

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, September 13, 2013

MEMBERS PRESENT:

Rep. Mary Jane Wallner, Chair

Rep. Ken Weyler

Rep. Peter Leishman

Rep. Sharon Nordgren

Rep. Dan Eaton

Sen. Jeanie Forrester

Sen. Bob Odell

Sen. President Chuck Morse

Sen. Sylvia Larsen

Sen. Andy Sanborn

(Convened at 10:03 a.m.)

(1) Acceptance of Minutes of the July 10, 2013 meeting.

CHAIRWOMAN WALLNER: Good morning. Welcome to the September Fiscal Committee meeting and call us to order. We're almost all here.

First item of business is -- are the minutes of our July 10th, 2013, meeting.

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

REP. WEYLER: Second.

CHAIRWOMAN WALLNER: Representative Eaton moves approval. Representative --

REP. WEYLER: Weyler.

CHAIRWOMAN WALLNER: Weyler -- excuse me, having a brain cramp today -- Representative Weyler seconds.

Discussion? Any changes? Seeing no -- seeing no discussion. All in favor? Any opposed? The minutes are accepted.

*** {MOTION ADOPTED}

(2) Old Business:

CHAIRMAN WALLNER: We do have some Old Business. The first item under Old Business is the McAuliffe-Shepard Discovery Center. Could I ask Mr. Pattison to come up and talk to us about that?

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: Good morning. The Christa McAuliffe-Shepard Discovery Center was required to submit a business plan to the Fiscal Committee, which they did comply with back in November of 2012. It was subsequently tabled by the Committee awaiting further information. Also subsequent to that, the provision requiring the submission of that report has been repealed by a section in House Bill 2. So you have it tabled -- had it tabled. You've now taken -- you will have a motion to take it off the table. And we did contact McAuliffe-Shepard Discovery Center asking them to submit a letter to withdraw that item. The way they explained it was that the entity that submitted that item no longer exists so that they do not feel comfortable in asking for the item to be withdrawn. But based on that information, I'm coming before the Committee this morning to request if you do take it off the table that the item be withdrawn from the agenda.

CHAIRWOMAN WALLNER: Thank you, Mr. Pattison. Any questions?

** REP. EATON: Move to withdraw.

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CHAIRWOMAN WALLNER: Representative Eaton.

REP. EATON: To take it off the table.

CHAIRWOMAN WALLNER: Representative Eaton moves to take the item off the table. Do I see a second?

REP. WEYLER: Second.

CHAIRWOMAN WALLNER: Representative Weyler seconds. All in favor? Any opposed? The item is off the table.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Do I see a motion to withdraw the item?

****** REP. EATON: So moved.

CHAIRWOMAN WALLNER: Representative Eaton moves to withdraw the item.

REP. WEYLER: Second.

CHAIRWOMAN WALLNER: Representative Weyler seconds. Any discussion about withdrawing the item? All in favor? Any opposed? The item is withdrawn.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Thank you. It will make our book considerably skinnier in the next few months. Thank you. Any other pieces that we need to deal with on the --

MR. PATTISON: No.

CHAIRWOMAN WALLNER: -- on the Old Business? No. Okay.

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CONSENT CALENDAR

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

CHAIRWOMAN WALLNER: Let's move to Tab 3 and that's a consent, I believe.

REP. WEYLER: I have a question.

CHAIRWOMAN WALLNER: Representative Weyler has a question about this particular item. Is there someone here from the Department of Education?

PAUL LEATHER, Deputy Commissioner, Department of Education: Good morning, Madam Chairman. Deputy Commissioner Paul Leather and with me is Sue Folsom. Before I take any question, I did want to just acknowledge that we now have a new business administrator who's joined the Department, Ken Merryfield.

CHAIRWOMAN WALLNER: Hi, Ken.

MR. LEATHER: Next time he'll be up here.

CHAIRWOMAN WALLNER: Okay, great. Looking forward to it.

REP. WEYLER: Thank you, Madam Chair. I read something in one of the Governor and Council about how high the hourly costs were on some of these contracts. Do you know what some of these hourly costs are going to be? What are the highest we are paying on some of these contracts for under this grant?

MR. LEATHER: Well, this is a grant to provide training and technical assistance to the field, and we bring in distinguished educators and others to provide that

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training. Sue Folsom can speak to how we determine the amounts.

SUE FOLSOM, Business Administrator II, Department of Education: The RFPs are submitted through the bureaus, and proposals are then accepted based on the dollars based on what folks say they can do the contracts for. So they have a range, anywhere from usually 25 to \$50 an hour for these independent contractors.

REP. WEYLER: Are there any in excess of that?

MS. FOLSOM: For these, not that I'm aware of. No.

REP. WEYLER: How many different contracts do you expect there to be?

MS. FOLSOM: Somewhere in the vicinity of 8 to 10, I believe.

REP. WEYLER: Thank you very much. No further questions. Appreciate your information.

CHAIRWOMAN WALLNER: Any further? We all set with questions?

** REP. EATON: Move to accept.

CHAIRWOMAN WALLNER: Representative Eaton moves to accept the item. Do I see a second?

SENATOR FORRESTER: Second.

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

*** {MOTION ADOPTED}

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

CHAIRWOMAN WALLNER: Next on consent we have Item 13-202. This is Department of Health and Human Services, a transfer of \$124,000.

** REP. LEISHMAN: Move.

CHAIRWOMAN WALLNER: Representative Leishman moves the item.

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Eaton seconds. 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: Now we have Tab 5 has several items on consent. Are there any of them that people would like to have removed? Seeing none. Would someone like to move?

** SEN. LARSEN: So move.

SEN. MORSE: Second.

CHAIRWOMAN WALLNER: Senator Larsen moves approval. Senator Morse seconds. All in favor? Any opposed?

*** {MOTION ADOPTED}

(6) **RSA 14:30-a, VI Fiscal Committee Approval Required for**

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**Acceptance and Expenditure of Funds Over \$100,000 from
Any Non-State Source and RSA 124:15 Positions
Restricted:**

CHAIRWOMAN WALLNER: Tab 6. We have two items. Would there be any request to take any of those off?

SEN. SANBORN: Yes, the second item, number 199, please.

CHAIRWOMAN WALLNER: Okay. Let's take -- we are going to --

REP. WEYLER: That was Tab 5 we just did.

CHAIRWOMAN WALLNER: We just did Tab 5, yes. All of those items. Now we move to Tab 6. Has two items. Senator Sanborn has asked to have Item 13-199 taken off consent.

** REP. EATON: Move approval of 186.

CHAIRWOMAN WALLNER: And Representative Eaton moves approval on 186.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: And Senator Larsen seconds. All in favor?

REP. WEYLER: Let me see who had the removal.

CHAIRWOMAN WALLNER: Senator Sanborn has removed 13-199 and 13-186 is what we are voting on now.

REP. WEYLER: Okay.

CHAIRWOMAN WALLNER: Representative Eaton and Senator

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Larsen.

REP. WEYLER: Thank you.

CHAIRWOMAN WALLNER: All in favor of Item 13-186? Any opposed? Item passes.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: And now, Senator Sanborn, you have questions about 13-199?

SEN. SANBORN: I do, ma'am.

CHAIRWOMAN WALLNER: Okay. Do we have someone here from Department of Health and Human Services?

LINDA HODGDON, Commissioner, Department of Administrative Services: They're out in the hallway. They should be right back in.

CHAIRWOMAN WALLNER: Okay. Thank you. Good. Thank you. We have some questions. People have questions on Item 13-199. And this is -- this is ARRA funds.

