

## **JOINT LEGISLATIVE FISCAL COMMITTEE**

VAST Conference Call

Monday, April 20, 2020

### **MEMBERS PRESENT:**

Rep. Mary Jane Wallner, Chair

Rep. Susan Ford

Rep. Peter Leishman

Rep. Lynne Ober

Rep. Erin Hennessey (Alt.)

Sen. Lou D'Allesandro

Sen. President Donna Soucy

Sen. Cindy Rosenwald

Sen. Jay Kahn

Sen. Chuck Morse

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

SUSAN FORD, State Representative, Grafton County, District #03: Thank you, and thank you for attending the Fiscal Committee meeting on April 20<sup>th</sup>, 2020, and I would like to call the meeting to order and to recess until 11:00 a.m. this morning. The Fiscal Committee will be recessed until 11 o'clock this morning. So we'll be welcoming and glad to see you then. Are there any questions?

(No response)

(The Committee recessed at 10:01 a.m.)

(Reconvened at 11 o'clock a.m.)

### **(1) Call In Instructions:**

MARY JANE WALLNER, State Representative, Merrimack County, District #10: Good morning. This is Representative Mary Jane Wallner, and welcome to the second ever remote Fiscal Committee meeting. Today is April 20<sup>th</sup>, 2020, and I'm going to start the meeting today by going through our Right-to-Know checklist. And as the Chair of Fiscal Committee of the General Court, I find

that due to the state of emergency declared by the Governor as a result of the Covid-19 pandemic, and in accordance with the Governor's Emergency Order Number 12, pursuant to Executive Order 2020-04, as extended pursuant to Executive Order 2020-05, this public body is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order.

However, in accordance with the Emergency Order, I am confirming that we are, one, providing public access to the meeting by phone, with additional access possible by video or other electronic means. We are utilizing VAST Conference for this electronic meeting.

All Members of the Committee and the staff of the State Agencies with agenda items have the ability to communicate contemporaneously during this meeting through this platform. And the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone number. 1 (800) 356-8278, and the six digit conference code 125563 followed by the pound sign.

And, two, providing public notice of the necessary information for accessing the meeting. We previously gave notice to the public of the necessary information for accessing the meeting telephonically.

Instructions have also been provided in the House and Senate Calendars, the Fiscal Committee agenda, and the website of the Legislative Budget Assistant Office at [GenCourt.state.nh.us/LBA/Budget/FiscalCommittee](http://GenCourt.state.nh.us/LBA/Budget/FiscalCommittee).

And, three, providing a mechanism for the public to alert the public body during the meeting if there are problems with access. If anyone has a problem, please e-mail [NHeoc@dos.nh.gov](mailto:NHeoc@dos.nh.gov), adjourning the meeting if the meeting is unable to access the meeting -- if the public is unable to access the meeting.

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In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled. Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance, and when each member states their presence, please also state whether there is anyone in the room with you during the meeting, which is required under the Right-To-Know Law. I call the Clerk to call the roll.

REP. FORD: Thank you, Madam Chair. Representative Wallner.

CHAIRWOMAN WALLNER: Present. No one is in my -- in the room with me, and I'm at my home in Concord, New Hampshire.

REP. FORD: Representative Leishman.

PETER LEISHMAN, State Representative, Hillsborough County, District #24: Yes, good morning. I am here at my home in Peterborough, and I'm alone in the living room.

REP. FORD: And Representative Ford is alone in the -- her home in Easton and there's nobody there. Representative Weyler is not here. Representative Ober.

LYNNE OBER, State Representative, Hillsborough County, District #37: I'm here. I'm at home. And, as always, I have assorted cats wandering in and out.

REP. FORD: Representative Hennessey.

ERIN HENNESSEY, State Representative, Grafton County, District #01: I'm here at my home in Littleton and my two minor children are in the house and come in and out of the room frequently.

REP. FORD: Senator D'Allesandro.

