

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, February 1, 2013

MEMBERS PRESENT:

Rep. Mary Jane Wallner (Chair)

Rep. Cindy Rosenwald

Rep. Peter Leishman

Rep. Ken Weyler

Rep. Dan Eaton

Sen. Chuck Morse

Sen. Bob Odell

Sen. Jeanie Forrester

Sen. Donna Soucy

Sen. Andrew Sanborn

(Convened at 10:06 a.m.)

(1) Acceptance of Minutes of the December 21, 2012 Meeting.

CHAIRWOMAN WALLNER: I'll call the Fiscal Committee -- is this on? It's never on.

REP. EATON: Flip the button.

CHAIRWOMAN WALLNER: Okay. There it is. Call the Fiscal Committee to order, and we'll start with acceptance of the minutes from the December 21st meeting.

****** REP. EATON: So move.

CHAIRWOMAN WALLNER: Do I hear a second?

SEN. MORSE: Second.

CHAIRWOMAN WALLNER: Representative Eaton moved and Senator Morse seconded the approval of the minutes of the

December 21st meeting. We have Old Business.

REP. WEYLER: Want to vote?

CHAIRWOMAN WALLNER: Oh, I'm sorry. Let's vote. Okay. All in favor? Okay.

*** {MOTION ADOPTED}

(2) Old Business:

CHAIRWOMAN WALLNER: Hum -- Old Business. We have one item on the table. Do I hear any --

CONSENT CALENDAR

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

CHAIRWOMAN WALLNER: Move on to Tab 3 which is a consent. Is there anything that anyone would like to take off the Consent Calendar?

** SEN. MORSE: I'll move it.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Senator Morse moved the Consent Calendar, and Representative Eaton seconded. All in favor? Any opposed?

*** {MOTION ADOPTED}

(4) RSA 9:16-c Transfer of Federal Grant Funds:

CHAIRWOMAN WALLNER: Tab 4 is also a Consent Calendar. Do I hear -- would anyone like to take anything off the Consent Calendar?

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** REP. EATON: Move it.

CHAIRWOMAN WALLNER: Representative Eaton moves.

REP. ROSENWALD: Second.

CHAIRWOMAN WALLNER: And Representative Rosenwald seconds. Any discussion? All in favor? Any opposed?

*** {MOTION ADOPTED}

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

CHAIRWOMAN WALLNER: Tab 5. Consent Calendar. Would anyone like to remove something from that? Representative -- Senator Morse.

SEN. MORSE: Remove item number 13-040.

CHAIRWOMAN WALLNER: Senator Morse wants to remove item 13-040, Public Utilities Commission item. And any other -- any other items to come off that?

** REP. EATON: Move Consent Calendar with exception of 13-040.

CHAIRWOMAN WALLNER: Representative Eaton moved Consent Calendar.

REP. WEYLER: Let me check.

CHAIRWOMAN WALLNER: Sorry.

REP. Weyler: I got them all numbered. Here it is.

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Okay.

CHAIRWOMAN WALLNER: Representative Eaton moved the Consent Calendar and Senator Morse seconded. All in favor? Any opposed?

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: We will now take up item 13-040, the Public Utilities Commission. Yes, Senator Morse.

** SEN. MORSE: I move to table.

CHAIRWOMAN WALLNER: Senator Morse moves to table.

REP. WEYLER: Second.

CHAIRWOMAN WALLNER: Do we have a second?

REP. WEYLER: Second.

CHAIRWOMAN WALLNER: All in favor? The item has been tabled.

*** {MOTION ADOPTED}

AMY IGNATIUS, Chairman, Public Utilities Commission: All right. May I ask a question? Just for the future, my name is Amy Ignatius. I'm the Chairman of the Public Utilities Commission. If there's any information that would be useful to the Committee's understanding so that it can be taken off the table we would, of course, want to bring that to you. So if either today or in the future a phone call, anything you'd like to share with me that I can produce for you, please, we are happy to help.

CHAIRWOMAN WALLNER: Will be on the table and we can

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take it up at the next meeting. Okay. Thank you.

MS. IGNATIUS: Okay.

(6) RSA 124:15 Positions Restricted:

CHAIRWOMAN WALLNER: Item number 6 is positions restricted. Consent item. Would anyone like to have a discussion of this one? Yes.

REP. WEYLER: Yes, I'd like to have a discussion.

CHAIRWOMAN WALLNER: Okay. This is the Department of Justice. Is there someone from the Department of Justice?

ANNE RICE, Deputy Attorney General, Department of Justice: Good morning, Madam Chair, Members of the Committee. I'm Anne Rice. I'm the Deputy Attorney General and with me is Rosemary Faretra who's the Director of Administration.

REP. WEYLER: Thank you, Madam Chair. Last meeting we discussed this item and we were reluctant to add new positions until we see the new budget and see what we have available for spending, because we felt that within available staff its mission could be accomplished. We approved all the funds but not the positions. I would like us to stay with that original position. And I didn't realize this was coming back because I thought we settled it last meeting.

MS. RICE: That was not my understanding. My understanding was that it was tabled so that it would be brought back up -- excuse me -- at the first meeting of the Fiscal Committee for this biennium, so.

REP. WEYLER: Excuse me. It was not tabled. It was passed.

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MS. RICE: My understanding was that the item number two was tabled which is the positions.

CHAIRWOMAN WALLNER: Yes.

REP. WEYLER: There was no expectation it would come back.

CHAIRWOMAN WALLNER: I believe it was on the table and because we reached the end of the year all those items that were on the table are no longer on the table. So it did not have to come off. It was in the December meeting removed from the table. It's taken off. Is that the correct --

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: Yes, that's correct.

CHAIRWOMAN WALLNER: Okay. Rep -- Senator Morse.

SEN. MORSE: I'm going to be a Representative by the end of the meeting.

CHAIRWOMAN WALLNER: I know. I'm sorry. We welcome you.

SEN. MORSE: Can you just explain the process that this has been through since last fall?

MS. RICE: Sure, I'd be glad to. When the mortgage settlement was approved, the Executive Council took a great and active interest in the money in how it was going to be expended. So we worked very closely with the Executive Council on a plan and that's why it went to the Executive Council first because they had been so actively involved in the planning of how to spend the money. So they have approved -- they have approved the contracts that are being -- that have been entered into with the legal services and

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with New Hampshire Housing Finance Authority and those are ongoing. They have also approved, as I understand it, the money for the positions; is that correct?

MS. FARETRA: The funding is in the accounts, but we have no positions to put in there, so.

MS. RICE: So the approval from Governor and Council has happened. And we came before this Committee last month for approval of the expenditure for the contracts and also the approval of the establishment of the new positions. As I understood it, the approval was given for the contracts, the money for the contracts, but the positions were tabled. So now we are here again asking that we get approval for the establishment of the positions for which there is full funding for through the mortgage settlement money. Does that answer your question?

SEN. MORSE: Yes. And I'm just trying to clarify for everyone. Basically, there were two parts to your last request. The part that award grants to organizations we approved. The others we said we were going to hold up jobs till the budget was developed. That number is \$500,000?

MS. RICE: Yes, 500 a year. Now we -- it's -- that's what the request is for. We would use far less than that because we are so far into the year now. And it's been included in the budget for the upcoming biennium.

SEN. MORSE: Okay. I guess our question is on that money that is in that contract, in that arrangement that was made, can that money be moved at all out of the Department of Justice?

MS. RICE: No, it cannot.

** REP. EATON: Move approval.

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SEN. MORSE: I think we'd like to caucus.

MS. RICE: If I can explain. The court order provides that it needs to be expended for mortgage related -- excuse me -- financial fraud investigations, mortgage related consumer relief through the discretion of the Attorney General. So that's the way that the court order settlement is ordered.

CHAIRWOMAN WALLNER: Yes, Senator Forrester.

SEN. FORRESTER: Thank you. Once the funding is -- runs out, how are the positions sustained?

MS. RICE: The funding is for four years. And after that it is our expectation that having this kind of a unit -- excuse me -- will allow us to take on some -- some investigations and prosecutions of major institutions and for which we can get investigative costs and prosecution costs if we were to prevail. It also will allow us to join in and participate, actively participate in multi-state investigations and prosecutions, things like the mortgage settlement. When a state is able to actively involve -- involve themselves in that, they get over and above whatever the settlement amount is an additional amount of money awarded for their active participation in it. So we would see this as a revenue builder in terms of an ability to pursue additional money for the Department. And we would hope that that would fully fund these positions. I can't guarantee they will be fully funded, but we certainly expect that this will be a revenue generator.

CHAIRWOMAN WALLNER: Any further questions?

SEN. ODELL: Question.

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CHAIRWOMAN WALLNER: Yes, Senator Odell.

SEN. ODELL: Thank you. I'm not sure how exactly to ask this question; but if I was a typical New Hampshire banker, modest size in the State of New Hampshire, would I be concerned that this money is going to be used, in a sense, to go after me versus what I look at is Bank of America and Countrywide which seems to have the worst reputation, and some of the other national organizations. We all sit here and know our local bankers and I must say I don't know any of them have been identified as having been abuses of the law or ethical improprieties or whatever. Would I be fearful that I'm going to be looked at, prosecuted, chased unnecessarily and maybe unfairly because of this \$500,000 is going to be used each year?

MS. RICE: Well, unless -- unless a bank is engaging in fraudulent conduct, no. I don't think there's any worry about that at all. We have a Banking Department now that regulates the banks, and we would work closely with the Banking Department in this. And if they see evidence that they think goes beyond their authority, then it would be referred to our Department. But certainly, as I said, if you're a local bank and you're not engaged in fraudulent kinds of behavior then no. No.

SEN. ODELL: Follow-up.

CHAIRWOMAN WALLNER: Yes.

SEN. ODELL: I appreciate that. So there would be a triggering event through the Banking Department before it comes to the AG's Office to pursue this.

MS. RICE: I think typically the way these things would come to us is through the regulatory agency. That's often the way that we would hear of cases like this. Where the

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regulatory agency has information about activities that may be beyond the -- their ability to enforce under the regulatory laws so they would refer to us. There needs to be close coordination between the agencies, the Banking Department, the Insurance Department, the Securities Regulations Bureau, and we are working on that now.