NICHOLAS TOUMPAS, Commissioner, Department of Health and Human Services: Good morning. For the record, Nick Toumpas, Commissioner of Health and Human Services. I had to borrow the item from Mr. Pattison as I was at a meeting a little while ago and I left my folder with all the fiscal items in that folder. So if you have a question, I'll answer it.

CHAIRWOMAN WALLNER: Senator Sanborn, I believe, has a question.

SEN. SANBORN: Madam Chair, I have a couple.

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Commissioner, thanks so much for coming, as always. It's a series of questions. I'm trying to understand.

MR. TOUMPAS: Okay.

SEN. SANBORN: This is a piece of legislation that was passed, I think, in 2011. And the policy consideration notwithstanding, I thought that there was some sort of an appropriation for about \$600,000 and it was going to be matched on a ten times basis, which was high but unique, and then at some point the Legislature had indicated that they kind of wanted to cut the umbilical cord and took the legislative numbers off and see if this entity could run by itself.

MR. TOUMPAS: Hm-hum.

SEN. SANBORN: And now I see \$670,000 which, if I'm understanding it correctly, looks like new money. And on top of that, this is a piece of legislation passed in 2011, but we are going back to funds available from 2009 to try and recapture it. So the whole thing leaves me with questions. Could you help me understand it?

MR. TOUMPAS: Yeah, I will do my best, Senator. The grant period actually went to February of 2014. So this was not new money, if you will. These are continuation of the monies that we are looking for the authorization to basically extend these and carry these forward into this year to complete the work that we wanted to do on this particular program and get it done by the end of the calendar year. The program itself there's no General Funds that are involved in this, nor are there any General Funds that we would be spending going forward because the whole intent, I think, as you recall, was for this to become self-sustaining. And so the entity that has been set up in terms of doing this is actually now generating revenue such

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that it is -- it is going to be self-sustaining going forward. But this was -- these are funds that were available and the grant was -- was done through February 2014. What we're looking for here is to basically to carry these to be able to allow us to be able to spend them in this Fiscal Year.

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

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: All right. So I guess I'm still confused. They get 600,000 of initial seed money. I'm using the word seed, maybe out of context, but was there a \$600,000 and a ten times match to that and did that all get approved outside of the 600?

MR. TOUMPAS: It did. That got approved last year.

SEN. SANBORN: Last year, right.

MR. TOUMPAS: But the actual -- that match that you refer to, we got the money and then the match -- there was an incentive. If you use the money earlier on, you get -- you get the higher match, but each successive year that it would go down.

SEN. SANBORN: Right.

MR. TOUMPAS: You would not be able to match as much. So what we tried to do is really tried to work it so that we did it -- we got as much of the work done at the front-end of the -- front-end of the process as we did. So, again, we're not looking for any additional General Funds. We utilized those to the best advantage in that first -- in that first part of the program.

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SEN. SANBORN: And but if we got 600, you front-loaded, you did great work so then you had access to the 6 million. And now you say that it's self-generating -- it's self-sustaining --

MR. TOUMPAS: It's starting. They are starting it. They're not --

SEN. SANBORN: The six -- why we throwing more money -- even if it's not General Funds, it's still taxpayer dollars so why we throwing another \$700,000 at it?

MR. TOUMPAS: I don't have all the detail. If -- if it is -- I would offer, I could ask you to table this and then at a subsequent -- I don't believe that there is any -- I don't believe that there is any impact if we were to table this for until the next Fiscal Committee meeting so I could come back with the answers to the questions you're asking.

SEN. SANBORN: I appreciate that.

MR. TOUMPAS: I just don't have the information.

SEN. SANBORN: Madam Chair, final question. While I would support tabling 'cause I don't have my hands around it, help me understand. I thought the ARRA funds had run out and there's no way to go and try to capture anymore. So is this funds --

MR. TOUMPAS: This is a -- this is us pulling the funds forward from the last -- from the last year. That's what I believe we are trying to do.

MR. PATTISON: I guess I'd just like to clarify. The first paragraph normally includes language that says balance forward.

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SEN. SANBORN: Right.

MR. PATTISON: Or bringing funds forward. This letter does not include that phrase. But if you go to Page 3 of the item, the top of the page on the right-hand side it actually shows that there is a total grant award received for the period of \$5.4 million of which they had already received the 4.7 million, leaving this balance that they had not drawn down on yet and that's what they're doing here. So I think the first paragraph was misleading in the sense that it didn't say that it was monies that were already available.

SEN. SANBORN: Thank you, sir. Appreciate it.

MR. TOUMPAS: Again, I would -- in order to make sure that I'm providing all the information that the Committee needs if you choose to table it, then I can make sure that I get the information that you're requesting.

SEN. SANBORN: Thank you, sir.

CHAIRWOMAN WALLNER: Yes, Commissioner, I actually have a question. If I could just go through with you.

MR. TOUMPAS: Okay.

CHAIRWOMAN WALLNER: So we go to Page 3. It looks like following what Mr. Pattison said that this was a grant that we received a \$5.4 million. And I assume the program was planned around the 5.4. Didn't spend it all down by 6/30 of '13, but the grant is still out there and available to us.

MR. TOUMPAS: Correct.

CHAIRWOMAN WALLNER: That's right.

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MR. TOUMPAS: That's what we are looking to do here.

CHAIRWOMAN WALLNER: This is just bringing in that balance of the money.

MR. TOUMPAS: Correct.

CHAIRWOMAN WALLNER: Bringing that into the state and we have already -- we have already voted on or approved the 5.4 million.

MR. TOUMPAS: That is my understanding that you have, yes.

CHAIRWOMAN WALLNER: Okay. So this is just allowing us to spend what didn't get spent by June 30th.

MR. TOUMPAS: That's correct.

CHAIRWOMAN WALLNER: Is that correct? Thank you.

SEN. SANBORN: Madam Chair, if I could ask?

CHAIRWOMAN WALLNER: Yes, yes.

SEN. SANBORN: What was the original grant of 5.4 for? It wasn't for this program, was it?

MR. TOUMPAS: Yes. It's for the Health Information Exchange. Yes.

SEN. SANBORN: All the 5.4 was for the program.

MR. TOUMPAS: Yes, yes. And I can pull the -- I can pull the initial items and the history of the previous items that we have on this.

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CHAIRWOMAN WALLNER: Representative Norgdren.

REP. NORDGREN: Well -- Thank you, Madam Chair. Commissioner, so would this be sort of like a lapse that you have and that you want it to carry forward? I mean, would it be sort of like a pot of money and you -- you just want to continue to be able to spend it?

MR. TOUMPAS: These are all Federal funds.

REP. NORDGREN: Right.

MR. TOUMPAS: Looking to be able to carry that forward. That's correct.

REP. NORDGREN: Right.

** REP. EATON: Move the item.

CHAIRWOMAN WALLNER: Representative Eaton moves the item. Do I have a second?

REP. LEISHMAN: Second.

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

SEN. SANBORN: No.

SEN. MORSE: No.

CHAIRWOMAN WALLNER: I'll record Senator Sanborn as opposed and Senator --

SEN. MORSE: Morse.

CHAIRWOMAN WALLNER: -- Morse and Odell. Okay. So the

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item passed.

REP. WEYLER: Three opposed.

CHAIRWOMAN WALLNER: Three opposed. Thank you.

*** {MOTION ADOPTED}

(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 228:69, I, (b), Appropriation and Use of Special Railroad Fund:

CHAIRWOMAN WALLNER: We'll move on to Tab 7. And this is Department of Transportation. Do we have a motion?