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LOU D'ALLESANDRO, State Senator, Senate District #20: I'm here and I'm in my home and I'm by myself.

REP. FORD: Representative -- Senate President Soucy.

DONNA SOUCY, State Senator and Senate President, Senate District, #18: Good morning. I'm here, I'm at home, and I am by myself.

REP. FORD: Senator Kahn.

JAY KAHN, State Senator, Senate District #10: Here in Keene at home. No one else present.

REP. FORD: Senator Rosenwald.

CINDY ROSENWALD, State Senator, Senate District #13: Good morning. I am at my home in Nashua, and I am by myself.

REP. FORD: Senator Morse.

CHUCK MORSE, State Senator, Senate District #22: Present. And I'm in my office in Atkinson, New Hampshire, alone.

REP. FORD: Thank you. That concludes the attendance.

**(2) Acceptance of Minutes of the April 10, 2020 Meeting**

CHAIRWOMAN WALLNER: Thank you, Representative Ford. Let's move -- this will, I think, be a fairly short meeting. Let's move on to the acceptance of the minutes of April 10<sup>th</sup>, 2020. Do I hear a motion?

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

CHAIRWOMAN WALLNER: Senator D'Allesandro moves.

SEN. ROSENWALD: Second.

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CHAIRWOMAN WALLNER: And Senator Rosenwald seconds.

SEN. ROSENWALD: Rosenwald.

CHAIRWOMAN WALLNER: Yes. Discussion of the minutes?  
Hearing no discussion, I'll ask the Clerk to call the roll.

REP. FORD: Representative Leishman.

REP. LEISHMAN: Yes.

REP. FORD: Representative Ford votes yes. Representative  
Ober.

REP. OBER: Yes.

REP. FORD: Representative Hennessey.

REP. HENNESSEY: Yes.

REP. FORD: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

REP. FORD: Senate President Soucy.

SEN. PRESIDENT SOUCY: Yes.

REP. FORD: Senator Kahn.

SEN. KAHN: Yes.

REP. FORD: Senator Rosenwald.

SEN. ROSENWALD: Yes.

REP. FORD: And Senator Morse.

SEN. MORSE: Yes.

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REP. FORD: The vote is nine to zero. Oh, Representative Wallner, you didn't get to vote.

CHAIRWOMAN WALLNER: And I vote yes.

REP. FORD: And that makes it ten to zero.

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

CHAIRWOMAN WALLNER: Thank you, Representative Ford.

**(3) Old Business:**

CHAIRWOMAN WALLNER: And our next order of business is Old Business. Any action on those -- on that?

**(4) Miscellaneous:**

CHAIRWOMAN WALLNER: Hearing none, we'll move on to our Miscellaneous, and today the Legislative Budget Assistant is going to give us an update on the guidance from the U.S. Treasury around the Coronavirus Relief Fund, and I will turn it over to Mr. Kane.

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: Thank you, Chairman Wallner. For the record, my name is Michael Kane. I'm the Legislative Budget Assistant. I am currently at my home in Warner in my office. So I'm here to give you a brief update on United States Department of Treasury Guidance relative to the use of the Coronavirus Relief Fund under the CARES Act of which New Hampshire is eligible for \$1.25 billion. Guidance has not yet been released. So we are waiting on that guidance as well as every other state and legislator. Hopefully, we'll get something by April 24<sup>th</sup>; but I did just want to update you on the status of the distribution to the State of New Hampshire.

On April 13<sup>th</sup>, United States Treasury notified the eligible government to provide their payment information and required supporting documentation to United States Treasury no later than last Friday. The Treasurer -- the State Treasurer on behalf of the State did enter that information into the U.S. Treasury's web portal and at around 5:00 p.m. on April 17, 2020, last Friday, the State Treasurer was notified by their bank that the first \$625 million was deposited into their account from U.S. Treasury. So I just thought I'd update you on the status of that. When we do get additional guidance from the U.S. Treasury, I'll make sure to inform everyone on the Committee, as well as the Legislature.

