrollees and so even though it has not dropped 2% yet for this biennium, we can't -- we don't have enough information to determine if there's going to be a shortage because of the failure of those caseloads to drop because what has dropped has been among the higher acuity cases so there's more of a savings there. We also don't know what's going to happen with CHIP reauthorization. And to the extent that Congress does re-authorize it, because we budgeted 50% of the fee, if we get 65 or should we get even 88 as it has been over the past two years before it lapsed in October, then there would be more revenue coming in than was budgeted. So that could well offset -- more than offset any failure of the caseloads to drop to 2%.

So I recognize the financial table that's out in front that's because we're only -- we are not even halfway in completely to the Fiscal Year. I fully intend to have a watch list on the next Dashboard that we present to the Committee in January. But I will tell you right now although there are issues we are watching, there is no deficit that I am projecting at this point in time.

CHAIRMAN KURK: Thank you, Commissioner. That was going to be a request to resume that --

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. MEYERS: Sure.

CHAIRMAN KURK: -- portion of the Dashboard.

MR. MEYERS: You only put numbers on the front when there are numbers to put on the front. That's the point I'm making. And we're still too early in the Fiscal Year to start making judgments about deficits.

CHAIRMAN KURK: True. But in the past you've done something which is very helpful, you put a question mark or dash there so there's no number but you flagged the issue for our attention.

MR. MEYERS: And I flagged it in the narrative in the letter. It's not a table, but I have flagged the issues that we're watching in the narrative of the letter.

CHAIRMAN KURK: Thank you.

REP. ROSENWALD: Could I --

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: Thank you. So thank you for your explanation about the MET revenues. If the tax rate doesn't drop, it's because Uncompensated Care hasn't dropped to the 166 or so million dollars we budgeted, which would mean that we have a budget shortfall.

MR. MEYERS: The threshold is 375 million of Uncompensated Care. So the tax rate, if Uncompensated Care collectively of the hospitals is 375 million or above that tax rate will not drop. If it's below 375, there are provisions in the settlement that would effectuate a drop in the tax rate as I mentioned.

REP. ROSENWALD: Could I continue?

CHAIRMAN KURK: I'm sorry. Yes, you may continue. I think Representative Rosenwald is trying to make a point.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

REP. ROSENWALD: I just have a few other questions. One is on the mobile crisis. Where are you looking to locate this Behavioral Crisis Treatment Center? We still got no bids on the mobile crisis team?

MR. MEYERS: We got no bids on the mobile crisis team. We eventually pulled it. We had a number of conversations with providers after it was pulled which we were able to do. And rather than have a team travel, what essentially we put out is an RFP that would locate a 24/7 behavioral health treatment team in a specific location. The patients would go to that location. So it's a slightly different model. But it has an aim -- the same aim as a mobile crisis team which is to divert individuals from showing up at hospital emergency departments. And, you know, it's currently in procurement. So I believe there's a lot of interest. We'll see what bids we get.

REP. ROSENWALD: And the next one, the DRF beds. Have we -- I know we've left that RFP open. Do we have any bids from hospitals?

MR. MEYERS: It's currently closed. It was pulled. And I've spoken with the Governor and with other legislative leadership and there's a consensus that that money should be repurposed for transitional housing so that people who can leave New Hampshire Hospital but for the lack of transitional housing would be able to leave. We need to help solve the back door of New Hampshire Hospital as well as the front door issues. And I think there's a consensus that money can be repurposed. So it's specified in the current law to be used for DRF. So my understanding is that there will be legislation that will move very quickly the beginning of the session to allow us to repurpose those funds.

REP. ROSENWALD: Thank you. One more question.

CHAIRMAN KURK: Representative Rosenwald.

REP. ROSENWALD: Thank you. The due process rights for patients.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. MEYERS: Yeah.

REP. ROSENWALD: There was a plan submitted by the hospitals to the Governor and the legislative leadership that would have created this 90-day pilot program --

MR. MEYERS: Right.

REP. ROSENWALD: -- at four hospitals. It was supposed to start November 1st and go until January 31st. Could you please explain to us why that plan proposed by the hospitals has been delayed?

MR. MEYERS: Well, yes. So we had a number of meetings. You know, we probably put in 40 or 50 hours of meetings with the hospitals with the court. Judge Kelly was present at every single meeting. He had his IT people. We had our IT staff and other staff. I'll be issuing a follow-up report very shortly, next week actually, on why it has not gone forward. At the end of the day there were some issues as to how these hearings could go forward that we were able to solve. There were other issues that we cannot solve. In effect, you know, we're asking facilities for -- when I say we, the -- the question that was put to the Department to help resolve is was there a way to stand up emergency and voluntary hearings in facilities that were not DRFs.

So there are three hospital-based DRFs in the state, Designated Receiving Facilities, that are set up now for these hearings and to house patients who have been deemed to be a threat to themselves or others and are going to be involuntarily admitted. That's Elliott, Franklin, and Portsmouth Regional. But every other hospital in the state is not a DRF. And so with respect to attorney/client privacy, patient confidentiality, how patients with -- security for patients, once they've been determined to be IEA, to the extent that they are, how are they going to be supervised in the hospital, and so forth, there were a number of issues that were raised that the court, as well as the Department, as well as the hospitals concluded could not be resolved at this time. And we have no -- the Department has no

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

regulatory authority or legal authority to require a hospital in the state to provide these hearings.