** REP. EATON: Move.

CHAIRWOMAN WALLNER: Representative Eaton moves.

SEN. LARSEN: Second.

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

REP. LEISHMAN: I'll abstain, Madam Chair.

CHAIRWOMAN WALLNER: Representative Leishman abstains from this -- from this vote. Thank you. The item passes.

*** {MOTION ADOPTED}

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

CHAIRWOMAN WALLNER: Tab 8 is Department of Safety. Do I have a motion?

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** REP. EATON: Move.

CHAIRWOMAN WALLNER: Representative Eaton moves.

SEN. LARSEN: Second.

CHAIRWOMAN WALLNER: Senator Larsen seconds.

Discussion? Questions? All in favor? Any opposed? Item passes.

*** {MOTION ADOPTED}

(9) Chapter 143:4, Laws of 2013, Lottery Commission; Authority Granted:

CHAIRWOMAN WALLNER: Moving on to Tab 9. And this is the Lottery Commission.

** REP. EATON: Move.

CHAIRWOMAN WALLNER: Representative Eaton moves.

REP. WEYLER: Second.

CHAIRWOMAN WALLNER: Representative Weyler seconds. Any discussion? All in favor? Any opposed? Item passes.

*** {MOTION ADOPTED}

(10) Chapter 144:29, I and III, Laws of 2013, Department of Administrative Services; Consolidation of Business Processing Functions:

CHAIRWOMAN WALLNER: Moving to Tab 10. This is Department of Administrative Services. Do I see a motion?

** REP. EATON: Move.

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SEN. LARSEN: Move approval.

CHAIRWOMAN WALLNER: Eaton. Representative Eaton moved and Senator Larsen second. Any discussion? All in favor? Any opposed?

*** {MOTION ADOPTED}

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

CHAIRWOMAN WALLNER: And Department of Transportation -- now we move into Department of Transportation, Item 13-203.

** REP. LEISHMAN: Move approval.

CHAIRWOMAN WALLNER: Representative Leishman moves approval.

REP. EATON: Second.

CHAIRWOMAN WALLNER: And Eaton seconds. Any discussion of this item? All in favor? Any opposed? Item passes.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Moving to 13-204.

** REP. EATON: Move.

CHAIRWOMAN WALLNER: Representative Eaton moves and -

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: Senator Forrester seconds. Any

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discussion of this item?

SEN. SANBORN: Yes, ma'am.

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: I think Committee has a reasonable working knowledge of the challenges facing Tri-County.

CHAIRWOMAN WALLNER: I think we're still on --

SEN. SANBORN: Oh, we're still on 204? I apologize.

CHAIRWOMAN WALLNER: We're still on Department of Transportation. Next one, okay. On 13-204, this is a Department of Transportation item. Any discussion on that one? All in favor? Any opposed? Item passes.

*** {MOTION ADOPTED}

(12) **Chapter 144:137, I, Laws of 2013, Transfer of Funds to the Tri-County Community Action Program:**

CHAIRWOMAN WALLNER: Let's move into Item 13-207.

REP. EATON: Move it.

CHAIRWOMAN WALLNER: Representative Eaton moves and --

REP. LEISHMAN: Second.

REP. WEYLER: Leishman.

CHAIRWOMAN WALLNER: Representative Leishman seconds. But I do think we have some questions. Yes. Thank you.

AMY IGNATIUS, Chairman, Public Utilities Commission:

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Good morning.

CHAIRWOMAN WALLNER: Good morning.

MS. IGNATIUS: My name is Amy Ignatius. I'm the Chairman of the Public Utilities Commission. And with me is Todd Fahey, an attorney with Orr & Reno, who has been appointed the trustee in the Tri-County situation.

We have brought forward this item on behalf of Tri-County. As you know, it's required transfer from House Bill 2 and before the transfer can be finalized it requires approval of this Committee on the uses of the funds. And so Attorney Fahey has put together a submission that you have and we are happy to answer any questions that we can help to explain how the funds would be used.

CHAIRWOMAN WALLNER: Senator Sanborn.

SEN. SANBORN: Thanks, Madam Chair. Amy, thanks for coming in. Counselor, thank you very much.

TODD FAHEY, ESQ., Orr & Reno: Good morning.

SEN. SANBORN: I think the Committee has a relatively good working knowledge of the challenges that has been facing Tri-County. Obviously, you're now the trustee on it. So my questions, I guess, are more operational. What is happening? Are you getting your hands around it? Do you see sunshine on the far side or trouble? Is this as far as you think we're going to get? Can you kind of update us as to operationally how things are going?

MR. FAHEY: Oh, absolutely. When the trusteeship began on December 14th, it was fair to say at that time the organization was in severe financial trouble. If it was to close at midnight, we came in at about 11:57. Many of you

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heard me say that before but it was very, very dire. Since then, much has happened on the good side. We ended up the -- the June 30th, 2012, year end was a negative of a deficit of maybe eight or \$900,000. Unaudited the June 30th, '13 Fiscal Year end should be slightly in the black or even, which is great.

SEN. SANBORN: Congratulations.

MR. FAHEY: Thank you. We've since -- we're starting to re-establish a management team. We have a CFO now who's been with us for two or three months. We have a staff accountant. So the fiscal operations have been fortified substantially and are in the process of continuing to be fortified.

When I first came in the charge was, essentially, two-fold. One, to decide what programs were not aligned with Tri-Cap's mission. And if they were not aligned, we would jettison those programs. If they were aligned, the next question was are they viable operationally, fiscally viable by way of funding or are they self-sustaining. If they weren't, we would discontinue them.

We have one misaligned program that is still somewhat operating at a deficit. We're working on jettisoning that program. Other programs that were not performing well have been jettisoned. And so we are in the process of actually looking very, very strong at this point. I'm pleased to report my tenure was expected probably ago on the outside a year, but I hoped to depart before that. So I expected to start to taper my involvement and there's been some press releases to that effect, although I've been very mindful of the Legislature's support of Tri-Cap and many folks have relied upon my word that I would continue to report and I'm going to keep that. So we're on the verge of empaneling a new Board of Directors and extending an offer to a new CEO

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today, as matter of fact.

SEN. SANBORN: The -- may I follow-up?

CHAIRWOMAN WALLNER: Yes.

SEN. SANBORN: So at this point do you feel like you're truly coming out of this and there won't be any further requests?

MR. FAHEY: Oh, I do not think there will be further requests. I mean, I would not be truthful to say that the organization is not still somewhat fragile. It was years of neglect, and I've reported that continually to everyone. But absolutely, I think things are better than they have been. Excess real estate is being sold, debts being reduced, and services continue to be provided. So my picture is very optimistic. I'm thinking an 85% probability of future success.

SEN. SANBORN: Great. Thank you very much. I appreciate it.

MR. FAHEY: You're welcome.

SEN. SANBORN: Thank you, Madam Chair.

CHAIRWOMAN WALLNER: You're welcome. Representative Nordgren.

REP. NORDGREN: Thank you, Madam Chair. Nice to see you again. There are those of us who were on the Committee of Conference last June, which seems like forever ago, and we feel a close relationship to you and we're happy to hear your report. Thank you for all your work.

I just wanted to call attention to the Fiscal

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Committee that House Bill 2 has a section in here about your program. And the first section says at the last sentence, the special trustee shall provide monthly reports on the use of such funds, as well as efforts to stabilize and restore accountability to the agency, to the Office of Energy and Planning, the Department of Justice Charitable Trust Unit, and the Fiscal Committee of the General Court and to the Probate Court as is required. I assume now the money is -- we assume this motion will pass and once you get that money then you'll provide a monthly report?