SEN. ODELL: Final follow-up.

CHAIRWOMAN WALLNER: Yes.

SEN. ODELL: Thank you. When you responded to Senator Forrester's question, and I have some interest in state revenues, but I've never thought of prosecution as a form of revenue generation for the State Government. Is that what you're -- did I hear you clearly on that?

MS. RICE: Well, it does generate revenue. If you look at the mortgage settlement itself, we got a settlement out of that. And, you know, the State does get some revenue from that. I certainly don't see prosecution as the purpose behind prosecution is to generate revenue. Absolutely not. What I meant to say was that if we are successful in identifying people who are engaging in financial fraud, not only will there be a prosecution that results in whatever the appropriate sentence is, but those -- those institutions should cover investigative costs that we incur. There may be penalties that go to the General Fund. So those kinds of things. It's not intended to be a money maker per se, and I apologize if I portrayed it that way.

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

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: Madam Chair, thank you. Ladies, thanks so much for coming before us and kind of follow the same

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line of Senator Odell. I guess I'm concerned because I feel that our Banking Department does an exceptionally good job at regulating our banks and where do you see their deficiency of how they have always been able to operate and regulate that you feel the need for another specific investigative and prosecuting agency for lack of a better name to now come in, provide yet another level of investigation and prosecution if need be? Seems a bit overstep for me. I apologize.

MS. RICE: Well, that's fine. There -- a regulatory agency and a prosecution agency have sort of different functions. A regulatory agency looks at activities and if there is no criminal intent on the part of an institution in terms of, you know, there may be some activity that appears to not be completely above board, but if there's not a criminal intent involved, that's left to the regulatory agency.

SEN. SANBORN: Follow-up, Madam Chair. I understand that, ma'am. But if they have found -- if they have found irregularities in the past, they obviously need to prosecute and they have done so without this agency in the past. I understand the difference between regulating and prosecuting fairly well.

MS. RICE: Okay. All right.

SEN. SANBORN: How have they been able to do the job without this agency?

MS. RICE: Well, I have to tell you that we have a number of cases in the line for our regulatory agencies right now that they are looking to us for assistance in prosecuting, because they don't feel that they have the enforcement authority under their regulatory statutes. So there is a line at which regulatory authority ends and we

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need to step in with prosecution.

SEN. SANBORN: Thank you, ma'am. I appreciate that.
Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Thank you. I've had a request that we wait for a minute for a caucus. So we'll be back in five minutes.

MS. RICE: Okay.

CHAIRWOMAN WALLNER: Well, 10 minutes they said.

(Recess at 10:22 a.m.)

(Reconvened at 10:24 a.m.)

CHAIRWOMAN WALLNER: Getting back to order.

** SEN. FORRESTER: Madam Chair, I move to table.

CHAIRWOMAN WALLNER: Do I hear a second?

SEN. SANBORN: Second.

CHAIRWOMAN WALLNER: Do we have --

REP. EATON: Ask for a roll call vote.

CHAIRWOMAN WALLNER: Yes, roll call vote.

REP. WEYLER: Who is the second?

SEN. SANBORN: Sanborn.

CHAIRWOMAN WALLNER: Sanborn. Senator Sanborn.

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REP. WEYLER: All right. Roll call vote. All right, I'm ready.

CHAIRWOMAN WALLNER: Okay.

REP. WEYLER: Call you first?

CHAIRWOMAN WALLNER: First or last. I don't care.

REP. WEYLER: All right. Representative Rosenwald on the motion to table.

REP. ROSENWALD: No.

REP. WEYLER: Representative Eaton.

REP. EATON: No.

REP. WEYLER: Representative Leishman.

REP. LEISHMAN: Yes.

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

CHAIRWOMAN WALLNER: No.

REP. WEYLER: Senator Morse.

SEN. MORSE: Yes.

REP. WEYLER: Senator Odell.

SEN. ODELL: Yep.

REP. WEYLER: Senator Soucy.

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SEN. SOUCY: Yes.

REP. WEYLER: Senator Forrester.

SEN. FORRESTER: Yes.

REP. WEYLER: Senator Sanborn.

SEN. SANBORN: Yes.

REP. WEYLER: Vote is 7 to 3, Madam Chair.

CHAIRWOMAN WALLNER: Thank you. The motion passes.

*** {MOTION ADOPTED}

MS. RICE: Thank you.

(7) **RSA 14:30-a, VI, Fiscal Committee Approval Required
For Acceptance and Expenditure of Funds Over \$100,000
From any Non-State Source and RSA 124:15 Positions
Restricted:**

CHAIRWOMAN WALLNER: Thank you. Item 7, Consent Calendar. Is there anyone who would like to remove anything from Item 7 Consent Calendar?

** REP. EATON: Move it.

SEN. MORSE: No.

CHAIRWOMAN WALLNER: Representative Eaton moves --

REP. ROSENWALD: Second.

CHAIRWOMAN WALLNER: -- Consent Calendar. Representative Rosenwald seconds. All in favor? Any

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opposed?

*** {MOTION ADOPTED}

(8) RSA 124:15 Positions Restricted and RSA 228:12
Transfers from Highway Surplus Account:

CHAIRWOMAN WALLNER: Item 8 is positions restricted, Department of Transportation, Item 13-047.

** SEN. MORSE: Move to table.

CHAIRWOMAN WALLNER: Senator Morse moves to table. Do I hear a second?

SEN. ODELL: Second.

CHAIRWOMAN WALLNER: Senator Morse moves to table. Senator Odell -- this is 8. Senator Odell moves to second. I'll wait for Ken to catch-up with this here.

REP. WEYLER: Okay. I'm sorry, this is done a little differently. It's more exact but I'm having trouble keeping up. The motion was?

CHAIRWOMAN WALLNER: To table.

REP. WEYLER: Yes.

CHAIRWOMAN WALLNER: And Senator Morse moved and Senator Odell seconded.

REP. WEYLER: Thank you.

CHAIRWOMAN WALLNER: All in favor? Any opposed? Okay.

*** {MOTION ADOPTED}

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(9) RSA 7:12, I, Assistants:

CHAIRWOMAN WALLNER: Item 9 is assistants, Department of Justice. Do I have any questions or --

** REP. LEISHMAN: Move.

SEN. SOUCY: Second.

CHAIRWOMAN WALLNER: Representative Leishman moved and Senator Soucy seconded. All in favor? Any opposed?

*** {MOTION ADOPTED}

(10) RSA 21-I:19-g, III, Use of State-Owned Vehicles:

CHAIRWOMAN WALLNER: Item 10. This item is about State-owned vehicles. Do we have a motion or would we like to have Commissioner come up?

SEN. MORSE: I wouldn't mind speaking to it.

CHAIRWOMAN WALLNER: Okay.

SEN. MORSE: I mean, this process was put in place. I'm going to be opposing granting a waiver. I think we should support the Commissioner. We had this happen last year and they'll actually return the car. So we tabled it for a month. So I think it was put in place for a reason and we should stick with it.

CHAIRWOMAN WALLNER: Okay. Thank you. Commissioner Hodgdon, would you like to speak to us about this particular item?

LINDA HODGDON, Commissioner, Department of

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Administrative Services: Sure. Thank you. For the record, my name is Linda Hodgdon, Commissioner with Administrative Services. And joining me is Tara Merrifield who does a great job in the vehicle unit. Very happy to have her on board.

The item is somewhat self-explanatory. We are continuing to move forward. We continue to look at vehicles that we think could be more appropriately used either in another agency or if it's not appropriate based on the mileage for the individual be driving it. We look to move it to a pool use so we can make sure that we are getting, you know, the maximum use out of all of our State vehicles to try and keep costs at a minimum. I think we've made great progress. But we continue to look through it and be diligent and review any requests that come forward for a new vehicle. There's a couple of different ways that we look at vehicles, And this particular item that's in front of you is the break-even mileage item that talks about that there were 21 vehicles that were exempt because they had -- or 21 agencies that were exempt because they had no vehicles below the 7,935. That's the threshold that the math works out to. Ten have responded with waiver requests. One had submitted a combination of waiver requests and a voluntary surrender plan, and then we put this before you for your consideration and happy to answer any questions.

CHAIRWOMAN WALLNER: Representative Weyler.

REP. WEYLER: Thank you, Madam Chair. I'd just like to compliment the Commissioner having been on this Fiscal Committee when it was a big stack of cars that didn't meet the mileage back even when it was 12,000, and I know that you have improved the process immeasurably. I'm grateful for what you've done.

MS. HODGDON: Thank you.

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REP. WEYLER: I'd be interested in seeing the dollar savings at some time. I know you'll probably compute it and bring it before this Committee because I know there's been a huge difference in the control of the vehicles and I appreciate all the efforts. Thank you, Madam Chair.

MS. HODGDON: Thank you.

CHAIRWOMAN WALLNER: Senator Morse.

SEN. MORSE: I just want to put a little clarity to the situation. You've basically denied the fact that they can have these cars through the process that we have put in place. Now they're coming in, two of them, to ask for waivers so they can keep the cars. So if we pass this, we are granting the waivers. If we don't pass this, we are following the process that we put in place.

MS. HODGDON: If you -- if you grant this, you will be in agreement with the Department as to those that have made a valid argument to have a waiver and not granting waivers for those where we thought that they didn't have a case to keep the car. The next step that happens after that, if you approve this item, is that the way the law is laid out the Director of Purchase and Property then looks at those waiver requests and determines how they can best be re-allocated. In some cases, that's taking them away from individuals and re-allocating them to a pool and it may be within the same agency, and we try to be sensitive to that. For example, in the Department of Transportation or Department of Safety where they're Highway Funds because we would only be able to surplus that vehicle, we wouldn't be able to give a highway funded vehicle to a general funded agency.

So there are some waiver requests that we thought

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based on what they explained that there is a legitimate reason why they didn't hit the break-even mileage. And they may, in fact, during the year have re-purposed it themselves and so it doesn't reflect the full year of the reallocation.

SEN. MORSE: Further question.

CHAIRWOMAN WALLNER: Yes.

SEN. MORSE: Linda, if I'm going to support your Department, am I voting yes or am I voting no?