So, as I said, we have put together a full report on all of these issues. We've identified what we have to change in order for these hearings to go forward, even on a pilot basis, and I'm going to make that report public next week.

REP. ROSENWALD: Thank you. Thank you, Mr. Chairman.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. With regard to the Developmental Disabilities Wait List --

MR. MEYERS: Yes.

SEN. D'ALLESANDRO: -- I look at the numbers here and it indicates that we are not serving everybody at the present time. What's the Wait List right now and what will it take --

MR. MEYERS: I'm going to ask Christine Santaniello to come up. She's here and I'll let her address that.

CHRISTINE SANTANIELLO, Controller, Division of Developmental Services, Department of Health and Human Services: Hi there. Chris Santaniello, Division Director, Long-Term Support and Services. Thank you. I actually have current waiting list numbers if that's more helpful through the end of November.

As of the end of November the numbers actually went up to 161. Of those 161, eight of them are considered A's, which are the students that transition. But since the time of this report, one of the things we're doing is every time I get these numbers in preparation I drill down with the agencies and say I really want specifics around every person. Why is there an A?

So since that time five A's have been removed because they weren't ready to accept services. We have 37 B's and those are

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

the people that are newly eligible and 116 C's, which are those people that are receiving some level of service but need additional services. And we started the year, just so everybody is aware, with 227 people already waiting. And we've -- our -- we've allocated funds to 295 people. We anticipated funding for 262. We were able to move some dollars around, vacancy dollars to serve additional people.

SEN. D'ALLESANDRO: Further question.

CHAIRMAN KURK: Further question.

SEN. D'ALLESANDRO: So presently if I follow your narrative --

MS. SANTANIELLO: Hm-hum.

SEN. D'ALLESANDRO: -- you gave us eight, five of which are taken care of; 37 B's, and 16 C's. So --

MS. SANTANIELLO: 116 Cs.

SEN. D'ALLESANDRO: 116 C's.

MS. SANTANIELLO: Yeah, I wish.

SEN. D'ALLESANDRO: So the total on the list as we speak as of today is 161.

MS. SANTANIELLO: Yes.

SEN D'ALLESANDRO: But --

MS SANTANIELLO: But -- but that one -- sorry -- that 161, the number changes every day. So that was as of November 30th. And then we drill down with the agencies. So since November 30th and today five people have been taken off.

CHAIRMAN KURK: But 40 people are not receiving any services.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MS. SANTANIELLO: Correct.

CHAIRMAN KURK: The others are receiving services, but they're asking for additional services.

MS. SANTANIELLO: Yes, you're correct.

CHAIRMAN KURK: The true waiting list, at least as I understand it, is 40, not 160 something.

MS. SANTANIELLO: So the way our law talks about in RSA 171-A, there's A's, B's and C's. So anybody who needs additional services is on the waiting list.

CHAIRMAN KURK: I appreciate what you're saying.

MS. SANTANIELLO: Okay. Thank you.

CHAIRMAN KURK: Further questions?

SEN. D'ALLESANDRO: Yes, thank you, Mr. Chair. So following up on what Representative Kurk said. When we talk about the number 40, 40 have -- they're there but are getting no services as we speak.

MS. SANTANIELLO: Correct.

SEN. D'ALLESANDRO: So that's the number we zero in on is the 40 without any services and the other numbers you have given us, the A's, the B's and the C's are receiving some services.

MS. SANTANIELLO: So yes; but some services to somebody could be an aging parent who is no longer able to care for their also aging adult child. And so while they maybe have a day service they really need something in addition. So that person is a C and so that's what the agencies are trying to balance all the time.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

SEN. D'ALLESANDRO: So last one. So financially where do we stand as far as the ability to accommodate these numbers?

MS. SANTANIELLO: So financially?

SEN. D'ALLESANDRO: Yes.

MS. SANTANIELLO: So I believe in the report I projected maybe 2.5 General Funds for this year. But actually, because we're now in November -- we are actually in December, I went through and said, okay, if everybody who's waiting today was to start in February, just because it's December and I went through that, for the remainder of this Fiscal Year I would need about 1.8 General Funds. That's worst case scenario. That assumes everybody who's waiting today and those that are projected to be waiting.

SEN. D'ALLESANDRO: Okay.

SEN. SANBORN: In addition to the two --

SEN. D'ALLESANDRO: Wait a minute. Let me finish, please. So are you saying 1.8 million for Fiscal Year 18 is what you need to service the population that we're talking about as we speak?

MS. SANTANIELLO: Yes.

SEN. D'ALLESANDRO: And then -- and then going forward --

MS. SANTANIELLO: Right, because next Fiscal Year I would have to annualize those services. So for those people that would cost me about 4.6 in General Funds.

MR. MEYERS: Additional.

MS. SANTANIELLO: Additional because they'd be starting in July. And then we have other people that it's still very early that are projected to not be served in '19.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

SEN. D'ALLESANDRO: And do we have a provision in the law where if you need more money you come back to the Fiscal Committee and request it?