MR. FAHEY: I can certainly do that, Representative. I have -- I am reporting monthly to many of the individuals that you've named already. And it would be a simple matter to add a few names to make sure that this body is kept appropriately informed.

REP. NORDGREN: Okay. Maybe we can give you a copy of that.

MR. FAHEY: I have it. I've not included it because the money has not been disbursed yet.

REP. NORDGREN: Right, right. Okay. Thank you very much.

MR. FAHEY: Thank you very much.

MR. LEISHMAN: I guess a follow-up.

CHAIRWOMAN WALLNER: Yes, Representative Leishman.

REP. LEISHMAN: Thank you, Madam Chair. Perhaps a follow-up thanks to Representative Norgdren for bringing up. In your letter, Mr. Fahey, to Chairman Wallner, item -- let's see. It's on the second page. Number 3. You mention that House Bill 2 appropriate \$250,000 and the last

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sentence of that you do not believe that any notice to Fiscal was required for the release of that money. You said that was at least at this time. Could you explain that? I see you smiling.

MR. FAHEY: We had some discussion on that. If I can defer to Amy.

MS. IGNATIUS: Certainly. There were three provisions regarding transfer of funds for the use and related to Tri-County and each of them had slightly different requirements. So that we poured through them and our reading of the statute was that Fiscal Committee approval of the use of this \$500,000 was clearly required and then the follow-up reporting as you note. That for the transfer to Administrative Services for this revolving loan fund, the statute says it is hereby transferred and it didn't require approval from Fiscal. And so we haven't set that in motion. And we set the money aside for that but we haven't -- we're awaiting Administrative Services to do whatever it needs to do to finalize that.

On the first piece of money, which was \$533,000, that did not require prior approval from Fiscal. We set that money aside for transfer to the Office of Energy and Planning. It relates to the use of funds for the LIHEAP, Low-Income Heating Assistance Program, and I believe that's already taken place. That one does, I think, have reporting requirements that follow from it. And, obviously, those would be -- any reports that are required would be done. But this is the only -- the 500,000 was the only we thought required approval by this Committee for the transfer to take place.

REP. LEISHMAN: Thank you.

CHAIRWOMAN WALLNER: Further questions. I think we have

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a motion.

REP. WEYLER: We do.

CHAIRWOMAN WALLNER: Was it Representative Eaton and Representative Leishman second. Any further discussion? All in favor? Any opposed? The motion passes.

*** {MOTION ADOPTED}

CHAIRWOMAN WALLNER: Thank you very much for coming. Good job.

MS. IGNATIUS: Thank you.

MR. FAHEY: Thank you.

CHAIRWOMAN WALLNER: Moving now to -- I would like to ask Mr. Pattison if you would come up and speak with us.

MR. PATTISON: Good morning again. Administratively, this Committee approved a requirement for me to be able to fill vacancies that have occurred in my office to come before the Fiscal Committee to get authority to do that. I have had three recent vacancies in our office. One of our auditors has come over to the budget side to work. One of our auditors has gone up to the Department of Safety to be the new Director of Administration, and one of our auditors has left to join Administrative Services as a Budget Supervisor. So I'm coming before you today to fill -- to get permission to fill those three vacancies that have occurred.

** REP. WEYLER: Move approval.

REP. EATON: Move approval.

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CHAIRWOMAN WALLNER: Everyone wants to move approval. Representative Weyler moves and would you --

SEN. FORRESTER: I second it.

CHAIRWOMAN WALLNER: Senator Forrester seconded. Any discussion? All in favor? Thank you.

MR. PATTISON: Thank you.

***** {MOTION ADOPTED}**

CHAIRWOMAN WALLNER: Thank you. And we do have an item -- we have many informational items, and I guess I would like to know are there any informational items that people need more information about? On Item 13-196, which is the Department of Administrative Services item, I know that there are people who would like more information on that one. What I'd like to do is -- Linda, I know you need to be someplace by 11 o'clock; is that right?

MS. HODGDON: Yes, but I have time to answer questions.

CHAIRWOMAN WALLNER: Okay. If we want to do it now, we can move. Okay.

MS. HODGDON: Okay. Great. Thank you.

CHAIRWOMAN WALLNER: Thank you. So the item that has come to my attention that people had questions about was 13-196. It's Administrative Services and it was about the report on Cost Containment Plan for Retiree Health Care Program. So let's -- everybody find that one? And do I see questions? Linda, would you just like to talk to us a little bit about it?

MS. HODGDON: Sure. For the record, Linda Hodgdon,

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Commissioner of Administrative Services. Joining me is Cathy Keane, who is the Administrator of the Risk Benefits Unit, and I'm very excited to have her on my team. She's doing a great job.

There's some things that happened in the Retirees' Health Program that we are very, very pleased about. Some years ago, we made some pretty dramatic changes to the plan design for retirees' health adding a 12½% premium sharing by the retirees. There was a deductible that was instituted and some co-pay premium share or co-payment changes, and they had much better than the desired results in the spending that we're seeing in Retirees' Health Program. Combined with that with the economic downturn, I believe, we didn't have folks retiring quite as fast as what we had anticipated. And we had folks that were in the under 65 program working longer so they stayed in the active program. And the folks that are in the 65 and over program only have a wrap-around plan which is our least costly form of, you know, premium. It's about a third of what the folks in the under 65 are actually costing the State. So we're very pleased with the results of what we're seeing in that program. And it was at that time much more aggressive than what was happening in the active program as far as the coverage. The coverage was significantly different.

Attached to your item is a chart that if I could just refer you to that. It should be your Page 3. So this is an area in the budget that was funded at 97% and 100% of Fiscal Year '13. And that meant we were looking for \$327,000 in cuts in '14 and 4 million in '15. In fact, what's happened, the way in which we look at the options that are available to us, and this is -- some of this is a result of the budget and we shared with you during the budget process some things that we were looking at or that we were working on. One of them is procurement savings. So we now have the results of a procurement, a PBM procurement

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that we were working through that took us most of Fiscal Year 13. That's now gone to Governor and Council. And so savings from that PBM procurement will actually save us 325,000 in '14 and 650 in '15. These are all anticipated savings based on the anticipated prescription buys.

And then there's a Federal program called EGWP which we told you that we were working on that we had hoped to have in place January of 2015 and that will save us about a million dollars a year. But because it will be in place for half that Fiscal Year, it will save us about \$500,000. And that coupled with the CCSNH folks, we're covering their retirees for all those folks that retired when they were part of State Government. But when they went off on their own, they're now covering their own retirees which I think is really important, because they're making decisions on health care and they're making -- if they had, like, an early retiree kind of program, you'd want to make sure they're also picking up the health care costs to go with that.

So if you combine all those together, and I'm now looking at the back of the first page where there's a 327,000 that I referred to and the negative 4 million for '15, the ways in which we're addressing that are that CCSNH revenue, the procurement savings and the EGWP savings we have, in fact, identified more than \$1.6 million more than what's needed in '14 in savings, and we would apply that to '15 and that leaves us a shortfall of about \$200,000. We're going to continue to monitor that because of what's happening with the folks moving into the retirement program. I'm not sure we'll actually have a shortfall or not. If we do, we may come back to you with another plan design change in '15. We have surplus dollars in the retiree program that we certainly could use if we needed to so we wouldn't come up short.