MS. HODGDON: You're voting yes.

SEN. MORSE: Okay. I'm voting yes.

MS. HODGDON: Thank you.

CHAIRWOMAN WALLNER: Thank you.

REP. WEYLER: Somebody make a motion.

CHAIRWOMAN WALLNER: You think we should hear from the departments? They are asking for the waiver.

SEN. MORSE: Sure.

CHAIRWOMAN WALLNER: I think the waivers are being requested by the Department of Safety; is that correct?

MS. HODGDON: The two that we did not support. Yes.

CHAIRWOMAN WALLNER: I wondered if they were here and wanted to say something. Thank you.

MS. HODGDON: Thank you.

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SEN. MORSE: We got a lot of questions for them.

REP. EATON: Uh-oh.

CHAIRWOMAN WALLNER: Thank you, Mr. Beardmore.

JOHN BEARDMORE, Director of Administration, Department of Safety: Good morning. For the record, I'm John Beardmore, Director of Administration at the Department of Safety. Hum -- the Department of Administrative Services recommends denial of two of our waiver requests. The Department of Safety is okay with that denial. It's our understanding that those vehicles will be reassigned to a pool in my division, Division of Administration. They'll be parked at the warehouse on Hazen Drive and be available for use by employees who otherwise would be provided personal car mileage reimbursement. So we are okay with it.

CHAIRWOMAN WALLNER: Okay. Thank you very much.

MR. BEARDMORE: You're welcome.

CHAIRWOMAN WALLNER: Do we have a motion?

** REP. EATON: So move.

CHAIRWOMAN WALLNER: Representative Eaton moved acceptance of the item.

REP. WEYLER: Second.

CHAIRWOMAN WALLNER: And Representative Weyler seconded. Further discussion. All in favor? Any opposed?

*** {MOTION ADOPTED}

(11) RSA 106-H:9, I, (e), Funding; Fund Established:

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CHAIRWOMAN WALLNER: Moving to item 11. This is a Department of Safety item. Any discussions of this item?

** REP. EATON: Move.

CHAIRWOMAN WALLNER: Representative Eaton moved. Do I have a second?

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: Senator Forrester seconded. Discussion? All in favor? Any opposed?

*** {MOTION ADOPTED}

(12) RSA 228:12 Transfers from Highway Surplus Account:

CHAIRWOMAN WALLNER: Item 12 is transfers from the Highway Surplus Account. Do I hear any discussion of these items?

** SEN. MORSE: Move to table.

CHAIRWOMAN WALLNER: This is item number 13-005.

SEN. MORSE: 005.

CHAIRWOMAN WALLNER: Move to table. Do I hear a second for the table?

REP. LEISHMAN: Second.

SEN. SANBORN: Second.

CHAIRWOMAN WALLNER: It's all over the place. Senator Sanborn seconded. All in favor? Any opposed?

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*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: The next item is item 13-025. Do I hear a motion?

** SEN. MORSE: Move to table.

CHAIRWOMAN WALLNER: Senator Morse moves to table 13-025. Do I hear a second?

REP. LEISHMAN: Second.

CHAIRWOMAN WALLNER: Representative Leishman seconds. All in favor? Any opposed?

*** {MOTION ADOPTED}

(13) RSA 604-A:1-b Additional Funding:

CHAIRWOMAN WALLNER: We move on to Tab 13, item 13-026.

** REP. EATON: Move it.

CHAIRWOMAN WALLNER: Judicial Council.

SEN. SOUCY: Second.

CHAIRWOMAN WALLNER: Representative Eaton moves the item and Representative -- I'm sorry -- Senator Soucy moves to second. All in favor? Any opposed?

*** {MOTION ADOPTED}

(14) Chapter 155:1, Laws of 2012, Department of Corrections; Transfers:

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CHAIRWOMAN WALLNER: The next item is item 14.

** REP. LEISHMAN: Move.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Leishman moves the item and Representative Eaton seconds. All in favor? Any opposed?

*** {MOTION ADOPTED}

(15) Chapter 224:14, II, Laws of 2011, Department of Health and Human Services; Program Eligibility; Additional Revenues; Transfer Among Accounts:

CHAIRWOMAN WALLNER: And our next section is section 15, item 13-004. This is Department of Health and Human Services item. Any discussion or questions about this item?

** SEN. MORSE: Move approval.

REP. ROSENWALD: Second.

CHAIRWOMAN WALLNER: Senator Morse moved approval. Rosenwald seconded. All in favor? Any opposed?

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Item 13-013 is also a Health and Human Service item. Do I hear a motion?

** SEN. MORSE: Move approval.

REP. EATON: Second.

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CHAIRWOMAN WALLNER: Senator Morse moves the item and Representative Eaton seconds. We caught up?

REP. WEYLER: Yes.

CHAIRWOMAN WALLNER: You okay? Any discussion? All in favor? Any opposed?

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: The next item is 13-028. Also a Health and Human Service item.

** REP. ROSENWALD: Move.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Senator --

REP. WEYLER: Representative Rosenwald.

CHAIRWOMAN WALLNER: Representative Rosenwald moves the item.

REP. EATON: Second.

CHAIRWOMAN WALLNER: And Representative Eaton seconds. Any discussion? All in favor? Any opposed?

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Next item is 13-029, and we would like to have discussion around this item. Yes, Commissioner Toumpas. Thank you.

NICHOLAS TOUMPAS, Commissioner, Department of Health and Human Services: Good morning. For the record, Nick

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Toumpas, Commissioner of Health and Human Services.

CHAIRWOMAN WALLNER: We have questions of the Commissioner. Is there any of this item?

SEN. MORSE: Commissioner, can you explain the item to us? There's a law that says we can't spend money on moving with ACA. And basically the -- this would seem to head in the direction we are spending money on. Can you explain it to us?

MR. TOUMPAS: House Bill 1297 from the last session required several things. Number one, it essentially mandated that the State in terms of the Affordable Care Act do only a federally facilitated exchange. It required that we can't do a State-based exchange. It also established an Advisory Board and that would advise Commissioner Sevigny from insurance as well as myself on matters related to the Health Benefit Exchange. What this is is money for the modification of our eligibility system in order to link up to the federally facilitated exchange, all the interfaces to that exchange, as well as some of the work regarding the change in the eligibility. Whether or not the State chooses to move into the Medicaid expansion or not, these are things that are as part of the Affordable Care Act required that we make these type of changes, consistent with what -- with what the court ruled was the individual mandate which was something that was required. So given the fact that it was the Legislature in terms of House Bill 1297 that indicated that we needed to move forward on this, we went forward and are doing this.

The other -- the other item, Senator, is that the work needs to be completed by October 1st of this year in order for us to begin accepting applications consistent for the January 1st of 2014 period for when people would go onto the exchange.

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CHAIRWOMAN WALLNER: Senator Sanborn.

SEN. SANBORN: Thank you, Chairman. Thanks so much for coming in. And like you, my concerns are 1297 which became RSA 420-N, specifically prohibits State General Fund tax dollars being used to fund any part of the ACA. And it would appear to me that this is State tax revenue being used for something that is specifically prohibited by the RSA and shouldn't we be looking for Federal funds to do that since I don't think we should be required to.

MR. TOUMPAS: This is, as you can see by the item, Senator, this is 90% Federal, 10% -- 10% State funds. So yes, there are funds. But what we were looking at was the fact that the -- that 1297 as I -- I'm going by the House Bill, not going by the accompanying statute right now, but basically required that we would move forward with a federally facilitated exchange. We needed to be compliant with that. Otherwise, I'd be -- I'd be sitting here in a position -- I do understand what it is that you're saying, but I was reading the bill and the law that says we need to move -- we need to move forward on this because that is the -- that is the Federal law that requires us to be able to do this to be ready for October 1st of 2013.

SEN. SANBORN: Follow-up, Madam Chair.

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: Thank you, Madam. And, Commissioner, I agree with you but where my concern is specifically moving forward in the absence of State funds, and this kind of walks over that bridge at some level. That's where my concern is. I feel pretty specific that we should not be using any New Hampshire-based tax dollars for it. So that's where my concern is in approving this.

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MR. TOUMPAS: Okay.

REP. WEYLER: Follow-up.

CHAIRWOMAN WALLNER: Yes, Representative Weyler.

REP. WEYLER: Thank you, Madam Chair. Commissioner, it says the funds for the match are available through the Capital Budget. Doesn't seem -- on Page 2, Capital Budget account number 0300450967. This doesn't seem like this is Capital Budget.

MR. TOUMPAS: Shanthi, if you're here. I have one of my financial managers.

SHANTHI VENKATESAN, Director, Division of Reorganization Planning, Department of Health and Human Services: I'm sorry, what is the question?

REP. WEYLER: Capital Budget accounts normally go for building repairs, building things, and not for salary and that sort of thing. Capital Budget, they're normally construction accounts or repair accounts.

MR. TOUMPAS: If I could, Representative Weyler, this is -- this is an information system. What we are doing here is this is technology. We are changing the eligibility system, the NewHEIGHTS eligibility system. That's what we would be doing with these dollars to make the changes in that system. So it is an IT related project and as such would be considered a Capital Budget item.

REP. WEYLER: How much money is in that account?

MS. VENKATESAN: Just about \$22.5 million. We have two different parts of the capital money. One is \$15 million

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that is funded 90/10. That means that 90% of the Federal funds and the 10% of General Funds. And then there is another pot of money that is for \$7.5 million and that is about \$4 million worth of General Funds and the remaining is Federal Funds. So a total of \$22.5 million that we have as part of the 2012 and 2013 Capital Budget.

REP. WEYLER: So last question. Will this be bonded?

MS. VENKATESAN: I'm sorry, I don't know the answer to that question.

REP. WEYLER: Thank you. Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Representative Rosenwald.

REP. ROSENWALD: Thank you, Madam Chair. My understanding of House Bill 1297 is that it really referred to the Health Benefit Exchange portion of the Affordable Care Act, not other parts of Medicaid Programming.