MS. SANTANIELLO: No. The law as it reads today under RSA 171-A and I think it's in section actual 1. I can't remember off the top of my head.

MR. MEYERS: He's asking you a different question.

MS. SANTANIELLO: I know. But so we - we're required to budget the full amount. And then there is no provision in the law for me to come to you and ask for additional funding.

MR. MEYERS: Well, I believe -- sorry, I have to correct, Chris.

MS. SANTANIELLO: That's fine.

MR. MEYERS: I believe there was a -- I don't know whether it was a budget note or there's language in the trailer bill that contemplated that we could come back.

SEN. D'ALLESANDRO: Right.

MR. MEYERS: And that the Legislature could potentially add additional funds as the biennium went on. I don't have the cite right in front of me, but I know I discussed this with the Senate President and I believe there's language in the trailer bill.

MS. SANTANIELLO: I thought that was approved by Senate Finance but then it wasn't approved. Yeah, so that's something.

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

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you. So -- now, Mr. Chair, I guess I have a number questions. The first I would say could

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

you -- could you remind this Committee just because someone is getting some services that doesn't necessarily mean it's the most important services they actually probably need. So even though there are 40 getting no services, those that are getting some services there could be much more higher priority of other services and that's what we need today.

MS. SANTANIELLO: You could have somebody who isn't getting any service and their service would really enhance their life and that of their family. But you could also have somebody who's getting possibly just a day service but has significant needs of their own or their family and they really would be a higher priority or someone that has some interaction with the criminal justice system or has autism or has significant mental health needs that really make it so that their existing services just aren't enough. And I think lots of times when there isn't enough money to go around for everybody families may say, okay, I'll take this today, but in a few years I might need more services, and so that's important to note as well.

SEN. SANBORN: Follow-up. And so getting back on the math question.

MS. SANTANIELLO: Yeah.

SEN. SANBORN: I think it's important, and I don't have an answer to it, if I'm understanding correctly, if there's another 1.8 this year and 4.2 next year so I'm assuming that's the 6 million over what's been budgeted. But one of the conversations we've always had here relative to lapse was, and I'm not sure if Fiscal cured this or not, I just don't know. But I think it's an important discussion that previously we would always budget needs under this general ledger account as if everyone came in on January 1st. If you remember a couple years ago, Mr. Commissioner, that resulted in the fact that we know everyone doesn't need services on January 1st because they age in different times. There's always a relatively large surplus kind of hanging out that could be managed. I don't know, and there was conversation about changing that so when Finance did its budgeting, they budgeted based upon the anticipation of

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

people -- X number of people aging in January, March, June, July, whatever. Have we changed how we do it? So is there a potential for some more money or we still doing it as everyone on January 1st?

MR. MEYERS: We are spending the money we are authorized to spend. We are getting it out the door. So we are not -- we don't believe we're budgeted so that there's going to produce a lapse at the end of the year. I think at the end of '17, Chris can correct me, but I think it was only about 150 or \$200,000 that lapsed, compared to the prior year where there was a very significant lapse.

MS. SANTANIELLO: And when we budgeted we went and primarily for those that are students because you know exactly when they're leaving the School District, we did a pro-rated amount based on that.

SEN. SANBORN: You did. All right, so that's relatively new from where you were a couple years ago.

MS. SANTANIELLO: Hm-hum.

MR. MEYERS: Yeah.

CHAIRMAN KURK: Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman. Originally had a call from a constituent that was having -- he and his wife were having to care for their grandson who normally had a caretaker when their daughter went to work for the eight hours a day, five days a week, and the person either left or quit the agency that was providing that. And the agency just called and said we don't have anybody else to send.

MS. SANTANIELLO: Hm-hum.

REP. WEYLER: What would they be; A, B, C?

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MS. SANTANIELLO: They wouldn't be -- technically they're not waiting for services because they have funding allocated to them. So they would not be on this waiting list. That would be something that the agency would manage by trying to identify other workforce.

REP. WEYLER: Been several weeks.

CHAIRMAN KURK: Follow-up.

REP. WEYLER: Follow-up. In a few weeks they haven't had anybody show up yet and the grandparents are getting ready to go to Florida.

MS. SANTANIELLO: So if you could maybe after the meeting give me more specifics we can follow-up with that particular agency.

REP. WEYLER: Thank you.

CHAIRMAN KURK: Further questions on this information item? There being none, thank you.

MS. SANTANIELLO: Thank you.

CHAIRMAN KURK: Are there any other questions on any of the other information items?

AUDITS:

CHAIRMAN KURK: Then let's now move to the Audits. Rather than take them in the order in which they're listed here, I'd like to take up first the Pharmacy Board Audit about the Prescription Drug Monitoring Program.

STEVE SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: Good morning, Mr. Smith.

MR. SMITH: For the record, Steve Smith, Director of Audits for the LBA. Mr. Chairman, just to follow-up on a question of Mike Kane earlier. Just for the record, I would like to point out that further on in that statute RSA 14:31-a, II reads a detailed report of every audit conducted pursuant to this section shall become a public record upon approval of the Fiscal Committee. So from that we take it from as practice with our office as we work with our auditees, in this case the Board, all the documents being shared, drafts, et cetera, are all just between us. It doesn't become public until this Committee approves it. So we're -- and I think out of practice not only to comply with the law as we understand it, but also as a matter of courtesy to the auditee to give them an opportunity to respond to the audit as well as give us the opportunity to discuss the audit as well. So we were somewhat disappointed for the record.