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We also want to pay attention to what's happening with the Cadillac tax to see if there are changes that we can make there with regard to the Cadillac tax.

I'm also looking to try and have support for some legislation this next session to change that 12½% premium sharing to something more flexible, depending on what's needed. Right now it's a fixed 12½% and it may be we need it to be 15 or 18%. That would be helpful going forward. We'd like it not to be a locked-in percentage. We'd like to be able to analyze that each and every year and see what is appropriate.

The premium-sharing percentage doesn't help us with the Cadillac tax so that's our hesitancy there. We may look at that as one of the tools, but we may also look at some other plan design changes that help us to come in underneath the Cadillac tax. As you know, that's a much bigger challenge for the actives. But there is about a \$1.4 million anticipated tax that will hit us on the retirees program in 2018 if we don't make sufficient changes there. So we want to be able to try and avoid that, if we can.

For right now we feel good about '14 and we want more time to be able to explore this. From the time the budget passed to now was a little difficult just with everything else on our plate to do more than what we presented to you now. But, certainly, if we see that there are additional things needed, we would come back to you for '15.

CHAIRWOMAN WALLNER: Thank you. Questions?

REP. WEYLER: Congratulations.

MS. HODGDON: Thank you.

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CHAIRWOMAN WALLNER: I think you must have answered all of our questions.

SEN. FORRESTER: I --

CHAIRWOMAN WALLNER: Oh, Senator Forrester.

SEN. FORRESTER: Thank you. So are you saying that you're still working on developing a plan?

MS. HODGDON: Well, if we find that we need to make some changes to the health plan, which may be needed to avoid the Cadillac tax for '18, we want to see what those measured changes need to be. If there are things that we can incorporate with wellness that would really, you know, be desirous to try and change behaviors so that we could have a healthier older population, you know, we'd probably be looking in that direction. If we see that they're needed in '15, we'll absolutely come back. If there are things we think we can do in '16 and '17 and have them in place prior to the Cadillac tax deadline, then they may be part of that next biennium.

I'm looking for some flexibility in the law with the 12½% piece just to be, you know, part of the overall plan. So much of it depends on whether -- if I have a big influx of under 65 show up in the program, then that's a much more expensive group than my 65 and over.

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

MS. HODGDON: Thank you.

CHAIRWOMAN WALLNER: I don't think we need any action on the item. Just informational item. We needed to ask more information. I think that completes the agenda.

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Audits:

CHAIRWOMAN WALLNER: And now we move into the audits. And I think we actually have two audits today. We are going to start with the Electronic Benefits Transfer audit.

RICHARD MAHONEY, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chair, Members of the Committee. For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant. I'm joined this morning by Vilay DiCicco. Vilay is a Senior Audit Manager in our office who was responsible to manage the audit at the Department of Health and Human Services during the audit period. And Mary Ann Cooney is also here from the Department of Health and Human Services.

CHAIRWOMAN WALLNER: Thank you.

VILAY DICICCO, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chair, and Members of the Committee. For the record, my name is Vilay DiCicco. I'm here to present the Electronic Benefits Transfer performance audit.

The purpose of our audit was to determine whether cash assistance provided through Electronic Benefits Transfer cards or EBT cards were effective in achieving program objectives. We found neither state law nor DFA clearly defined the objectives of cash assistance programs or the specific types of items for which cash assistance was intended. Program objectives are very broadly stated in statute and DFA administrative rules, as neither contain guidance nor restrictions on the use of cash assistance.

In 2013, legislative restrictions were enacted to prohibit transactions -- to prohibit EBT transactions or

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funds obtained from EBT cards to be used at specific establishments; but these restrictions will be hard to enforce. The DFA's monitoring options are limited as the current technology only allows DFA personnel to monitor where recipients conduct transactions, not what recipients purchase, making it difficult to determine whether funds are actually used consistent with program objectives.

We also found almost 80% EBT transactions were made as withdrawals at an ATM, further hindering monitoring efforts. While we found EBT was a cost effective -- EBT cards were cost-effective, this report also explores the strengths and weaknesses of other cash distribution methods.

You can find our recommendation summary on Pages 3 and 4. This report contains 10 Observations with recommendations, all of which the DFA concurred or concurred in part. You see our first two recommendations may require legislative action.

Our background starts on Page 5. New Hampshire's cash assistance programs are administered by the Division of Family Assistance or DFA within the Department of Health and Human Services. Assistance is provided to low-income individuals and families through the State Supplemental Programs, Temporary Assistance for Needy Families, and the Refugee Cash Assistance Program. The State Supplemental Programs consist of Old Age Assistance, Aid to the Permanently and Totally Disabled, and Aid to the Needy Blind. State law stipulates these programs are intended to serve individuals who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.

These programs originated at the Federal level in the 1930s and were consolidated under a single umbrella of

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programs in 1972. Federal law specifically prohibits states from placing restrictions on the Federal portion of funds, to be as protective of people's dignity as possible. And it requires the states to ensure State funds are readily convertible to cash.

In New Hampshire, the Temporary Assistance for Needy Families or TANF Program is administered through the Financial Assistance for Needy Families, which consists of the Family Assistance Program, New Hampshire Employment Program, Families With Older Children, and Interim Disabled Parent Program. Cash assistance is only one part of these programs, which also provides job training, emergency assistance, child care assistance, and food assistance. These programs are intended to be time limited to 60 months. However, states are given flexibility to impose a shorter time limit or expand assistance beyond the 60 months. New Hampshire's opted to expand assistance beyond the 60 months to recipients experiencing certain hardships. As of March 2013, 128 of the approximately 3,700 cases were on an approved hardship extension while another 48 cases were pending approval of their request.

Refugee Cash Assistance is the smallest of the cash assistance programs. It is available to individuals or families in allowable refugee status with the U.S. State Department. It's available for eight months from the date of entry. Refugee cash assistance is available only if the refugee is not available for any other cash assistance program.

Table 3 on Page 9 shows the cash assistance benefits which were expended on recipients from July 2012 to March 2013, as well as the caseload for March 2013. During this time, the State issued \$25.6 million in benefits to approximately 13,250 recipients.

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During our 9-month audit period, cash assistance was distributed in three ways: Via EBT cards, through Electronic Funds Transfers into a recipient's bank account or through paper check. In 2013, approximately 77% of cash assistance was distributed through EBT cards. And the DFA stopped distributing monthly cash assistance through checks in June of 2013.

EBT cards are magnetically encoded payment cards similar to debit cards. They originated in response to Federal law which required all food stamp benefits be administered through EBT. States began to add other assistance programs to EBT cards afterwards.

Recipients' EBT cards are funded with cash assistance benefits twice per month. These cash assistance benefits can be accessed through a purchase at a point-of-sale machine or at an ATM to withdraw cash. If a recipient receives food stamps, these benefits are also added to the same card. The card and the point-of-sale machines are able to distinguish food stamps -- food stamp funds from cash assistance funds. Therefore, the system only allows food stamp benefits to be used for allowable food purchases at retailers which have been approved by the Federal Government. Food stamp benefits cannot be withdrawn as cash at an ATM.

Table 4 on Page 11 shows the distinct differences between food stamp and cash assistance benefits.

Our first section discussing restrictions and monitoring of EBT cash assistance starts on Page 15. We found the objectives of cash assistance is very broadly defined in state law. DFA policies are equally broad. Until the 2013 legislative session, there were no restrictions regarding how recipients could use their cash assistance making it difficult for the DFA to monitor whether funds

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were used consistent with program objectives.