MR. TOUMPAS: This has -- we need to do -- we would need to do this work whether the State chooses to do the Medicaid expansion or not, because the two things that do happen on October -- excuse me -- on January 1st of 2014 is that the Health Benefit Exchanges, whether -- and by law we're prohibited from doing a State-based exchange, so we would be -- we need to link up and interface to the federally facilitated exchange, which is what the focus of this item is, to do that particular work, as well as to begin some of the work regarding the eligibility calculations in terms of how they will be done going forward.

REP. ROSENWALD: So that was my question. What is the risk to the State if we are not able to use the modified adjusted gross income, the change in eligibility? Do we

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risk more Federal matching funds in Medicaid?

MR. TOUMPAS: We would clearly be out of compliance with the Federal law. We would not be able to -- for people who would be looking to get insurance through one of the -- one of the exchanges and so forth, we simply would not be able to participate or process any of that. We'd clearly be in violation of the Federal law. What the penalties for that are, Representative Rosenwald, I do not know.

REP. ROSENWALD: Thank you.

CHAIRWOMAN WALLNER: Senator Morse.

SEN. MORSE: Nick, you mentioned October as a deadline. If we were to send this to a Committee that's meeting on Monday and were you to come in here on, I think you're going to suggest March 8th, how does that affect you?

MS. VENKATESAN: It does affect the timeline. What we need to do is after accepting these funds, we need to also amend the DeLoitte contract that we have with them currently. The work needs to start desperately very immediately in order to meet the October 1st deadline. And not meeting the deadlines means that penalties as well as a, you know, non-certification of the system down the road.

MR. TOUMPAS: What this does is it, again, to just build on that, is whenever the next Council, 'cause we have to go to the Executive Council for the changes to that particular contract. So that -- that just delays it. But if I may, could I have my own little caucus for a second?

SEN. MORSE: We'll be right after you.

MR. TOUMPAS: Thank you for the time. The -- given the fact that the, I believe the next health reform meeting

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is -- I believe it's on Monday, so given the fact that if we could go there and get action on this item, we -- it would delay it because I'm thinking out loud here because what we want to try to do is to be able to get to Governor and Council. So if we do -- if we do that, then I have to wait till the next Fiscal Committee meeting and then I have to wait till the next Governor and Council meeting beyond that. So it pushes our Timeline out probably a good six to eight weeks and when we are talking about, you know, basically nine months in order to be able to get this thing done, it really puts us at a significant risk.

SEN. MORSE: We need to caucus.

CHAIRWOMAN WALLNER: We have had a request for a caucus. So we'll be back in 5 to 10 minutes.

(Recess at 10:50 a.m.)

(Reconvened at 10:57 a.m.)

CHAIRWOMAN WALLNER: Call Fiscal Committee back to order. Representative Rosenwald.

** REP. ROSENWALD: Thank you, Madam Chair. My interpretation of the Joint Health Care Reform Oversight Committee that we've been speaking about, which was created by House Bill 601, is that it really has to do with rule-making from the Department of Insurance, not Medicaid in the Department of Health and Human Services. This NewHEIGHTS system is not something created by the Affordable Care Act, but is our Medicaid eligibility system which has to change to a new criteria for judging someone's financial eligibility for Medicaid. So I don't think we are prohibited from approving this item before the Joint Health Care Reform Oversight Committee could approve it, 'cause I don't think they're authorized to approve it anyway. So I

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would like to move this item, Madam Chair.

CHAIRWOMAN WALLNER: Okay. Representative Rosenwald moves.

REP. EATON: Second.

CHAIRWOMAN WALLNER: And Representative Eaton seconds. Further discussion on the item? I'm going to ask Representative Weyler to take the roll.

REP. WEYLER: Item number is 13-029. The motion is ought to pass. Representative Wallner.

CHAIRWOMAN WALLNER: Yes.

REP. WEYLER: Representative Rosenwald.

REP. ROSENWALD: Yes.

REP. WEYLER: Representative Eaton.

REP. EATON: Yes.

REP. WEYLER: Representative Leishman.

REP. LEISHMAN: Yes.

REP. WEYLER: Representative Weyler votes no. Representative -- Senator Morse.

SEN. MORSE: Yes.

REP. WEYLER: Senator Odell.

SEN. ODELL: Yes.

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REP. WEYLER: Senator Soucy.

SEN. SOUCY: Yes.

REP. WEYLER: Senator Forrester.

SEN. FORRESTER: Yes.

REP. WEYLER: Senator Sanborn.

SEN. SANBORN: No.

REP. WEYLER: Madam Chair, the vote is 8 to 2.

CHAIRWOMAN WALLNER: Vote is 8 to 2. The item passes.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Thank you, Commissioner.

MR. TOUMPAS: Thank you.

CHAIRWOMAN WALLNER: Our next -- oh, might as well stay. Sorry. We thought you were done but not quite.

MR. TOUMPAS: I was just cooling the seat off.

CHAIRWOMAN WALLNER: Our next item is 13-043, Health and Human Services, and we have questions of the Commissioner.

SEN. MORSE: Can you explain the item, Commissioner?

MR. TOUMPAS: This is 043?

SEN. MORSE: Yes.

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CHAIRWOMAN WALLNER: Yes.

REP. EATON: Hm-hum.

MR. TOUMPAS: This is an accept and expend for a grant that our Division of Public Health Services had applied for to take a look at the public health impact of changes in the climate, the impact that that would have on the health of the population around various areas around the state. This is 100% Federal funds for this -- to this initiative.

CHAIRWOMAN WALLNER: Yes, Senator Morse.

SEN. MORSE: Commissioner, try and help -- I guess the part I don't understand is we can't fund the disabled, we can't fund the mentally ill, yet the Federal Government is giving you money to do this. You know, to me this makes no sense whatsoever. And that's not saying I don't care about someone's health, but we could sure as heck use the money in some other part of the Department. You're going to tell me I can't transfer it to use for something else, or can I?

MR. TOUMPAS: I can't use it for something other than what the grant was intended. I would tend to agree with you, Senator, but there are a number of priorities that I would probably have above something like this. But to the Department of Health and Human Services at the Federal level and the Center for Disease Control and Prevention, they do view this as a -- as an issue moving forward, and gather the data to be able to assess what the impacts to the population are going to be on the long-term. That's what this is about.

** REP. EATON: Move the item.

CHAIRWOMAN WALLNER: Senator Odell has a question.

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SEN. ODELL: Commissioner, my concern is that -- that we have the staff go through the process of applying for these grants, sometimes they're competitive grants, we succeed, and then we have a debate about whether we should accept them and I think that the work's been done, somebody's identified the need, and somebody in the Department decided it was a good policy, it's a good venture, it's important to the health of the people of New Hampshire. You go ahead and apply for this. Am I correct?

MR. TOUMPAS: Yes.

CHAIRWOMAN WALLNER: Thank you. Representative Eaton moves ought to pass the item. Do I see a second?

REP. LEISHMAN: Second.

CHAIRWOMAN WALLNER: Representative Leishman seconds. All in favor? Any opposed?

SEN. SANBORN: Aye.

SEN. MORSE: No.

SEN. SANBORN: Or no. Opposed.

CHAIRWOMAN WALLNER: I think two opposed.

SEN. SANBORN: Three opposed.

CHAIRWOMAN WALLNER: Three opposed.

CHAIRWOMAN WALLNER: The vote was 7 to 3. The item passes.

*** {MOTION ADOPTED}

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(16) Chapter 224:14, II and III, Laws of 2011, Department Of Health and Human Services; Program Eligibility, Additional Revenues; Transfer Among Accounts:

CHAIRWOMAN WALLNER: We move on to Tab 16, item 13-030. And this also is a Health and Human Service item.

** SEN. MORSE: Move approval.

CHAIRWOMAN WALLNER: The item has been moved by Senator Morse.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Seconded by Representative Eaton. Any discussion? All in favor? Any opposed?

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Move to item 13-031. Also a Health and Human Service item. Do we have any questions for the Commissioner?

** SEN. MORSE: Move approval.

CHAIRWOMAN WALLNER: Senator Morse moves approval.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Eaton seconds. Any discussion? All in favor? Any opposed? The item passes.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Item 13-032. Also Health and Human Service item. Any questions for the Commissioner?

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** SEN. MORSE: Move approval.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Senator Morse moves approval Representative Eaton seconds. All in favor? Any opposed? Thank you.

*** {MOTION ADOPTED}

MR. TOUMPAS: Thank you.

(17) Chapter 224:85, I, Laws of 2011, Department of Administrative Services, Consolidation of Certain Business Processing Functions:

CHAIRWOMAN WALLNER: We move to Tab 17. And this is item 13-044, Administrative Services. Do we have any questions for the Commissioner?

** REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Representative Eaton moves approval. Do we hear a second?

SEN. MORSE: Second.

CHAIRWOMAN WALLNER: Senator Morse seconds. Any discussion? All in favor? Any opposed?

*** {MOTION ADOPTED}

(18) Chapter 224:210, Laws of 2011, Department of Information Technology; Transfers Among Accounts:

CHAIRWOMAN WALLNER: Moving on to Tab 18. This is item number 13-045. Any discussion?

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** REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Could I have a motion?

REP. EATON: Move it.

CHAIRWOMAN WALLNER: Representative Eaton moves.

SEN. MORSE: Second.

CHAIRWOMAN WALLNER: And Senator Morse seconds.
Discussion on this item? All in favor? Any opposed?

*** {MOTION ADOPTED}

(19) Chapter 224:371, Laws of 2011, Transfer of Funds:

CHAIRWOMAN WALLNER: And moving on to Tab 19. This is 13-014, Department of Administrative Services.

** REP. LEISHMAN: Move.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Leishman moves and Representative Eaton seconds. Any discussion? All in favor? Any opposed?

*** {MOTION ADOPTED}

(20) Miscellaneous:

CHAIRWOMAN WALLNER: That is the end of the regular agenda. And I believe that under Miscellaneous, Mr. Pattison has something he would like to discuss with us.

MR. PATTISON: Good morning. Thank you. As you know,

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one of my budget staff has left our office to go to work for the Governor's Office. So I am coming before you this morning for the authority to fill that vacancy. And in addition to that, I'm also requesting the authority to fill one vacancy on our audit side as well. So I seek your approval for that action.

CHAIRWOMAN WALLNER: Thank you.