CHAIRMAN KURK: As was I for the record.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: There used to be a little comic strip called Pogo, The Animals in the Swamp. And one of the things they would say is we met the enemy and he is us and I think we had that kind of a situation here today.

CHAIRMAN KURK: Thank you. Please proceed, Mr. Smith.

MR. SMITH: So here to present the PDMP audit, the in-charge manager to present the audit from our office is Steve Grady. And joining me is the President -- excuse me -- Commissioner of the Pharmacy Board, Gary Merchant, Director of OPLC, Peter Danles, and the Administrator for the Board Mike -- sorry.

MICHAEL BULLEK, Administrator, Division of Health Professions, Office of Professional Licensure and Certification:
Bullek.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. SMITH: Bullek, thank you. With your permission, I will turn it over to Steve to present the audit.

STEVEN GRADY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning. For the record, I am Steve Grady. I was the in-charge auditor for the Prescription Drug Monitoring Program performance audit. The audit's objective was to determine how effective the PDMP was through State Fiscal Year 2017. I will be summarizing the report's 26 Observations.

Of the 26 Observations and Recommendations, the Board concurred with 21 and concurred in part with five. The Office of Professional Licensure and Certification was affected by seven Observations and Recommendations, concurring with six and concurring, in part, with one.

Eight Observations may require legislative action depending upon how the Board resolves our recommendations.

Before I summarize the report's findings, I would like to note the implementation and operation of the PDMP was reportedly inhibited by staffing turnover, organizational turbulence, frequent changes in underpinning laws and funding constraints. Properly addressing these limitations and our recommendations could facilitate PDMP maturation and its eventual optimization.

The Executive Summary starts on Page 1, the Recommendation Summary starts on Page 3, and the section on effectiveness encompassing Observations No. 1 through 4 starts on Page 15.

The PDMP was established in June 2012 to help address the abuse, misuse, and diversion of Schedule II through IV controlled drugs, drugs that led to deaths and unnecessary health care system utilization. The PDMP and supporting systems remained at an initial stage of maturity through State Fiscal Year 2017 due to inadequate planning and implementation. We found no empirically demonstrated PDMP outcomes or effects.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

Expected outcomes and effectiveness measures framed in State Law were never examined by the Board for validity or practicality. We found the outcomes and effectiveness measures contained in State Law spanned a continuum from plausible, to somewhat plausible, to less plausible.

Plausible outcomes included improved patient care and treatment and changes in prescribing practice and doctor shopping, the effect likely be measured for analyses of current PDMP information, regulatory board and law enforcement investigations and surveys of PDMP registered prescribers and dispensers. Somewhat plausible outcomes included improved practitioner/patient relationships, changes in patient morbidity, drug abuse and types of drug deaths and select indicators of divergence. Measuring effect might be possible by selecting specific and valid indicators and analyzing information currently collected by other State Agencies linked to analyses of current PDMP information, regulatory board, and law enforcement agency investigations and surveys of PDMP registered prescribers and dispensers.

For example, as we depict in Figure 8 on Page 36, some State Agency data appears amenable to analysis and this aggregation to permit quantification of overdosed deaths attributable to prescription drugs and illicit substances. Further disaggregation might also be possible to quantify prescription drug deaths by type. We found the least plausible outcomes are related to patient mortality, changes in the number of drug deaths and select indicators of diversion. It was unlikely the Board would be able to measure effects given limitations in data collection and the difficulty in demonstrating a causal relationship.

Additionally, the influence of known and unknown external factors on outcomes would complicate any effectiveness measurement. Changes in data purportedly representing intent to PDMP outcomes could actually represent combined effects of the PDMP and other known and unknown external factors, such as other efforts to curb drug abuse.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

None of these complexities were resolved by the Board and given the difficulties in attaining stable and mature PDMP operations, as well as significant limitations on monitoring and analyzing PDMP information, it was unlikely the Board could have developed the useful evaluation framework during the audit period.

Our recommendations include clarifying how the PDMP can reasonably be expected to affect validated outcomes and when outcomes and effects will be expected.

Integrating data available from other State Agencies to assess PDMP effectiveness.

Developing, implementing, and refining assistance to empirically demonstrate PDMP effects related to validated outcomes.

Identifying and developing methods to mitigate unintended consequences, and qualify or eliminating outcomes and measures as necessary seeking legislative changes to rationalize State Law with validated outcomes and measures.

The section on implementation and operation encompasses Observations No. 5 through 18 and begins on Page 47.

We found inadequate control over the systems and substances necessary for effective PDMP operations. The PDMP was implemented and operated since its inception without a strategy or overarching plans, strategic goals or objectives. There was no performance measurement system. The large volume of data collected since 2014 essentially went unanalyzed and was never systematically used to create knowledge or improve understanding of PDMP outcomes and effectiveness.

Criteria and threshold essential to objectively identifying potential abuse, diversion, or violation of professional standards were undeveloped.

PDMP requirements were not incorporated into investigative and enforcement processes and compliance was unmonitored and unenforced.