In 2013, the State following Federal requirements restricted cash assistance on EBT cards for being used at State liquor stores, off-premises retail licensees that predominantly sell beer, wine, or liquor, gaming establishments and casinos, and adult-oriented entertainment establishments. The laws prohibits these establishments from knowingly accepting cash withdrawn from EBT cards on their premises. This law does not apply to recipients who receive their cash assistance through Electronic Fund Transfers and does not appear to prohibit recipients from purchasing alcohol at establishments that do not predominantly sell wine, beer or liquor, including supermarkets and convenient stores.

While objectives are broadly defined, the DFA has attempted to educate recipients about the use of cash assistance through posters and direct communication. However, these attempts were not consistently implemented.

The apparent qualities of cash assistance makes it difficult to monitor. Since assistance is deposited directly into a recipient's bank account, efforts to monitor recipient's use of these funds is limited. Assistance provided through EBT cards poses similar difficulties as the funds can be accessed as a cash withdrawal at an ATM or received as cash back through a point-of-sale. In these cases, the DFA loses the ability to monitor how these funds are used.

Purchases with EBT cards allow some monitoring capability, but these capabilities are limited as the vendor-operated system currently in place can capture where a transaction occurs, but is not capable of capturing UPC-level products data. Further exacerbating the problem is transaction data may not be accurately described as the

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transaction may appear under the name of a retailer's parent company or address. Other states are facing similar problems with monitoring and enforcing restrictions on cash assistance.

Our first Observation in the report is on Page 19. It discusses the need to align cash assistance restrictions with program goals. As discussed, the State doesn't -- did not outline guidance for or place restrictions on the use of cash assistance. State law establishes the State Supplemental Program to serve persons who do not have sufficient income or resources to provide for their own reasonable subsistence in a manner compatible with decency and health. TANF's broad goals are to promote employment, increase self-sufficiency and provide assistance in a manner also compatible with decency and health. Neither programs establish objectives linking how cash assistance is intended to achieve these goals. In fact, DFA Manual specifically state there are no restrictions on how recipients can use their funds. Despite the lack of clear guidance, the DFA attempted to instruct recipients that cash assistance should be used for life essentials. However, life essentials is not defined leaving interpretations to recipients.

We recommend the Legislature consider clearly outlining the goals of the program in statute. We also recommend the DFA adopt administrative rules for restrictions on cash assistance which are aligned with the stated program objectives.

Observation 2 starting on Page 20 addresses the adequacy of current statutory restrictions. While the law places restrictions on the use of funds administered through EBT cards, it does not apply to recipients who receive funds through direct deposit. We found other states placed restrictions beyond those specified in Federal law,

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some placing restrictions on products which can be purchased with public assistance funds.

We recommend the Legislature consider whether there should be further restrictions on the use of cash assistance and whether these restrictions should be applied universally to all cash assistance, not just those on EBT cards.

Observation 3 on Page 21 addresses education and communication about the use of cash assistance. The DFA does not have formal policy or procedures to inform and educate recipients on using cash assistance. Education efforts have also been -- have been inconsistent as not all Family Service Specialists consistently tell recipients what the funds should be used for.

We recommend the DFA develop a process to inform recipients of clear intentions of use of cash assistance, the restrictions on cash assistance, and potential penalties and violations. We also recommend the DFA consider requiring recipients to sign an acknowledgement stating they understand the proper use of cash assistance.

Finally, we recommend the DFA establish a process to inform retailers of restrictions and potential penalties.

Observation 4 on Page 22 addresses the need to improve monitoring efforts. We found just over half of the reports related to EBT use and management were reviewed timely. Additionally, there's been no formal risk assessment to determine whether the most relevant reports are reviewed.

We recommend the DFA complete a formal risk assessment to determine the most relevant reports and assure they are reviewed timely.

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Our next section discusses alternate methods of cash distribution and starts on Page 25. While we found EBT cards are a cost-effective method for distributing cash assistance, this section discusses the benefits and drawbacks of EBT cards, Electronic Funds Transfers, and Electronic Purchasing Cards.

Transaction cost for DFA is a large consideration when evaluating a cash distribution method. Through EBT, the State pays on average \$70,000 per month. However, some of these costs are also attributed to the food stamp program. The State is able to recover unused cash from EBT cards offsetting some of those costs. Additionally, as the State does not actually transfer the funds to the vendor until the recipient uses it, the State is able to capitalize on interest on these funds. Other methods of distribution do not allow this as the funds are transferred as soon as they're authorized.

For EFT or direct deposit, the State is charged 5-cents per transfer as well as other monthly fees. These costs cannot be offset as unused funds cannot be recovered from the recipient's bank account. While Electronic Purchasing Cards have the least cost to the State, the capability to recover unused funds is currently limited without legislative changes.

Table 9 on Page 27 outlines estimated annual cost to the State for each of these distribution methods. The cost to recipients is also a primary consideration as excess cost can limit the advantage of the cash assistance. EBT cards have limited fees for recipients as the State subsidizes some transactions. And depending on the recipient's bank, direct deposit can also have limited fees for the recipients to access their cash.

While EPC has no cost to the State, it appears to have

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the highest potential cost for recipients, depending on the contract negotiated. EPC contracts and costs can vary significantly as illustrated in Table 10 on Page 28. Administratively, cost for maintaining and monitoring EBT card system is significant. EBT requires an administrator dedicated to ensure daily operation and time from personnel in the Commissioner's Office, Data Management Unit, Accounts Receivable and Accounts Payable. However, we know all of these supports would still be needed to maintain the food stamp program which by Federal law must be administered through EBT.

Maintaining EFT or direct deposit does not require personnel from the Commissioner's Office or Data Management. However, district office workers must maintain current bank account information for each case.

The least amount of administrative cost resides with Electronic Purchasing Cards as they are maintained by a third-party vendor.

Monitoring is another consideration in determining cash distribution methods. EBT cards allow more monitoring than direct deposit or EPC. However, as discussed earlier, even these monitoring capabilities are limited with the current technology in place. Although EPC is capable of capturing data about where funds are used, Federal law prohibits this information from being shared with other parties. However, with EPC the State could block the card from being used at specific retailers and ATMs.

EFT does not lend itself to effective DFA monitoring. As soon as the funds enter the recipient's bank account, the agency cannot monitor the recipient's activities.

Table 11 on Page 31 compares the advantages and drawbacks of the three distribution methods that we

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discussed.

Observation No. 5 on Page 32 discusses benefits which are currently distributed through check which could be administered through EBT or EFT, including child care, travel reimbursement, clothing, and education.

We recommend the DHHS evaluate all benefits it distributes and determine whether they could be distributed more cost-effectively through EBT or EFT.

Our next section discusses improvements in management controls. Observation 6 on Page 35 addresses the need to improve monitoring to ensure management directives are implemented. We found procedural changes are not always formally documented and are inconsistently implemented. We recommend the DFA better monitor its directives and ensure policies -- and ensure procedures are readily available and implemented consistently.

Observation 7 on Page 36 recommends the DFA reduce the opportunity for fraud by having the vendor mail EBT cards directly to the recipients and ensure that cards sent to the district offices for recipients are properly distributed.

Our next Observation, number 8, discusses the need to reassess the Memorandum of Understanding between Vermont and New Hampshire for disaster recovery. We found the Memorandum is based on an outdated process, and the DFA's disaster recovery process is not documented or clearly communicated to all parties involved.

We recommend the DFA review the necessity of the memorandum with Vermont and document its disaster recovery process.