And just as far as the basic guidance relative to the appropriations in this fund, reading through the CARES Act there are three -- it's a very short section relative to Coronavirus Relief Fund. Basically, I can read for the record relative to the use of the funds. State, tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs for state, tribal government, or unit of local government that, number one, are necessary creditors incurred through the Public Health emergency with respect to the Coronavirus Relief 2019, Covid-19.

Number two, were not accounted for in the budget most recently approved as the state's enactment of this section for the state or government.

And, number three, were incurred during the period that began on March 1<sup>st</sup>, 2020, and ends on December 30<sup>th</sup>, 2020.

So the guidance is very necessary for New Hampshire. Whereas we have half the budget back in September. We are on a biennial budget, sort of a unique situation. We do have some legislators that are -- were currently debating and preparing their annual budget when this -- the pandemic did hit and the states of emergency were expressed. So I just thought I wanted to give that to you.

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When I do have further information relative to the guidance from the Treasury, we will share that and that's my brief briefing.

CHAIRWOMAN WALLNER: Mr. Kane, would you entertain some questions if people have questions?

MR. KANE: Yes.

FALLON REED, Planning Chief, State Coordinating Officer, Department of Safety: Ma'am --

CHAIRWOMAN WALLNER: Questions for Mr. Kane?

MS. REED: -- Senator Rosenwald has a question.

CHAIRWOMAN WALLNER: Senator Rosenwald.

SEN. ROSENWALD: Thank you, Madam Chair. It wasn't a question. It was I wanted to offer a motion; but if there are questions of Mr. Kane, I would defer to those.

CHAIRWOMAN WALLNER: Okay. Let's see if there is anyone does have a question of Mr. Kane, and then we'll move on to Representative -- Senator Rosenwald's motion.

MS. REED: Ma'am, Senator D'Allesandro has a question.

CHAIRWOMAN WALLNER: Yes, Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Madam Chair. Just a question of Mike. Mike, as the -- the Fiscal Committee, I guess, advisor and the person who really lets us know the abilities we have, what -- what if -- at this moment in time we've accepted \$625 million. What authority does the Fiscal Committee have at this point to spend, to appropriate any of that money, in light of the fact that we just have these very amorphous guidelines?

MR. KANE: Yeah, and I think that's subject to the motion in the Superior Court that was discussed this morning, which will be clarified. Typically, how Fiscal acts not in an emergency, which is a key point, is that agencies would request pursuant to RSA 14:30-a, the prior approval of the Fiscal Committee to expend Federal funds. However, as you are all aware, the Governor does believe he has powers under the state of emergency under RSA 4:45, as well as RSA 21-P, which is now subject to the Court interpretation, the discussions in the Court which was adjourned today. I hope that helps.

SEN. D'ALLESANDRO: Well, it -- ma'am, further question? Madam Chair?

CHAIRWOMAN WALLNER: Yes, yes.

SEN. D'ALLESANDRO: And, Mike, given that, and given a Court decision that's going to come to us expeditiously, as I understand it, I was -- I was virtually present at the Court hearing this morning. What kind of latitude do we have on any action today taken on any of the monies that have been accepted by the State Treasurer?

MR. KANE: It's unclear as far as any legal authority that you have. There's nothing wrong with having a discussion amongst the Committee on what you believe the funds could be used for. But, again, absent those -- the regulations, there's not much that the Committee can do at this point.

SEN. D'ALLESANDRO: Thank you, Madam Chair. Thank you, Mike.

CHAIRWOMAN WALLNER: Thank you. Other further questions of Mr. Kane?

MS. REED: Ma'am, Representative Ober has a question.

CHAIRWOMAN WALLNER: Yes, Representative Ober.

REP. OBER: Thank you, Madam Chairman. I actually now have two questions. First question is for Mr. Kane. I don't want to correct you, Mike, but I believe you might have made a slight misstatement. In the past, Fiscal has voted to accept and allow agencies to expend Federal funds. And when you stated what you just said you did not mention the accept. You mentioned only that Fiscal looked at expending the funds. Didn't we traditionally vote to accept and allow the agencies to expend the funds?