No functioning system of controls and routine interactions between the Board and other regulatory boards whose licensees were subject to the PDMP existed. Confusion surrounding -- excuse me -- confusion surrounding when and how law enforcement could access or receive PDMP information was not formally clarified and reconciliation between limits on law enforcement access and the level of access necessary to achieve certain PDMP outcomes did not occur. No system existed to ensure all individuals required to register were registered, that those ineligible to register were deregistered or that enforcement was carried out. Utilization requirements were unmonitored and non-utilization was not enforced. PDMP data quality, and security and confidentiality lacked adequate control.

We recommend the Board develop a multi-year risk-based strategy and supporting plans addressing each of the systems and subsystems for -- essential for effective PDMP operations and first fully implement the PDMP and then move it towards optimization.

The section on General Management Control encompassing Observations number 19 through 26 begins on Page 117.

Volunteer Board was responsible for and struggled with a wide variety of general controls. We found significant non-compliance with several statutes, including the Right-To-Know Law and the financial disclosure law. Additionally, the Board failed to resolve prior audit findings and lacked relevant management controls as we highlight in Appendix G.

We recommend the Board comply with State laws and develop a plan to finally resolve audit recommendations. We also make several recommendations to the Office of Professional Licensure and Certification related to the services it provides.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

This concludes my remarks. I'd like to thank the Board, the Council, and the management and staff of the Office of Professional Licensure and Certification for the assistance that they provided during this audit. Unless there are any questions for me, I'll be followed by Mr. Merchant, the President of the Board.

CHAIRMAN KURK: I think we'll hold questions until we heard from all folks.

GARY MERCHANT, President, Board of Pharmacy: Chairman and Representative Kurk, fellow members of New Hampshire Finance Committee, good morning. For the record, my name is Gary Merchant, President of the New Hampshire Board of Pharmacy. I became President of the Board in September of this year, a little less than 90 days ago. I thank the Director Smith and his team for conducting a thorough and comprehensive audit. The audit speaks to ways to improve the operations of the Pharmacy Board, Prescription Drug Monitoring Program for the Pharmacy and Office of Professional Licensure and Certification. However, the Board does not discuss the important accomplishments in State initiatives on tackling the opioid epidemic in our state. The annual Governor's Commission of Alcohol and Drug Abuse Report released in October this year noted two important encouraging milestones.

One, Calendar Year 2017 projected to have a decrease in the number of overdose-related drug deaths, the first time in five years. That's an accomplishment. From January 2016 through March 2017, prescriptions per 100 residents for opioids decreased by 14.8%, and for benzodiazepines, valium-like, decreased by 8.1%. I attribute this directly to the work done by the Prescription Drug Monitoring Program.

As efforts begin to have an impact on prescribing and dispensing prescriptions for legal controlled drugs, there has been corresponding increase in the use of illegal or elicit substances.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

As noted in the previous discussion on Page 36 of the Audit, the contributing substance linked to overdose deaths between Calendar Year 2014 to 2016 is related primarily to illicit substances, not prescription drugs. In fact, this report indicates that since the implementation of Prescription Drug Program in 2014, drug deaths linked to illicit substances for Calendar Year 14, 15 and 16, have had a significant and dramatic increase with overdose deaths but legal prescriptions have shown a slight decrease.

I do concur that the Board of Pharmacy, the Office of Professional Licensure and Certification, and the Advisement Council can improve the operation of efficiency by implementation of the audit recommendations. However, this should not negate the hard work, dedication, and passion by many individuals to achieve the noted accomplishments. Thank you.

CHAIRMAN KURK: Thank you, sir. Mr. Smith, is there anyone else who's going to comment?

MR. SMITH: Peter.

PETER DANLES, Executive Director, Office of Professional Licensure and Certification: Good afternoon, Committee Members. I would just like to state for the record that --

CHAIRMAN KURK: May we have your name, sir?

MR. DANLES: I'm sorry. Peter Danles. I'm the Executive Director for the Office of Professional Licensure and Certification.

I'd just like to state for the record that we have been working diligently the last year to develop some consistent policies and procedures within the agency which has been a challenge. I suppose that wasn't done at the inception of the agency. A lot of these policies and procedures directly address some of the issues that are discussed in this audit. And I think as we go forward we are going to continue to make progress and have consistency in how we not only manage the PDMP Program but

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

the pharmacy program and other boards that are associated with OPLC.

CHAIRMAN KURK: Thank you, sir. Questions from Committee Members? Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Gentlemen, good morning. Merry Christmas. Sorry we're here on such a difficult day. I mean, globally I think we're all disappointed in some of the things that are in the audit. But, frankly, I don't think it's all unexpected and, frankly, for the record, I don't think we can lay all the challenges on the Licensing Board. I'll get into that in a second. Because I recognize that part of the challenge you guys have in creating a program and making it work that we created a program that does not require full participation from all the people you're supposed to be monitoring and this room knows as well as most people that I've been very, very clear that until we get full participation by every single person that dispenses a drug we are wasting our time. This is never going to work.

So I feel very, very frustrated that some would say sometimes the best laid plans may often go awry, but this was never even the best laid plan from the beginning because you could not create a program that doesn't work unless you require everyone participate in it.