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Observation 9 on Page 39 discusses access to the New Heights eligibility system and the on-line EBT system. We found access levels were not always compatible and some users had access to change information in both systems. We also found users who were no longer employed by the DHHS still had access to one or both systems.

We recommend the DFA improve user access and permissions by limiting the number of people with super user access, comparing the users to active employees, and routinely reviewing access levels. We also recommend the DHHS centralize the process for informing IT administrators when an employee leaves the Department, informing the IT when new administrators are added to either system and document these in policies.

Our last Observation on Page 41 discusses controls over previously designated alternate payee. An alternate payee is someone who is designated to help a recipient manage their case. Some alternate payees have access to recipient's funds. We found if a former recipient applies to have their case reopened, the information linked to a previous alternate payee may still be valid. We found the system generated an EBT card or notified the previously designated alternate payee the case has been re-opened and that benefits are available if this information has not changed. We recommend the DHHS establish proper controls to ensure all information pertaining to previously designated alternate payees are changed.

Starting on Page 43, we present two other issues -- two other issues and concerns that the DFA and Legislature may wish to consider, including reassessing whether recipients should be charged for some fees and monitoring management of funds to ensure bills to the EBT vendor are paid timely.

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The remainder of our report contains our objectives, scope and methodology, and surveys of the Family Service Specialists, the district office clerks, district office supervisors, and administrators of other state cash assistance programs.

That concludes my presentation. Be happy to answer any questions you may have.

CHAIRWOMAN WALLNER: Do we have questions?
Representative Leishman.

REP. LEISHMAN: Thank you, Madam Chair. Thanks for the excellent report. I did have a question for the Department. As you stated in the audit, it's very difficult to track these cash transactions as you stated verbally. Does the Department ever, like, ask for receipts from these individuals receiving benefits from the State? I think everyone up here supports help for those people that need food and clothes; but as you stated, 80% of these withdrawals are for cash. Now, does the Department request of these people receiving benefits any sort of receipts for what they're using this money for?

MARY ANN COONEY, Deputy Commissioner, Department of Health and Human Services: And this is where the detail goes to the staff that are sitting in back of me. Thank you, Representative. I'm going to ask Director Terry Smith and his assistant, Rene Drouin, who is the Administrator in charge of the EBT program to come up to the desk.

CHAIRWOMAN WALLNER: Thank you. Thank you.

TERRY SMITH, Director, Division of Family Assistance, Department of Health and Human Services: Madam Chair, Members of the Committee, it's an honor to be here. My name is Terry Smith. I'm the Director of the Division for

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Family Assistance. With me is Rene Drouin, our EBT administrator and the only person in the Department that works on EBT. I'd like to start by indicating that the Department did have an assistant for Rene until 2010 when we were required to lay that individual off. That speaks to the number of reports that we can't get to.

CHAIRWOMAN WALLNER: Thank you. Representative Leishman.

REP. LEISHMAN: Thank you. I guess I'll just restate the question. Do you require recipients to provide you from time to time receipts for, like, the paying of rent or other activities? Obviously, you can track the food stamp monitoring; but if they're withdrawing or using the cards 80% of the time to withdraw cash, are you tracking any of that through asking for any documentation for what that cash is being used for?

MR. SMITH: Representative Leishman, given our current resources that would be impossible. We have 13,000 and change individuals on cash assistance, and were we to get into the personal purchasing habits of each that would require a staff increase of significant financial burden.

REP. LEISHMAN: All right. Further question.

CHAIRWOMAN WALLNER: Yes.

REP. LEISHMAN: It was mentioned that people come to you for further assistance after, what, 60 months. They make an appeal they need continued help. Is there, like, any sort of review at that point what these individuals are using that cash for? I guess I'm just concerned that as you stated, there's really no oversight. So if people are going to the cash machines with their EBT card and withdrawing money for -- or just withdrawing cash and

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there's no oversight, it seems like a pretty open checkbook to use that State and Federal money for whatever they want to use it for.

MR. SMITH: Representative Leishman, it may be helpful to contextualize the cash assistance program by describing exactly what amounts that people are provided in terms of assistance. Statistically, and I have a chart here I can show you, if you like, a TANF recipient receives less in a grant than we third-party verify with landlords that they're being required to pay for rent. So there's not as much discretionary income to the household that may be perceived.

In terms of at the 60-month time frame, New Hampshire has the best employment training program in the Northeast. Our work participation rates every year since 2007 have been the highest. And we are number 11 in the country in terms of engaging people in employment. Nobody gets to the 60th month who is able-bodied without having been consistently applying themselves to the work requirements. But at the 60th month we do not do currently a review of how people utilize their assistance.

There are two reasons really that have driven our seeming lack of response. The first reason is that there's no way to really monitor that effectively. We could ask individuals and they could self-attest. They could bring receipts, but we wouldn't know if they were theirs. So it seemed imprudent to embark on a fiscal policy spending money to achieve something that when people go to a ATM machine we wouldn't be able to show you results from.

REP. LEISHMAN: Thanks. Thanks, Madam Chair.

CHAIRWOMAN WALLNER: Representative Weyler.

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REP. WEYLER: Thank you, Madam Chair. Director Smith, there's recommendations in here that legislative action is needed. Does the -- does your Director have any suggested language for this legislation?

MR. SMITH: That's a very interesting question, Representative Weyler, and one that I suspect very much needs to be vetted in a public and transparent debate forum, because certain things are pretty clear. I don't think anybody intended the taxpayers cash assistance to be spent on alcohol or cigarettes or, you know, adult entertainment sites, which is a little odd, since most of our -- 91% of our TANF cases are female. But after that, it begins to get very controversial. An example that I may give is the purchase of guns. Now, some people may deem that because our clients live in the lowest income housing where crime is higher than elsewhere that purchasing guns with public assistance is appropriate. On the other hand, others who are more interested in gun control would say no. Those are the kinds of things that the Department can't decide, but we could certainly raise the issues for you as they come to us.

REP. WEYLER: You don't have one -- anyone in mind to file this legislation?

MR. SMITH: We have an attorney that with your guidance would be happy to help advise us.

REP. WEYLER: I would be willing to be a sponsor if the Department were to support it. But things have come in the fine work of the auditors and gone forward and filed legislation only to have the Department oppose it.

MR. SMITH: I would have to talk to the Commissioner about what he would choose to support or not support. I think as a rule, under his government, our tendency is to

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not take positions but to support the Legislature as they are reflective of the will of the people.

REP. WEYLER: I read recently that in a TANF program there were work participations as high as 87% in Utah and 18% I think -- as low as 18%, I think, in Rhode Island.

MR. SMITH: Yes.

REP. WEYLER: What is ours?

MR. SMITH: Ours right now is 75%.

REP. WEYLER: Very good.

CHAIRWOMAN WALLNER: Further questions.

** 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 Weyler moves that we accept the report and Representative Eaton seconds. All in favor? Any opposed? Motion passes. Thank you very much. Thank you for the fine report.

*** {MOTION ADOPTED}

CHAIRMAN WALLNER: And briefly have one more audit and this one is of the Board of Medicine.

MR. MAHONEY: Thank you, Madam Chairman. Joining me at the table will be Jim LaRiviere. Jim is a Senior Audit Manager with our office who was responsible to conduct the audit at the Board of Medicine. And we will be joined by Kathryn Bradley from the Board who is the part-time

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Executive Director for the Board.

KATHRYN BRADLEY, Executive Director, Board of
Medicine: Good morning.

CHAIRWOMAN WALLNER: Good morning. Thank you. Welcome.