REP. EATON: Move we approve the request of the Director of LBA.

CHAIRWOMAN WALLNER: Representative Eaton moves we accept the recommendation and Representative Rosenwald seconds. All in favor? Any opposed? Thank you.

***** (MOTION ADOPTED)**

MR. PATTISON: Thank you.

CHAIRWOMAN WALLNER: I believe that's the end of the agenda today. And we'll move into -- we'll move into the audits.

Audits:

REP. WEYLER: Before they all leave, you want to set the next meeting?

CHAIRWOMAN WALLNER: Yes. We have set the next meeting for Friday, March 8th, and it will be at 10 o'clock.

So we'll move into the Audits. And the first audit is the State Comprehensive Annual Financial Report. And I believe Edgar Carter and it looks like joined by lots and lots of people, half the audience, actually. Great. Would you like to introduce the people that are with you?

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RICHARD MAHONEY, Director, Division of Audits, Office of Legislative Budget Assistant: Yes, Madam Chairman. Thank you very much. Good morning to you and Members of the Committee.

For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant. As you know, our office is responsible to audit the financial statements that are contained in the State's Comprehensive Annual Financial Report. And our office retains the services of KPMG to conduct that work with the assistance of several members of our staff.

So joining me this morning to present the audit results is Greg Driscoll. Greg is a partner with KPMG. He's joined by Scott Warnetski. Scott is a Senior Audit Manager responsible for the audit at the state. And Commissioner Hodgdon is also here as well as Edgar Carter, the Comptroller for the State.

CHAIRWOMAN WALLNER: Great. Thank you.

GREG DRISCOLL, Partner, KPMG, LLP: Great. So I guess we'll start and provide you the results of the audit. You should have received as part of the materials for the meeting a four or five-page letter from us that goes through our required communication. So we'll use that. If you have that with you, you can follow the bouncing ball as we go through the comments and walk through that letter and since you have had AN opportunity to have a look at it, we'll try to keep to the highlights so we can move the meeting along.

So we are required to make certain communications to the governing board which is the Fiscal Committee here. The first is we need to talk about our responsibility under professional standards. So what we do with the financial

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statement audit is we are responsible to performing and expressing an opinion on those financial statements, an opinion on the fairness of their presentation in conformity with U.S. Generally Accepted Accounting Principles, which for the State are promulgated by a Board called the Governmental Accounting Standards Board. We express an unqualified opinion on all of the units of the State's financial statements on which we need to express an opinion. We know from reviewing the CAFR there are multiple columns so that we give multiple opinions as part of our one report. And, again, all of those opinions were unqualified.

In performing the audit, we are required to obtain reasonable assurance about whether the financial statements are free of material misstatements, whether caused by error or fraud. We cannot give absolute assurance that the statements are free of misstatement, because there are certain Management estimates that are made to prepare the financial statements, and we don't test every transaction that the State enters into. We use sampling techniques and other analytical procedures, so we are not detail testing each individual transaction made by the State. Therefore, we can only provide reasonable assurance that those financial statements are free of material misstatement.

Now, we are doing an audit of those financial statements but the responsibility for the preparation of those financial statements does remain with Management. Ultimately, Management is responsible for the preparation of those financial statements and it is our responsibility to express an opinion on their fair presentation in accordance with GAAP.

We did perform our audit under two sets of standards. The first is what's called Generally Accepted Auditing Standards of the United States promulgated by the AICPA,

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the industry for CPAs, as well as Government Auditing Standards which are promulgated by the Government Accountability Office in Washington. They are also referred to as the Yellow Book. So two sets of standards.

The base set of standards is the AICPA Standards and the Yellow Book basically incorporates those AICPA standards and adds certain standards for the audit firm that they need to follow, largely around the reporting for internal control and compliance, as well as certain continuing education requirements and independent requirements that we need to follow as the State's Auditors.

We do perform work over the State's internal controls over financial reporting. We design those tests of internal control to gather audit evidence that will ultimately form our opinion on the financial statements, but we do not give an opinion on the State's internal control. So a little bit different than what auditors do for public companies where they do issue an opinion on the effectiveness of the entity's internal control. We do not do that. We do -- we test internal controls, and design those tests to ultimately gather enough audit evidence on the financial statements. So a little bit different there. So there is no opinion on internal controls. However, under the Yellow Book Standards we are required to issue a report on internal control over financial reporting. That would identify any significant deficiencies in controls, or what we call material weaknesses in controls. And that report we will issue as part of the Federal Compliance Report which will be issued in March.

So with that, those are the required communications that I wanted to cover as part of the letter. I'm going to turn the microphone over to Scott Warnetski and he'll walk you through the rest of the required communications.

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SCOTT WARNETSKI, Senior Audit Manager, KPMG, LLP:

Great. Thank you. I am essentially going to follow the outline that's in the letter that you have starting with Other Information, which I believe is on the second page. So the CAFR does contain what we call Other Information. This includes the Statistical section as well as the introductory section to the CAFR. We do not opine on this information. This is information that is sort of outside of the financial statements. But what we do is read the information for consistency and determine whether or not -- determine whether it's inconsistent or rather consistent with the audited financial statements and in doing that we found everything to be consistent across the board.

Following that are the significant accounting policies. Much of them remain the same and are detailed in Note 1 of the State's financial statements. However, there is one thing I would like to point out that was new for Fiscal Year 2012. This is the Clean Water and Drinking Water State Revolving Funds. There's some detailed information about this transaction, if you want to call it that in Note 17 to the financial statements. But briefly, prior to 2012, the activities of these Clean Water and Drinking Water State Revolving Funds were reported as part of the State's General Fund. As a result of some urging and some prodding by the U.S. EPA, the State decided to break those out separately and report them as enterprise funds in the State's CAFR. Enterprise funds are what we call sort of business type activities, designed more to report like a business and operate sort of like a business. And if the result of that breakout is shown on Pages 37, 38 and 39 of the CAFR under the column heading State Revolving Fund. That is the sort of biggest change in accounting policy. This did result in a restatement of the General Fund beginning balance as a result of this change in accounting policy and that balance essentially moved over to the

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enterprise fund as I mentioned.

The next section are unusual transactions. We noted one this year that sort of out of the ordinary. If you remember, or around three or four years ago, the Community College System was separated from the State, previously was a department. Now it's a stand-alone, legally separate entity, and the transition has sort of been ongoing over the past few years. And one of the -- one of the leftover transactions, if you will, this year was moving of certain assets out of State control into Community College control. I think it was certain laws of 2011, Chapter 199:1 mandated that. So the result of that was approximately \$71 million book value of assets that were moved from the State control over to Community College System control.

Next I will talk briefly about the estimates in the financial statement as Greg mentioned. The preparation of these financial statements do involve estimates and certain assumptions made by Management relating to the assets and liability reported. The standards do require us to inform you about those estimates and some of the procedures that we perform around those.

So going right down the list there. Taxes. The State estimates refunds of taxes using history of -- using historical collections and historical refund data. We evaluate the methodology that is applied by Management and audit the inputs that are used in their calculation, and we found everything to be materially correct for taxes.

Next I will talk about other post-employment benefits and workers' compensation. These are liabilities. These are sort of ultimate liabilities. What will the State ultimately owe for other post-employment benefit, health care primarily, and workers' compensation liability. The State hires outside actuaries to help them calculate those

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figures. We evaluate the assumptions used by the actuaries, such as rates of return, mortality data, so on and so forth. Also evaluate the competency of the actuary that's hired by the State and to help us do that we utilize our internal actuaries who are qualified, have all the industry licenses and designations that an outside actuary would, to determine whether or not the assumptions are materially correct and the competency of the actuary seems appropriate.

We also audit completeness and accuracy of the inputs used into the calculations to ensure that the outside actuary essentially using the entire picture to develop their analysis.

Following that is the State's Medicaid liability. This is an incurred but not reported where the State will estimate the amount of claims incurred prior to June 30th but not reported until after June 30th. So the claim -- the State does a Claimed Lag Analysis which is based on history, how long it takes for a claim to be sort of paid, you know, from in current state. We will audit the accuracy and completeness of those inputs. Essentially make sure that everything is going into that calculation that should and also evaluate that methodology. Following that would be pollution remediation liabilities. State estimates exposure on a case-by-case basis. It's an ultimate liability. What they will ultimately owe in any pollution clean-up. We evaluate the assumptions used, as well as the cost data that goes into that assumption.

And the final, litigation. The State will estimate legal exposure for certain legal cases. We review annual communication from the Attorney General which is a summary of cases and potential exposure to the state. And also review management's determination of those cases and the disclosures around those legal cases.

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Following that, we're required to -- required to communicate to you any uncorrected misstatements that we identified during the year and there was one related to the reporting of capital assets. Greg alluded to multiple sort of opinions and multiple columns in the financial statements. Capital assets primarily are reported in the governmental activities column in the financial statement, sort of government wide. It's a combination of many of the funds of the State into, for lack of a better term, sort of a consolidated statement and that's where the capital assets are reported.

Over the past few years, including 2012, the Department of Transportation has been involved in an effort to try to clean-up some records and in the end report capital assets as accurately as possible. And through that effort they identified some assets that were not recorded in previous years and then some assets on the books that have since been put out of service. The result of that was approximately a net \$119 million adjustment to the government-wide financial statements. The State did correct the financial statements. So the ending capital assets reported are correct.

What this entry has to do with is reporting of the beginning net assets. Since this was a prior period error, the correct way to correct this error would be through beginning balance. They decided that it was not material enough to correct beginning balance and ran it through the current year activity, which we concurred with and have issued an unqualified opinion on that financial statement. However, the error is large enough that we would be required to report it to you as, you know, the oversight board of the State's finances.

Following that, our corrected audit differences. These

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are differences that we found that the State ultimately did correct on the financial statements. There were three in the unemployment fund and the State did correct all three, and that letter gives you a fair amount of detail as far as the dollar amounts involved and what was -- what those were related to.

Next, our disagreements with Management. Professional standards require us to notify you if we did have any disagreements with Management that might have caused a modification in our audit opinions and there were none. They also require us to notify you of any consultations with other accountants that Management might have engaged in, and there are none that we are aware of. That's essentially if Management did not like our answer, if you will, on certain things, and went to go get a second opinion, that's what we would report to you. And, again, there were none.