That's a legislative question and I hope at some point the Legislature recognizes that we have got to get everyone on the bus if we're going to have any opportunity at all to get our hands around it. But that said, part of my frustration I'll tell you as Chair of the Health and Human Services during the implementation of this, I've lost count of how many times I asked for data. And, in fact, I think only got data three times out of several years that was so misconstrued and un -- and unable to reconcile it. And for the record, I've a data background in finance so numbers come much better than speaking and spelling to me that I truly hope that we find a way very quickly to get our hands around all of this holistically.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

And I would go so far as to suggest to you that I would recommend that you reach out to the Commissioner of DAS, who happens to be sitting in the corner hiding but poked his head up for a second, that it might behoove you all, at least on a temporary basis over the next 18 months or so on the financial aspect of providing the Legislature real data that it can use to make policy considerations to get a group of people involved who have this background in data and understanding of what we might be looking for holistically, I think, is incredibly important at this time. The fact that this Legislature has never been able to receive any accurate data other than the first quarter which, remember, 146 million prescribed drugs in a quarter -- I'm sorry, on an annualized basis was a staggering revelation to me.

So, like I said, I think all of us agree we are all very disappointed. We are all struggling to understand how this program has not been able to work and it's not giving us good data. But I also have to say that this is probably a legislative problem. This Legislature didn't make the right policy decision so we own some of the policy; but, obviously, on the implementation side and the reporting side I truly hope you guys can find a way to clear it. So my question on that is how long will it take?

MR. MERCHANT: That's a very good question. What I would ask, if you're willing to sit down with some people like yourself and find out what data would be helpful in creating policies.

CHAIRMAN KURK: I think -- I think we are going to make a different request of you.

MR. MERCHANT: Okay. We need to have a plan submitted to the LBA in time for our February meeting, which will be roughly the beginning of February, giving you month and a half, with a timeline as to how you're going to meet all of the audit findings which you have agreed with and to the extent you've agreed with them in part to that and then subsequent monthly reports as to how that is being implemented. I think you can work with the LBA in terms of developing this, but we need to

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

make sure that this report, which was frankly quite shocking, is resolved and resolved quickly. If you do this, then we will be in a position to introduce whatever legislation is required in consultation with this report in a timely manner as amendments to various bills instead of going through the legislative process. But we really need to see something with a timeline, and I would like very much to have that for the February meeting. Could you commit to doing that?

MR. BULLEK: Yes.

MR. MERCHANT: Yes.

CHAIRMAN KURK: Good. Representative Rosenwald.

REP. ROSENWALD: Thank you, Mr. Chairman. To a large extent, I think the Legislature did write policy that required more robust use of the PDMP. I think we're the only state that requires it be consulted for virtually every first prescription. The veterinarians did manage to get out of that; but they're still required to register with the PDMP. So we required basically, unless the program is down or there's some disaster going on in an E.R., that every prescription -- every interaction has to be run through the PDMP.

So we probably have been ahead of other states on that. But my question is, and I'm sorry I was out of the room for a minute of this, it seemed to me there was an implication that having the PDMP led to an increase in overdose deaths from illicit drugs by decreasing the number of prescriptions for legal drugs. Didn't that also occur at the same time there was an increase in Fentanyl coming in on the heroin supply? So didn't the illicit drugs themselves become more dangerous at the same time and maybe those things are not causally related but just true true unrelated.

MR. GRADY: Asking me, ma'am?

REP. ROSENWALD: I'm not sure who I'm asking.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

MR. GRADY: While we were not trying to understand the dynamics behind the opioid crisis, it did imbue itself into our work a bit. We understand from others that there may have been an increase in illicit forms of opioids coming into the state contemporaneous with the implementation of the PDMP. That being said, you hit it right on the head whether there's a causation relationship there or not. We don't know. It was outside the scope of what we were trying to accomplish.

REP. ROSENWALD: Thank you.

CHAIRMAN KURK: Further questions.

REP. ROSENWALD: No, thank you.

CHAIRMAN KURK: Are there any other questions or comments? Representative Weyler.

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

SEN. REAGAN: Second.

CHAIRMAN KURK: Discussion?

SEN. D'ALLESANDRO: Just a question, Mr. Chairman.

CHAIRMAN KURK: Senator D'Allesandro.

SEN. D'ALLESANDRO: Are you going to make that recommendation and bring forward?

CHAIRMAN KURK: Not only did I make the recommendation, there was concurrence on the part of these gentlemen that this will happen. So in February we are going to get a complete report of how they're going to meet all of the findings of the audit with a timetable that shows us when these are going to happen. And subsequently every month we are going to receive a report that indicates where they are in terms of the timeline and so forth. This is very serious. We are very concerned that

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

this report, which is probably among the bottom two in terms of failure on the part of the organization, we are really concerned that this be turned around and turned around quickly, and I understand your commitment to do that.

MR. MERCHANT: Sure.

CHAIRMAN KURK: So, Senator, I think this is going to happen expedited.

SEN. D'ALLESANDRO: So it's clear, it's quite clear what the Chair has requested.

MR. MERCHANT: Yes, yes.

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

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: And, again, call the office. I'm happy to sit down. There are a number of us who've been around this issue for some time. We'd be happy to help meet it, help you see it happen.