MR. KANE: Yes, Representative. Michael Kane, Legislative Budget Assistant. That is correct. Fiscal makes the approvals to accept and expend of these funds. Correct.

REP. OBER: Thank you, Mr. Kane. My next question is for the Chair. I was floored, to put it mildly, to get an e-mail from the Speaker that said the Legislature had decided to sue the Governor since I have no visibility of that. But I also was floored that this morning during the hearing, which I also attended virtually, the Democratic -- attorneys for the four Democrats who filed the suit seemed to indicate that this was on behalf of all the Fiscal Committee. But, again, I wasn't even told or queried whether I might be interested in such a suit. So I'm curious why such broad terms for who's fighting this are being used, because I really do have constituents asking me if I'm suing the Governor, and my answer is I have no clue. Can you explain how that happened?

CHAIRWOMAN WALLNER: We brought the -- we brought the suit because we are defending the right of the Fiscal Committee to accept and expend funds under RSA 14:30.

REP. OBER: Further question.

CHAIRWOMAN WALLNER: Yes.

REP. OBER: So if -- if you are successful, then you will finally do what I thought Fiscal should have been doing for years and decades, which is requiring every agency who comes

forth wanting Federal funds to actually tell us, as in report to us, specifically what they're spending those funds on.

CHAIRWOMAN WALLNER: I'm not sure I understand the question; but we will -- we would proceed as we have always with the acceptance and expenditure allowing for the approval of the fund by the executive department.

REP. OBER: That's finally what confuses me. When we have accepted funds, we have not asked agencies specifically what will you spend these on. We do ask them if they're going to hire any staff to tell us the expenditure for that. But all the other money we get no information about how they're going to expend it, which has always been a little frustrating to me. And so it appears that you are wishing to change the methodology, and we will now get that expenditure information.

CHAIRWOMAN WALLNER: No, I believe we will proceed as we have always proceeded with these items.

REP. OBER: In that case, the lawsuit really wasn't needed, was it? Thank you.

CHAIRWOMAN WALLNER: And now if there's further -- further questions for Mr. Kane?

MS. REED: Ma'am, Representative Leishman has a question.

CHAIRWOMAN WALLNER: Representative Leishman.

REP. LEISHMAN: Yes. Good morning, Mike. So as I understand it, and as we've done in the past, in looking at the 625 million that's already been sent to New Hampshire and deposited, we could, in fact, take all of that or a portion of that and recommend it -- its direction to different agencies as long as it's Covid-19 related; is that correct?

MR. KANE: As far as who can direct that, Representative, I think that's still subject to the court decision right now.

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So -- but it could be, as long as it's Covid-19 related, for instance, a couple of Executive Orders the Governor had issued prior to this date, including the 50 million for the Health Care Relief Fund, some additional funds for Sexual Domestic Violence, as well as a stipend for some long-term care workers, most likely, again, pending guidance from the U.S. Treasurer, are Covid related expenditures that are most likely allowable under the CARES Act.

REP. LEISHMAN: Thank you, Mr. Kane. Thanks, Madam Chair.

CHAIRWOMAN WALLNER: Thank you, Representative Leishman. Are there further questions of Mr. Kane? Hearing none, I will go back now to Senator Rosenwald, I believe, who had something to bring before us.

**\*\*** SEN. ROSENWALD: Thank you very much, Madam Chair. In light of Mr. Kane's briefing, I'd like to offer the following motion:

In light of the Governor's Office statement that the \$26 million in transfers from various programs in Department of Health and Human Services were for cash flow purposes to pay Covid-19 expenses, and the fact that the State had since received \$625 million in CARES funds on Friday, April 17, 2020, to the extent U.S. Treasury guidance permits, the Committee moves to reverse the following transfers made by DHHS. One: 8 million from Substance Use Disorder rate increases.