Issues discussed prior to retention. There's nothing outside of the normal course of our professional relationship that was discussed prior to retention. And then finally or not finally but material written communications. Attached to your letter is the annual Management representation letter. This is a letter that Management of the State signs. And including in this case, I guess, the former Governor signed attesting to the completeness, accuracy, and existence of financial information and the statements, as well as the underlying data to the financial statements. And, finally, any significant difficulties we encountered during the audit we would present to the Board here or the Committee, and we did not encounter any.

So that's the -- essentially the end of our required communications. I guess if you guys have any questions we can address them now or the plan was to turn it over to the

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Comptroller who would talk about the financial results for a little bit.

CHAIRWOMAN WALLNER: Okay. Any questions? No. Comptroller. Thank you.

ED CARTER, State Comptroller, Department of Administrative Services: Good morning. My name is Ed Carter. I'm the Comptroller of the State. I will keep my comments brief because I know you probably have other questions on the CAFR which I'm most happy to answer. But the CAFR is a very extensive document. And while much of it is audited as Greg said, it is important to note that there are aspects of it that are not subject to the audit and basically the information that is subject to the audit starts on Page 13 and called financial section and goes through the notes and required supplemental information.

Prior to that, there is a Commissioner's transmittal letter which provides a fair amount of recap or summary of what you might read. That also includes a surplus statement -- excuse me -- a surplus statement which demonstrates that at the end of the year we had a \$23 million total undesignated net assets, down slightly about 3 million from last year, and that included a \$9 million Rainy Day Fund which has remained intact now for a few years.

The surplus statement will be -- will give you all of the kind of the ins and outs of how the year changed.

The old -- the entire CAFR is made up of a variety of types of statements and funds and they are described as best as they can be to the reader in the various sections. I'd be happy to answer any specific questions about them, but to go through all of them would be quite too time-consuming. But just know that the first set in the -- in

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the CAFR is the government-wide, as Scott referred to, the government-wide, kind of all contained reflection of the state. That would be the most like you would see in an annual report of a company. The rest are all fund bases, statements that take a variety of forms and try to address different issues.

I'd like to thank the Committee for allowing us an extension. We came to the Committee in December asking for a provisional extension that we may need. Happy to report though we did not need that. We were able to resolve all the matters and issues and get a CAFR out on a timely basis December 31st.

The only other area of the CAFR that I wanted to focus you on was begins on Page 70. You may turn to that if you wanted to take a note or two but litigation. This is intended to summarize the major litigation matters that could affect the financial condition of the State. And I'd like to just focus you on the fact that the DSH audit that occurred several years ago was closed out. That was reported also last year in the subsequent period that it had been reported. And there are eight payments, two of which took place in Fiscal '12, and six more will occur over '13 and '14.

The Chase Home litigation closed out requiring a payment of \$3 million net of Federal reimbursement. There is some ongoing -- some ongoing discussions there about subsequent years. And then the local requirement Districts were found in favor of the State concerning the local Districts and State contributions on behalf of them to the pension plan.

I also would like to focus on Page 75, the subsequent events which include the Hess settlement, also referred to as the MTBE issue, in which there is approximately

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\$77 million recovery that the State will see off of that matter. There are still other -- there is still other litigation with other companies in that matter, but that one in particular was settled. That closes out the specific comments I wanted to make. If anybody has any questions for any of us, I'd be happy to answer them. Excuse me. Just -- Commissioner Hodgdon is here.

CHAIRWOMAN WALLNER: Thank you, Commissioner.

MS. HODGDON: If I could ask folks to look at Page 25 there's something I would be remiss if I didn't point to you -- point out to you so that you're aware of it. On Page 25 underneath governmental activities there's a line that says unrestricted net assets. And you can see that there's a deficit of \$742 million. This is something very important for the Fiscal Committee to be aware of and to be thinking about. When, for example, the Community College System assets came off the books, and the State kept the liability, this is where something like that would show up. So you can see at the top of that net asset grouping is \$1.9 billion that's reduced by the \$742 million. That's important to know as a state or if you were a company. So those kinds of decisions, that's where that shows up.

The other very major piece of this is the OPEB liability and for those that attended the House Finance presentation you know that I spoke about the OPEB liability. That's the Other Post-Employment Benefits. That's something that several years ago GASB said states, you have to now start booking this. Businesses had to do it a long time ago. If you promise a benefit for your retirees, you need to actuarially determine what the consequences of that and you need to carry that on your government-wide statements. It doesn't hit the surplus statements because it's not fund specific, but it does hit your government-wide statements.

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So there are things that the State needs to start talking about with regard to the retirees' health insurance as to how to start to minimize that. That's -- embedded within that is \$120 million increase from OPEB from what you saw last year. It will be a bigger number next year because we're not doing any funding for retirees' health. We are doing a pay-go. We pay each year what the liability is, but we are not putting any additional money aside.

As I've said to some committees, we collect \$10 million. It comes through in the unrestricted revenue other category, and we spend it every year instead of setting it aside. We've always historically done that. But it is collected from Federal employees. There's a factor that goes against the Federal employees that work for us, and it would be prudent to be setting that \$10 million aside as well as looking at the retirees' health for future hires and what we maybe should be doing different so that we are starting to mitigate our liability there. It will start to be a bigger and bigger number. At some point you could, in fact, offset your other assets. So that would be very bad for the State. The rating agencies would be very unhappy about that. So that's a very serious conversation that we need to have. So I wanted to make sure you were aware of that number here.

There is a write-up in the back in the footnotes on the other post-employment benefits that's pretty detailed and I'm happy to, you know, meet with anybody individually and answer any questions in that area.

MR. DRISCOLL: Maybe to just continue on the Commissioner's comments. One point of clarification is that Other Post-Employment Benefits liability in the financial statements that the Commissioner pointed to, the 679 million, that is the amount that -- that is the excess or

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unfunded contributions the State would have been required to make since the accounting standard went into effect. So every year the State gets an actuarial valuation and they are given an annual required contribution. That number is the shortfall of the pay-go versus those required contributions. It is not the ultimate liability that has been estimated for post-employment benefits incurred. That number, which is more staggering, is on Page 83.

So if you see Page 83 at the top, there's what we call a Schedule of Funding Progress for the OPEB Plan. So the actual liability if you were to consider what benefits actuarially have been earned to date by State employees that is the \$2.2 billion number. So as the actuary goes through and does his estimates of what post-employment benefits for health have been earned by employees to date, it is the 2.2 billion number. The amount in the financial statements, the 679, is just when the accounting standard went into effect, what the State has or the deficiency in actual pay-go contributions versus required contributions. So two different numbers but just to put you in a sense of how, you know, what liability the State is actually, you know, looking at, as far as funding post-employment benefits going forward.

MS. HODGDON: It's just kind of an awareness thing. As decisions are made, sometimes through legislation, they don't always think about how they may be hitting the State's financial statements. I think when the decision was probably made about the Community College System, I don't know that anybody thought, well, if we take the assets out, and we keep all the liability, what did we do? And I'm not saying that was the wrong decision, but I just want to make sure you have all the pieces of the puzzle as you think about that.

CHAIRWOMAN WALLNER: Thank you. Questions? Yes,

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Senator Sanborn.

SEN. SANBORN: Thank you, Madam Chair. Thank you everyone for coming. Circumvent back to Scott. When you reconciled the \$190 million in capital assets, was there a dramatic gain or loss you recognized quickly?

MR. WARNETSKI: You mean -- the error you mean --

SEN. SANBORN: Yes.

MR. WARNETSKI: -- that I talked about?

SEN. SANBORN: Was the 190 the error?

MR. WARNETSKI: It was 119.

SEN. SANBORN: 119. I apologize.

MR. WARNETSKI: That's the book value as of June 30th, 2011, of assets that -- net, I should say, of assets that should not have been on the books or should have been on the books. I'm not sure about, you know, your last comment. But yeah, it's essentially as of -- you know, again, this affects the beginning number. As of June 30th, 2011, that's your net sort of what should have been there.

SEN. SANBORN: Wait a minute, that's a different number.

MR. WARNETSKI: Correct, yeah.

SEN. SANBORN: Thank you.

CHAIRWOMAN WALLNER: Any further questions? Thank you. I think Representative Weyler has a motion to make.

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

CHAIRWOMAN WALLNER: Do I hear a second?

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Eaton seconds. All in favor? Any opposed? Thank you.

*** {MOTION ADOPTED}

MR. DRISCOLL: Thank you very much.

CHAIRWOMAN WALLNER: Our next audit is the College Tuition Savings Plan.

MR. MAHONEY: Thank you, Madam Chairman. Joining me this morning to present the audit results is Rachael Bradley. Rachael is a partner with PricewaterhouseCoopers. PricewaterhouseCoopers is under contract to our office to audit the College Tuition Savings Plans. And she will be joined by Treasurer Catherine Provencher. And I know the Treasurer, with your permission, Madam Chairman, would like to make a few comments about the program prior to Rachael presenting the audit results.

CHAIRWOMAN WALLNER: Thank you. Thank you, Mr. Mahoney.

CATHERINE PROVENCHER, State Treasurer, Department of Treasury: Thank you very much, Dick. Good morning, Madam Chairman, Members of the Fiscal Committee. For the record, my name is Catherine Provencher. I am your State Treasurer. The audit this morning that Rachael will present is relative to New Hampshire's College Savings Plan known as the 529 Plan. The 529 refers to a section of the Internal Revenue Code.

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New Hampshire has the third largest plan in the country with \$11.3 billion in assets at the end of December. New Hampshire's plan is only behind Virginia and New York, and it's made up of about 660,000 accounts, only about 25,000 of those accounts are for New Hampshire residents.

The plan has been administered by Fidelity since its inception back in 1999, and my predecessor, a couple of treasurers ago, Georgie Thomas, worked with Fidelity to be one of the first 529 Plans out of the gate when the Internal Revenue Code was adopted, and contracted with Fidelity to have New Hampshire's plan the Fidelity National Plan. So if you go to Fidelity and you want to open up a 529 account, and you don't specify what state you want to work with, New Hampshire's plan comes up on Fidelity's site. Fidelity also administers plans for the State of Massachusetts, State of Delaware, I believe Arizona, so that -- that is why little old New Hampshire has the third largest 529 Plan in the country.