JAMES LARIVIERE, Senior Audit Manager, Audit Division,
Office of Legislative Budget Assistant: Good morning,
Madam Chair, Members of the Committee. For the record, my
name is Jim LaRiviere, and I'm here to present our report
on the Board of Medicine, the financial audit report for
the nine months ending March 31st, 2013.

While we refer to the Board throughout this report we
are, for the most part, referring to the Board's
Administrative Office, which processes the financial
activity of the Board of Medicine, including the licensing
of those authorized to practice medicine in the State of
New Hampshire.

I'd like to begin the presentation on the Table of
Contents. The report contains 11 Internal Control Comments,
four of which are identified as material weaknesses and
three State Compliance Comments. Three State Compliance
Comments may require legislative action. The Board
concurred with each of the comments in the report.

Pages 1 through 3 provide some introductory
information on the Board of Medicine, and at March 31st the
Board's Administrative Office operated with six full-time
classified employees and one part-time executive director.
The Board is an administratively attached agency for the
Department of Health and Human Services under RSA 21-G. The
Board's operations are accounted for in the State's General
Fund and on Page 2 is a summary of the Board's expected
revenues and expenditures during the nine-month audit

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period. The audit comments begin on Page 6.

Observation No. 1 identifies weaknesses in the Board's Internal Controls and recommends the Board seek assistance from the Department of Administrative Services and Department of Health and Human Services in designing and establishing appropriate Internal Controls for its financial operations. The Board's limited size and administrative structure make the Board's effective and efficient management and performance of its financial responsibility, including financial controls, challenging.

Observation No. 2 on Page 7 addresses weaknesses in the Board's use of information technology and recommends the Board take steps to support its systems and information from disruption, loss, and inappropriate use and disclosure. Specifically, the Board should develop an appropriate employee computer use policy and use better technology to protect the transfer of confidential information.

Observation No. 3 recommends that Board management become more involved in the regular review of State accounting system financial reports for errors or unexpected results. The review procedure should be sufficiently detailed to provide management with reasonable assurance that significant errors or irregularities appearing in the report should be identified and corrected timely.

Observation No. 4 recommends the Board strengthen Internal Controls over revenue processing. The Board collects revenues primarily from licensing and related activities. We recommend that the Board implement effective reconciliation of those licensing activities with revenue collected and that they implement -- excuse me -- improve controls over the documenting of cash received, better

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secure the temporary holding of receipts, and deposit receipts more timely and review the appropriateness of returning fees for temporary licenses.

Observation No. 5 on Page 14 points out how the Board could improve its accounting of Board assessed fines by utilizing the Billings and Receivables Module in the State's accounting system to invoice and account for the issuance of fines, the amount received on those fines, and the amounts outstanding.

Observations No. 6 and 7 beginning on Page 15 address the Board's agreement with State Agencies providing services to the Board. Observation No. 6 recommends the Board establish a Memorandum of Agreement with the Department of Justice's Administrative Prosecution Unit to cover the work that unit performs in support of the Board.

Observation No. 7 recommends the Board establish a more detailed agreement with the Department of Health and Human Services to more fully describe the scope and the cost of the Department of Health and Human Services' services available to the Board.

Observation No. 8 beginning on Page 16 reports how an apparent misunderstanding resulted in the Board not adhering to Fiscal Year 2012 closing procedures. The Board should request assistance from the Department of Administrative Services when appropriate to interpret and implement required policies and procedures.

Observations No. 9, 10, and 11 recommend the Board establish a formal risk assessment process, formal disaster recovery and business continuity plan, and a fraud prevention and detection program.

The State Compliance Comments begin on Page 20, and

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Observation No. 12 identifies that the Board's Executive Director is not paid in accordance with the provisions of RSA 94:1-a. The Board's Executive Director was employed as a part-time classified employee and paid on an hourly basis under classified labor grade pay scale. RSA 94:1-a states that part-time executive director should be an unclassified employee under labor grade GG pay scale. Part-time unclassified employees are paid on a per-diem basis.

Observation No. 13 on Page 21 reports the Board's Medical Review Subcommittee Investigator is not an employee of the Board, contrary to RSA 329:17. During the audit period, the Board used a physician under contract with the Board for investigation support.

Our final Observation on Page 22 points out the Board does not charge a fee to applicants whose renewal application forms are returned due to incorrect address, even though such fee is required by administrative statute.

In each of the Compliance Comments, we recommend that the Board comply with applicable statute or rule and that if the Board determined that compliance was not in the best interests of the Board or State, the Board should request a relevant statute or rule be appropriately revised.

On Page 37 after the Appendix tab, the Current Status of Audit Findings Contained in the Performance Audit Report of the Board of Medicine dated April 2008, only comments from that report that address financial reporting issues have been included. The table at the bottom of the page indicates that five of the findings -- five of the eight findings are completely resolved, two are partly resolved, and one unresolved.

This concludes my presentation. I'd like to thank the Board's Executive Director, Kathryn Bradley, and her staff,

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for their cooperation and assistance throughout the audit. And I'd like to thank you, Committee, for your time. We'd be happy to take any questions. Thanks.

CHAIRWOMAN WALLNER: Thank you. Do we have -- yes, Senator Sanborn.

SEN. SANBORN: Thank you, Madam Chair. Thank you so much for your report. As always, informative and truly appreciate it. I see your financial results are nine months. And acknowledging the annual licensing fee basis on how you testified most of the boards operate, would there be a material difference in the financial result if there was a 12-months ending?

MR. LARIVIERE: Senator Sanborn, yes, there would be. Most of the Department's renewal license fees for the physicians come in during the period of April through June. So there would be a significant difference in the revenues reported.

SEN. SANBORN: Thank you, sir.

CHAIRWOMAN WALLNER: Further questions?

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

REP. EATON: Second.

CHAIRWOMAN WALLNER: Representative Weyler moves that we accept the report and Representative Eaton seconds. All in favor? Any opposed? Thank you. Motion passes. Thank you very much.

*** {MOTION ADOPTED}

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MR. MAHONEY: Thank you, Madam Chairman.

CHAIRWOMAN WALLNER: Is there any other business to come before the Fiscal Committee?

REP. EATON: Date for the next meeting.

CHAIRWOMAN WALLNER: The date for the next committee meeting. Yes, Senator Morse.

SEN. MORSE: Just if LBA can on Section 6, the item number 13-199, the Commissioner offered to give us more information. That's the only reason I voted no. I'm still a little confused as to what's going on. And I know everyone wanted to accept the money because it was already authorized. That I can understand. If there's anything else, can we get it as a group?

CHAIRWOMAN WALLNER: Yes. Why don't we ask -- have Mr. Pattison ask the Commissioner to provide us with additional information about that particular item. And if we need to, next time we can -- after we get the materials maybe we can look them over. If we have further questions we can ask them at that time. Okay. Thank you.

Next meeting. I think we talked yesterday about a date that we thought might work.

MR. PATTISON: Possibly October 18th which would be five weeks.

CHAIRWOMAN WALLNER: October 18th. Does that work for people?

REP. LEISHMAN: Sure.

CHAIRWOMAN WALLNER: Okay.

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REP. WEYLER: And wish me a happy birthday.

CHAIRWOMAN WALLNER: Oh, that will be fun. We'll have cake and ice cream, candles and everything. Okay. Our next meeting will be October 18th and this meeting is adjourned.

(Adjourned at 11:22 a.m.)

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CERTIFICATION

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

Cecelia A. Trask

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