Two: \$4 million from the State Loan Repayment Program for health care workers.

Three: \$1.7 million from homeless shelter and re-housing.

Four: 8.75 million from the new Secure Psychiatric Unit;

\$2 million from low-income senior prescription drug assistance;

\$750,000 from congregate housing;

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Seven hundred -- \$750,000 in additional transfers for the Secure Psychiatric Unit;

And, finally, \$100,000 from the Foster Grandparents Program. Thank you.

CHAIRWOMAN WALLNER: Thank you, Senator Rosenwald. Is there a second to that motion?

SEN. D'ALLESANDRO: I second the motion. Senator D'Allesandro.

CHAIRWOMAN WALLNER: Senator D'Allesandro seconds the motion. Discussion of the motion?

MS. REED: Ma'am, Senator Morse has his hand raised.

CHAIRWOMAN WALLNER: Yes, Senator Morse.

SEN. MORSE: Well, first of all, the -- I don't see anything on the agenda that represents such a motion so I would think it's inappropriate not to, first of all, notify the Committee, but second of all, notify the public that we're taking up such an action. And, second of all, I certainly would like to hear from LBA on reversing that process what authority we have.

CHAIRWOMAN WALLNER: Thank you, Senator Morse. Mr. -- I will ask Mr. Kane to address that.

MR. KANE: Sure. Michael Kane, Legislative Budget Assistant; and, again, not an attorney. I would recommend that legal counsel should be sought. As far as Fiscal Committee having the authority to reverse a transfer made under the Executive Order, I'm not sure if Fiscal does have that authority. So I can't really comment on that. Could you recommend to HHS without having it be binding that they take these actions Senator Rosenwald just added, but I think the question still is does

Fiscal have the authority to direct HHS to do stuff and will HHS be bound and that I cannot answer.

CHAIRWOMAN WALLNER: Senator Rosenwald, would you like to respond to Mr. Kane's suggestion of a recommendation?

SEN. ROSENWALD: Yes, thank you very much. I believe that my language does -- does contemplate the idea of it being a recommendation because of the phrase "to the extent U.S. Treasury guidance permits." The Department said that -- confirmed that we were told at the last Fiscal meeting that these recommendations were for cash flow purposes before the money came in. And, secondly, I have actually consulted with the Senate's Legal Counsel on -- on the wording of this motion.

CHAIRWOMAN WALLNER: Thank you. Further discussion of the motion?

MS. REED: Ma'am, Representative Ober has her hand raised.

CHAIRWOMAN WALLNER: Representative Ober.

REP. OBER: Thank you, Madam Chairman. So, in addition to a surprise lawsuit naming members of the Committee that I sit on that I knew nothing about, we now have what appears to be a surprise motion. And I believe that Senator Rosenwald read that motion. We do not have a copy of the motion. And I was on my computer until the call started to see if we were going to get any late items, which we often do as Mr. Kane can attest, and you also know. I believe this is inappropriate without a copy in writing for us to really know what we're voting on. It's just not possible to spend hundreds of thousands of dollars without having something in front of you in writing.

My dad was an attorney. I'm not. But he would be rolling over in his grave if he thought I was going to vote on something that I had not seen that was so in depth. I think we should postpone this until the next meeting, and you should get the paperwork out to all of us.

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CHAIRWOMAN WALLNER: Thank you, Representative Ober. Further discussion.

MS. REED: Ma'am, Senator Kahn has his hand raised.

CHAIRWOMAN WALLNER: Yes, Senator Kahn.

SEN. KAHN: Madam Chair, I think I'm diverting a little bit from Representative Ober's request, and I think that that deserves some attention. But what I do recall is that our last meeting as the Department of Health and Human Services presented the transfers that they were making, they indicated to us pretty clearly that -- that \$15 million was directed towards emergency expenses related to the Covid-19 crisis. And subsequently we've heard then that it's the intent to reverse that once the funds are available. So I think I'm speaking to the motion that this is an action that I support because I think it's consistent with previous actions that we've taken. That's all I have to add at that point. Thank you.