The College Savings Plan is, while administered by Fidelity, it is overseen by a College Savings Advisory Commission and that's in statute. And the Deputy Treasurer, my co-worker Bill Dwyer, serves as staff, if you will, to that Advisory Commission ensuring that, you know, Fidelity is meeting up to its contractual obligations, and monitoring investment performance, et cetera.

The other thing about the college savings plan that I wanted to talk to you about because it's not part of this audit at all, is the management fee that the State shares with Fidelity. So the State receives about 10 bases points of the market value of the assets in any Fiscal Year. So if there's \$11.3 billion in assets, and we are receiving 10 bases points, we would expect we will receive about

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\$11.3 million this Fiscal Year in those management fees. And, historically, those dollars have been used to provide scholarships to needy New Hampshire residents attending New Hampshire institutions of higher learning. And for this biennium, the law was changed via House Bill 2, to have those dollars fund the University System and the Community College System. So there was about \$16 million in assets that had built up as of the beginning of this biennium. Thirteen million of that, plus an additional \$10 million in Fiscal 12, so about 22, 23 million, went to fund the University System and the Community College System. And so for Fiscal 13, we expect we'll generate about \$11 million in fees, and that will be used to fund parts of the University System and Community College System. That was in the law is only for this biennium. So barring additional legislation, those fees are scheduled to go back into a -- the scholarship program for the next biennium.

We -- I just wanted to, again, that's not part of this audit at all, but it seemed like a good time to notify you folks of how it relates to this college savings plan and what that management fee is.

Again, as Dick mentioned, the LBA Office as the State's Auditor is responsible for contracting for the audit of this plan and the Treasurer pursuant to statute serves as the sole trustee of the plan trust. So I'm going to turn it over to Rachael now.

RACHAEL BRADLEY, Partner, PricewaterhouseCoopers:
Thank you, Catherine. For the record, my name is Rachel Bradley. I'm a Partner with PricewaterhouseCoopers and am taking over responsibility for these plans from Steve Hirt who preceded me for five years. These plans -- I'll take you through a quick overview of what we focused on in the audits and these financial statements were actually issued in December, and I signed the opinion on December 19th

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related to all 59 of the plans. The plans are managed individually. So each portfolio has its own set of books and records. And the unit holders of the plans will buy a specific strategy based on the expected time frame of when they would be withdrawing money to pay for their education costs. So the New Hampshire plans are actually marketed under two different names. One is the Unique -- the Unique College Investing Plan and that has 36 portfolios. Eight of those portfolios are new this year or were launched September 28th. So this was the first year we did those Audits. Those eight plans actually provide a new investment strategy or new options to unit holders. So the previous plans only held underlying Fidelity funds as well. These new eight plans give the unit holders exposure to non-Fidelity mutual funds as well. So that is something that's new and New Hampshire was one of the first states also to offer the multi-firm investment options. So that was -- that was eight new plans that we did for this year.

I think I mentioned that those opinions that were issued on December 19th were all unqualified and didn't see anything during our audits that I think would raise any concern, but I'll take you through the details of those results.

So if you look at the materials that I provided, Pages 3 through 8 go through at a high level the assets that are in each of portfolios, as well as what the investment strategies for those portfolios. That information is included in our audited financial statements, but also included in the fact kit that is used to attract new unit holders.

If you flip to Page 9, this goes through what our audit approach is and what our areas of focus are. When we start our audits we focus on identifying significant accounts or significant risks. And then after I'm assessing

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those risks and accounts, I will focus on the controls that exist within Fidelity to make sure that the accounting is done appropriately and then we'll also do some substantive testing to make sure that the values that are presented in the financial statements are correct.

So Page 9 goes through the areas that we generally focus on. As you would imagine in these plans the areas that we focus on first would be valuation, because the majority of these plans are the underlying investments. So we will confirm that the values are appropriate and represent fair value and then we also will confirm that the underlying shares of the funds from Fidelity as well as the non-Fidelity funds actually exist.

The second thing that we focus on are the fees to make sure that the fees are being calculated and charged to the unit holders appropriately.

If you flip to Page 10, there's one -- there's one adjustment that was booked in one of the portfolios that I would highlight for you. And this is an adjustment that relates to financial reporting only. So has no impact on the underlying unit holders from a position perspective or a strategy perspective. But from an accounting requirement, we are required to report the income earned by the portfolio with the character of what it was received from the underlying portfolio. So if it was declared as a dividend, we would report it as dividend income. If it's reported as a capital gain distribution, we would need to report it as a capital gain distribution.

For financial reporting purposes, that classification is a manual process within Fidelity. And so sometimes they make mistakes and in this instance we found one re-classification that was not made appropriately, was corrected before we issued the financial statement. But,

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again, that is for financial reporting purposes only and wouldn't have an impact on the shareholders.

If you flip to Pages 11 through 14, these are the required communications that are similar to what KPMG just took you through. So I'm not going to take you through them in detail. This is what we are required to communicate to the Advisory Commission. I included them in here for your reference. But if you look through our commentary, there is nothing other than that adjustment I just mentioned to you that's of note or that I think would warrant specific attention from the Commission.

So that is all I wanted to present. I don't know if you have any questions.

CHAIRWOMAN WALLNER: Thank you. Anyone have any questions? Senator Odell.

SEN. ODELL: Thank you. I just want to ask the Treasurer a question. Of that money, the 11 million per year, at the present time in this biennium no money is going to scholarships at all?

MS. PROVENCHER: Of the 11 million that's coming in per year, no. But the -- but the law that was amended for this biennium allowed for \$3 million as a holdback to provide scholarships to needy New Hampshire students attending private institutions. And for Fiscal 12, the earnings, we -- 165 awards were granted at \$500 a piece totaling \$82,500. But let me give you a frame of reference. In Fiscal 11 there was \$4.1 million in scholarships awarded. So the 82,500 was the earnings on the \$3 million. Again, we are not in a very good earnings environment. And because there's \$3 million, we weren't -- we're not doing long-term investing with those dollars right now, like we were doing with the \$16 million that we had prior to this biennium.

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SEN. ODELL: Thank you.

CHAIRWOMAN WALLNER: Further questions? No.
Representative Weyler with a motion.

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

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Eaton seconds. Any
further discussion? All those in favor? Any opposed?
Thank you very much.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Our next audit is the Turnpike
System.

MR. MAHONEY: Thank you, Madam Chairman. Joining me to
present the audit report to the Committee this morning is
Jean Mitchell. Jean is a Senior Audit Manager with our
office, and Jean was responsible to manage the audit on a
daily basis at the Department of Transportation. We are
also going to be joined by Patrick McKenna, who is the
Director of Finance for the Department of Transportation,
as well as Len Russell who is the Administrator of
financial reporting for the Department.

CHAIRWOMAN WALLNER: Thank you.

JEAN MITCHELL, Senior Audit Manager, Audit Division,
Office of Legislative Budget Assistant: Good morning, soon
to be afternoon, Representative Wallner, Members of the
Committee. My name is Jean Mitchell. I'm here to present
to you the Comprehensive Annual Financial Report of the

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Turnpike System for the Fiscal Year ended June 30th, 2012. The reporting, including the financial statements, is the responsibility of the Turnpike System Management. The Auditor's responsibility is to express an opinion on the financial statements based on our audit. Our audit report can be found on Pages 14 and 15. And as noted in paragraph four, we have issued an unqualified opinion on the Turnpike System.

The financial statements are located on Pages 23 through 25 of the report. The Auditor's opinion covers the financial statements and related notes. The other sections of the report, again, are the responsibility of Management. And while these sections of the report have not been audited by us, they did receive limited review by our office, largely for consistency of information in relation to the financial statements and notes.

In accordance with government auditing standards, we are in the process of issuing a report on our consideration of the internal control over financial reporting compliance in other matters. The report will be included in the Management letter that will be presented to the Committee at a future meeting. Auditing standards also require that we make additional disclosures to you and they include the following:

We are satisfied with the qualitative aspects of Management accounting practices, including accounting policies, estimates, and financial disclosures and no material uncertainties were noted. There were several discussions with Management, including the State Comptroller, related to the financial statement presentation of certain capital assets. The issues prompting those discussions were resolved during the course of the audit prior to the issuance of the financial statements. We understand that the Comptroller also

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discussed the presentation of capital assets with Auditors from KPMG.

I'd now like to call your attention to two letters that are located in the back of the report. The first is the two-page letter, and this letter identifies certain corrected and uncorrected misstatements in the financial statements. As identified by items one and two, Turnpikes made two significant adjustments to the statement of cash flows as a result of our audit work. The adjustments reflect improvements in Turnpike's reporting of cash flow activity. Item number one is a classification area that has no effect on cash flow, while item number two had a net \$1.2 million decrease in cash flow. The letter also identifies a significant immaterial unadjusted error that is described in the bulleted paragraph found on Page 2.

During Fiscal Year 2012, Turnpike undertook an effort to review its capital asset record. The effort identified certain prior year errors that were corrected in the current year. The amount reported in this error as an uncorrected error is the impact of Turnpike's identification and correction of the prior year error in the current period.

The second letter that's in the report is commonly referred to as a debt covenant letter. There are a number of financial conditions that the Turnpike Revenue Bond Resolutions impose upon the operations of the Turnpike System. This letter conveys that we identified no reportable instances of non-compliance with the revenue bond covenants in our audited financial statements in the Turnpike System.

That concludes my presentation. I'd like to thank the Turnpike System Management and staff for all their help and cooperation during the audit. And I'd like to turn the

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presentation over to Patrick and Len who will cover the report for you.

CHAIRWOMAN WALLNER: Yes.

PATRICK MCKENNA, Director of Finance, Department of Transportation: Good morning. For the record, my name is Patrick McKenna. I'm the Director of Finance, Department of Transportation. As mentioned, Len Russell is with me. He's our Administrator of Financial Reporting.