MR. MERCHANT: Thank you.

CHAIRMAN KURK: The motion before us is to accept the report and release it in the usual manner. Are you ready for that question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is approved. Thank you, gentlemen.

***** {MOTION ADOPTED}**

CHAIRMAN KURK: We now turn to the audit of the Department of Agriculture, Markets, and Food. Mr. Smith.

MR. SMITH: Mr. Chairman, next audit is the financial audit for the nine months ended March 31st of the Department of Agriculture. And Jim Lariviere, a Manager with our office who

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

was the in-charge, he'll present our audit. And joining us from the Department is the new Commissioner, Commissioner Jasper, and Steve Crawford, the State Vet.

CHAIRMAN KURK: Thank you. I'd like to welcome the new Commissioner. It's a pleasure to see you, sir. Mr. Smith, did any of the activities subject to this audit take place during the short tenure of the new Commissioner?

MR. SMITH: No, they did not.

CHAIRMAN KURK: Thank you.

SEN. D'ALLESANDRO: He's safe.

REP. WEYLER: Thank you for putting that on the record.

JIM LARIVIERE, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Mr. Chairman and Members of the Committee. Again, for the record, my name is Jim Lariviere and we're here to present the report on our audit of the Department of Agriculture, Markets, and Food Financial Statement for the nine months ended March 31st, 2017.

This report is presented in two sections. Section one contains our Independent Auditor's Report on Internal Control Over Financial Reporting and On Compliance and Other Matters, along with 16 Observation comments, followed by an Appendix containing the current status of audit findings from our audit of the Department -- our prior audit of the Department.

The second section, financial section, contains our Independent Auditor's Report followed by the Department's financial statements, the notes to those financial statements, and budget to actual schedule.

Presenting the report in two sections is intended to make clear the responsibilities for the information presented.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

The first Management Letter section is the responsibility of the auditor. The second financial section is the responsibility of the Department. The focus of my presentation this afternoon will primarily focus on the Observations and Recommendations in the report. However, we would be happy to answer any questions you may have regarding any part of this report.

The Table of Contents on Page 1 lists 16 Observation comments. None of the comments are identified as material weaknesses, and the Department concurs with 15 comments and concurred, in part, with one. As noted by the asterisks, Observation No. 10 may require legislative action.

Our Observations begin on Page 5.

Observations No. 1 through No. 4 address opportunities for the Department to improve processing of revenues, including the development of relevant policies and procedures. We recommend the Department strengthen its central business functions by minimizing the handling of receipts by employees and implementing appropriate segregation of duty controls. We recommend the Department regularly reconcile business activity recorded in its business information technology systems to the related revenue collected and recorded in the State's accounting system, NHFirst.

We recommend the Department review its processes to improve efficiency and to encourage manufacturers to improve compliance with State's product registration requirements. We recommend the Department review apparent causes for a decrease in revenues from the licensing of commercial weighing and measuring devices, while the number of those devices used in the state has not decreased.

Observations No. 5 and No. 6 address control weaknesses over the animal population control program, a program to reduce the population of unwanted strayed dogs and cats.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

We recommend that the Department improve documentation over eligibility determination, calculation of fees, and encouraging cities and towns to remit payments to the Department timely.

Observation No. 7 on Page 13 recommends the Department establish policies and procedures for preparing and supporting draws of Federal grant funds.

Observation No. 8 on Page 14 recommends the Department improve security over documentation containing personally identifiable information collected in relation to the animal population control program mentioned earlier.

Observation No. 9 recommends the Department conduct annual job performance evaluations for all full-time classified employees.

Observation No. 10 I'll go into a little bit further detail as that's the comment that we suggested that legislative action may be required based on the auditee's response.

We recommend that the Department review the plans and expectations for the operation of the Milk Producers Emergency Relief Fund Program. RSA 184 established the fund to reimburse New Hampshire producers of raw milk when the base price falls below a target price and when funds aren't available that any amount not paid to the producers shall be carried forward and paid at a later date should sufficient funds become available.

As of March 31st, 2017, the Department had not received any appropriations for the fund and had made no payments. The Department also had not established policies and procedures for determining whether any liabilities exist for unpaid reimbursements since July 2008, the statutory start of the program.

We recommended that the Department and the Board review expectations for the operation of the fund as described in statute and establish policies and procedures and rules for the operation of the fund. If in its review the Department

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

determines operations of the fund no longer serves the needs of the State and the Department, the Department should request appropriate revisions to the statute.

Observation No. 11 on Page 18 recommends the Department establish policies and procedures for the operation of the State's building at the Big E.

Observation No. 12 addresses the filing of statements of financial interest, and Observation No. 13 beginning on Page 20 recommends the Department prepare a current information technology plan and submit it to the Information Technology Council.

Our State Compliance Comments begin on Page 22 with Observation No. 14 recommending the Department adopt all statutorily required rules and Observation No. 15 recommending that Department comply with statutory reporting requirements.

In both Observations No. 14 and No. 15, if the Department determines any required laws or rules are no longer relevant or necessary, the Department should seek to have statutory requirements appropriately amended.

Our final Observation on Page 26 is a Federal Compliance Comment, and we recommend the Department comply with Specialty Crop Block Grant Program requirements.

Behind the first tab is current status of the audit observations contained in the financial audit of the Department for the six months ended December 31st, 2008, which identifies eight comments as fully resolved, three substantially resolved, and seven partially resolved. No comments remained unresolved.

The financial section of the report follows with our Auditor's Report which was modified as only one other required financial statements was presented.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

The Statement of Revenues and Expenditures for the nine months ended March 31st, 2017, is on Page 5, followed by the notes to the statements and the budget to actual information.

This concludes my presentation. I would like to thank the Department of Agriculture, as well as the Department of Administrative Services, for their cooperation and assistance throughout the audit. We would be happy to answer any questions the Committee may have.

CHAIRMAN KURK: Thank you, sir. Before we proceed because one member may have to leave, I'd like to recognize Representative Weyler for a motion.

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

REP. EATON: Second.

SEN. REAGAN: Second.

CHAIRMAN KURK: Moved by Representative Weyler, seconded by Senator Reagan. Discussion? There being none, all those in favor please indicate by saying aye? Opposed? The ayes have it, and the motion is adopted.

*** {**MOTION ADOPTED**}

CHAIRMAN KURK: Commissioner, would you care to respond?

SHAWN JASPER, Commissioner, Department of Agriculture, Markets and Food: Thank you, Mr. Chairman, Members of the Committee. It's my pleasure to be here. As was noted, this report actually was submitted 11 days before I was sworn into office. I will tell you that I did not find anything in this report to be terribly surprising as I prepared for my -- my confirmation hearing and reviewing the statutes that the Department is charged with overseeing which total over 350 pages, Chapters 425 and I think 439, an additional addition to other areas of statutes the Department has responsibility and

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

noting the size of the Department. I recognize that it would be humanly impossible for us to be in compliance with everything that we are charged with doing. And there are many things within the recommendations that will be easy to -- to fix and we intend to do that. There are other areas that will be more difficult to comply with given the staffing of the Department and the requirements.

I certainly expect that we will be very shortly looking at the rules that are out-of-date and figuring out which ones we need legislative changes to. Obviously, there are some right off the top of the bat, right off the top that I recognize we no longer need, nor should we have, and we will be coming forward with proposed changes to the legislation in those areas.

The reporting deadlines were also something which I was fairly confident that we were probably not meeting all of those. Many of those are things that are covered in our budget presentations and some of those may be outdated and need to simply be incorporated into the budget presentations, rather than done as separate reports. They're probably not looked at by anyone else and probably no longer serve the purpose which they originally had.

So we will be working diligently over the next year to come into compliance in all the areas that we can and those that we cannot do with the staffing, we will certainly be making the Governor and the Legislature aware of the issues that we face in order to meet all of the statutory requirements that are placed upon the Department.

CHAIRMAN KURK: Thank you. That's very good to hear. Question for the auditors? Did you look at the \$2 million appropriation for the draught program and was that appropriately disbursed in a timely manner?

MR. LARIVIERE: We did not look at it because it was subsequent to the audit period. Our audit period was through the nine months ended March 31st and that became effective subsequently.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

CHAIRMAN KURK: Thank you. Questions from the Committee Members? Have an opportunity, folks.

REP. EATON: Is the Commissioner relieved because I led him to believe that there might be some joy on this side of the table at his presence.

SEN. D'ALLESANDRO: There's always joy when we see a Speaker or a former Speaker. He fills the halls with jolliness. Thank you so much.

REP. EATON: I concur with the Senator, but I think there was a different type of joy anticipated.

CHAIRMAN KURK: There being no further questions, let me thank you for the audit and thank the Commissioner and wish him again the best of luck in his new position.

SPEAKER JASPER: Thank you.

REP. WEYLER: And congratulations.

CHAIRMAN KURK: And congratulations, obviously. Mr. Kane, is there anything else to come before us?

MR. KANE: There is not.

CHAIRMAN KURK: Our meeting in January is?

MR. KANE: 19th.

CHAIRMAN KURK: January 19th.

REP. WEYLER: January or February?

CHAIRMAN KURK: January 19th. May I wish you all a sundry Merry Christmas and Happy New Year. Senator D'Allesandro.

JOINT LEGISLATIVE FISCAL COMMITTEE

December 15, 2017

SEN. D'ALLESANDRO: Ask you a question, Mr. Chair. Some Members left the audits, but we want to have a full Committee. Is it possible, I have had this discussion with whomever, is it possible when there's an audit of specific interest that we might just hold our session to deal with the audit so everyone can be here and they can get the full attention. We owe a service to these people who spend their time auditing and give us their efforts and they're expensive. Audits aren't cheap. What happens as a result of that falls on -- the responsibility falls upon us. If we are not here to get the full focus of the audit we can't be as good in responding. You might consider that, Mr. Chairman.

CHAIRMAN KURK: Let's talk about that with Mr. Kane, see how that might work. It's an interesting suggestion. Thank you.

SEN. D'ALLESANDRO: Thank you.

CHAIRMAN KURK: If there's no further business to come before us, we stand adjourned.

(The meeting adjourned at 12:22 p.m.)

CERTIFICATION

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

Cecelia A. Trask
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State of New Hampshire
License No. 47