I'd like to -- I'd like to begin by thanking Len Russell and a number of our staff members who worked long and hard to both do our reconciliations and come forward with financial statements. Mary Ellen Emmerling is a Financial Analyst in the Bureau. We have Margaret Blacker in the Turnpike System is a big help to us. Also like to recognize behind us some this morning Mr. Chris Waszczuk is the Administrator of Turnpikes. He really runs the show at Turnpikes. We really appreciate his efforts.

In general, I'd -- without going into repetition, I'd just like to call the Committee's attention to a transmittal letter beginning on Page 5 from Commissioner Clement. Really does highlight the financial results and the significant activities of the Turnpike System over the course of the past year. In summary, Turnpike System transactions, as well as Turnpike System revenue, are stable year to year. Nearly flat, as a matter of fact, from Fiscal Year 11. Reported results we have approximately 109 million transactions on the Turnpike System resulting in just under \$117 million in total toll revenue. Approximately \$3 million in miscellaneous revenue, including transponder sales and miscellaneous fines and fees associated with that. But the baseline revenue for the Turnpike System is the toll collection activity. That collection activity runs at approximately now we are

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pleased to report the utilization on the E-ZPass Program is approximately 66% of total transactional activity. That's certainly come up in volume in the past couple years since the advent of the Open Road Tolling Project in Hampton. And we're presently working on the -- the expansion of that type of functionality on the Hooksett Plaza as well. It seems to be very well-received.

The -- there is a general statement of the system itself as follows with the Commissioner's letter. We also have a transmittal letter from the Division of Finance, also. Goes into the details of the report itself, the different sections, the associated supplemental material that gives good comparison year on year in the back of the document itself. Rather than going into a detailed discussion of each section, I thought I would conclude at that point and ask if the Committee has any questions. We'd be happy to respond to any.

CHAIRWOMAN WALLNER: Thank you. Do we have questions? Yes, Representative Leishman.

REP. LEISHMAN: Thanks for bringing up the open road tolling. I've always been rather curious and I see that the cost of Hooksett is about 22 million. I think the Seabrook was around 16 million. What's the payback for that? Seems like an awful lot of expense. I know it makes it easier for the travelling public but it's an awful lot of money.

MR. MCKENNA: Thank you for the question. With regard to the Hooksett Plaza, the actual open road toll component of that capital project is very similar in cost to what it was in Hampton. There is additional work on the roadway itself that is really, in our opinion, overdue for the Plaza itself. The approaches as well as some of the drainage in the area as well. So just in comparison, the cost is similar.

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Good question on the payback itself. What we really find is the payback is in large part covered by the service and the safety and the throughput of moving through the tolls on a quicker basis rather than having the travelling public backup in times. Hampton, in particular, on holiday and weekend traffic, we could see and experience frequently multi-mile backups. And so the expansion of that enables the travelling public to move through at a much faster rate. The toll revenue itself is the same. So the -- it's an added cost to the system in order to improve the service level and the throughput and the ability to move through the tolls.

REP. LEISHMAN: Further question.

CHAIRWOMAN WALLNER: Further question.

REP. LEISHMAN: On Page 32 of the report, Note 7. It mentions there are no operating or capital leases for this fiscal period. Have there been in the past? Just a curiosity question.

LEN RUSSELL, Administrator of Financial Reporting, Department of Transportation: No.

MR. MCKENNA: No, there haven't been.

REP. LEISHMAN: One last question.

CHAIRWOMAN WALLNER: Yes.

REP. LEISHMAN: A question that I've heard increasingly is our litigation costs and I noticed under your litigation comments on Page 38 there's an ongoing case between Granite Commercial Real Estate over the Right-To-Know Law. Do you have any information on that or could you get us

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information?

MR. MCKENNA: I believe that's a reference to there's an RFP process the Department has worked through with regard to some degree of commercialization of the rest area in Hooksett. That case specifically relates to a previous bidder and a previously unapproved bid that the vendor themselves is requesting additional information through the Right-to-Know. It's being handled right now by the Attorney General's Office.

REP. LEISHMAN: Thank you. Thank you, Madam Chair.

CHAIRWOMAN WALLNER: Thank you. Any further questions? Thank you. Thank you very much.

CHAIRWOMAN WALLNER: Representative Weyler.

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

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Eaton seconds. All in favor? Any opposed? Thank you.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: And I believe this is our final audit for the day is from the New Hampshire Lottery.

MR. MAHONEY: Thank you, Madam Chairman. I'm joined by Elizabeth Bielecki. Elizabeth is a Manager with our office who was responsible to manage the audit at the Lottery Commission on a daily basis. We are also joined by Charles McIntyre, the Executive Director of the Lottery, as well as Cassie Strong, the chief accountant. So with your

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permission, Madam Chairman, I'd like to turn it over to Elizabeth to present the audit results.

CHAIRWOMAN WALLNER: Thank you.

ELIZABETH BIELECKI, Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chair, and Members of the Committee. For the record, my name is Elizabeth Bielecki. We are here to present to you the 2012 Comprehensive Annual Financial Report of the Lottery Commission.

The report, including the financial statements, is the responsibility of the Lottery Commission's Management. The Auditor's responsibility is to express an opinion on the financial statements contained in the report. We have issued an unqualified opinion, commonly referred to as a clean opinion on those financial statements. The information and the introductory and statistical sections of the report was not subjected to audit procedures; and the information in the Management discussion and analysis was subject to limited audit procedures. And as a result, we expressed no opinion on that information.

In accordance with Government Auditing Standards, there are a number of required disclosures that we need to make which includes notifying the Committee that we were satisfied with the qualitative aspects of Management's accounting practices, including accounting policies, estimates, and financial statement disclosure. There were no material uncertainties noted, no disagreements with Management, and we received the full cooperation of the Lottery Commission.

There are two letters included in the back of the report. The one-page letter reports an uncorrected misstatement. This represents a misclassification of

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operating revenues and has no effect on the Lottery's operating profit. This is not considered a material misstatement.

The multi-page letter reports the results of certain agreed upon procedures we performed on the Lottery's operation of the Lucky for Life Game, which was introduced by the Lottery last March. All states offering the Lucky for Life Game had these procedures performed as a condition of game participation. No reportable exceptions were identified through these procedures at the Lottery.

In accordance with Government Auditing Standards, we have also issued a report on the Lottery's internal control over financial reporting and on compliance and other matters based upon our audit of the financial statement. That report will be included in a Management letter which will be presented to the Committee at a future meeting.

At this point I would like to turn the presentation over to the Executive Director who will speak to the report.

CHARLES MCINTYRE, Executive Director, New Hampshire Lottery Commission: Good afternoon. Officially good afternoon, Madam Chair, Members of the Committee. Initially, I'd like to thank LBA for their participation for their diligence in this matter, their professional and exceptional. Secondly, I'd like to thank Cassie Strong and George Roy for this CAFR which they produced. And notably Mr. Roy, this is the last time his name will appear on this document after I believe three decades at the Lottery Commission. He is and will continue to be sorely missed. This document will be submitted to the Government Financial Office Association of America for their certification which is a prestigious designation and has been done and has been certified 15 years running -- 16 years running and that

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certification appears on Page 11 of this CAFR.

Two notable introductions in 2012 Fiscal Year are contained in the CAFR, but I'll briefly talk about them. Powerball changed in January of 2012 on the 15th exactly, and we noted significant increase in revenues which has carried through to this Fiscal Year, Madam Chair, and Members of the Committee.

Second, as noted by the Auditors, Lucky for Life was introduced as a multi-state game with the New England states, the first effort that has been successful in that endeavor, having all New England states join together to replace a game which had been failing and the results of that game are more than twice the game it replaced. That started on March 15th, 2012. And really for us, Fiscal Year 2012 represents a watershed year in terms of stopping what had been a 5-year decline averaging 6% loss per year. Fiscal Year 12 was net 7% growth year. So the delta was 13% in terms of decline to growth. We're currently one of the top five or six lotteries in the U.S. in growth, where two years ago we were dead last and that growth continues through this Fiscal Year. So we are certainly proud of the accomplishments which are reflected in this Fiscal Year's financial report. So certainly welcome the Committee's questions.

REP. WEYLER: Congratulations.

MR. MCINTYRE: Thank you, sir.

CHAIRWOMAN WALLNER: Any questions? Yes, Senator Odell.

SEN. ODELL: Thank you, Madam, Chair. Just a quick question, Mr. McIntyre. Lucky for Life replaced which game?

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MR. MCINTYRE: Weekly Grand Extra. It was a tri-state game which was a lifetime prize as well or annuity prize as well. You won, I think, a thousand dollars a week, Weekly Grand, you won it a week for 20 years which is a thousand dollars a day for life and we had to add liquidity. Add all that population count of New England in order to fund a prize that pays \$365,000 a year until you cease, you know. So that's why a game and the hook. And we are actually updating changes to that game, changing the prize structure that will come in September.

SEN. ODELL: Thank you.

CHAIRWOMAN WALLNER: Any further questions?

REP. EATON: Does that mean you have to be 65 or older to buy the ticket?

CHAIRWOMAN WALLNER: Hoping the winners are.

MR. MCINTYRE: We estimated on a 45-year old male. For actuarial purposes 45-year old male we estimated on and it's been just about right in terms of four winners.

CHAIRWOMAN WALLNER: Thank you. Thank you very much. Representative Weyler, you have a motion for us?

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

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Eaton seconds. All those in favor? Any opposed? Thank you. See you on March 8th.

*** {MOTION ADOPTED}

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REP. EATON: You need a motion to adjourn?

CHAIRWOMAN WALLNER: Oh, do we?

** REP. EATON: So move.

CHAIRWOMAN WALLNER: Okay. Representative Eaton moved that we adjourn.

REP. ROSENWALD: Second.

CHAIRWOMAN WALLNER: And Representative Rosenwald seconds. All in favor? Any opposed? If people want to stay, they're welcome to.

*** {**MOTION ADOPTED**}

(Adjourned at 12:06 p.m.)

JOINT FISCAL COMMITTEE

February 1, 2013

CERTIFICATION

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

Cecelia A. Trask

Cecelia A. Trask, LSR, RMR, CRR
State of New Hampshire
License No. 47