CHAIRWOMAN WALLNER: Thank you, Senator Kahn. Further discussion of Representative Rosenwald -- Senator Rosenwald's motion?

MS. REED: Ma'am, I have Senator Rosenwald next in line.

CHAIRWOMAN WALLNER: Oh, Senator Rosenwald.

SEN. ROSENWALD: No, I don't think I had my hand up again. Thank you. My virtual hand.

MS. REED: Senator Morse is next.

CHAIRWOMAN WALLNER: Further discussion?

SEN. MORSE: This is Senator Morse. The -- I still don't think based on Mike Kane's comment that we've appropriately notified the public that we're voting on this. And, second, the

Committee has not addressed an attorney on this based on what Mike Kane just said he believes we should have counsel. I just think this is totally inappropriate to be voting on today.

CHAIRWOMAN WALLNER: Further discussion?

MS. REED: One moment, Ma'am.

CHAIRWOMAN WALLNER: Okay.

MS. REED: Sorry, Representative Leishman was next.

CHAIRWOMAN WALLNER: Representative Leishman.

REP. LEISHMAN: Thanks, Madam Chair. Uh -- could Representative Rosenwald just repeat the numbers again or where she's suggesting these funds be moved, and I certainly understand we're in an unprecedented time so it sounds like reasonable action; but I didn't get all of them written down as I was writing. So if she could just repeat them, that would be great.

SEN. ROSENWALD: Am I recognized, Madam Chair?

CHAIRWOMAN WALLNER: Yes, you are. Sorry.

SEN. ROSENWALD: Number one, \$8 million from substance use disorder rate increases.

Two, \$4 million from the State Loan Repayment Program for health care workers.

Three, \$1.7 million from homeless shelter and re-housing.

Four, 8.75 million that was appropriated to the new Secure Psychiatric Unit.

Five, \$2 million from low-income senior prescription drug assistance.

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Six, 750,000 from congregate housing.

Seven, 750,000 from additional transfers for the Secure Psychiatric Unit.

And number eight, \$100,000 from the Foster Grandparents Program. These were the total \$26 million of transfers that LBA informed us on Friday had been taken.

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

CHAIRWOMAN WALLNER: Yes, thank you, Senator Rosenwald. And in your motion this would only be allowable if under the -- once we have the federal guidance; is that correct?

SEN. ROSENWALD: Yes. The language says to the extent U.S. Treasury guidance permits.

CHAIRWOMAN WALLNER: Thank you. Further -- further discussion of the motion?

MS. REED: Ma'am, Representative Hennessey has her hand raised.

CHAIRWOMAN WALLNER: Representative Hennessey.

REP. HENNESSEY: Thank you, Madam Chair. I'd like to make a motion to table this motion until we receive this information in writing and it's posted to the public.

CHAIRWOMAN WALLNER: Thank you, Representative Hennessey. Representative Hennessey moves to table the item, and I will ask the Clerk to call the roll.

REP. FORD: Thank you, Madam Chair. Representative Leishman.

REP. HENNESSEY: Excuse me a second.

REP. LEISHMAN: No.

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REP. HENNESSEY: Point of order. Madam Chair, does the motion need a second?

CHAIRWOMAN WALLNER: I'm sorry. Yes, of course.

REP. OBER: Second.

SEN. MORSE: Second.

CHAIRWOMAN WALLNER: I heard two seconds there. I heard Senator Morse second. Thank you. Thank you for correcting me.

REP. FORD: Thank you. Representative Leishman.

REP. LEISHMAN: No.

REP. FORD: Representative Ford votes no. Representative Ober.

REP. OBER: Yes.

REP. FORD: Representative Hennessey.

REP. HENNESSEY: Yes.

REP. FORD: Senator D'Allesandro.

SEN. D'ALLESANDRO: No.

REP. FORD: State Senate President Soucy.

SEN. PRESIDENT SOUCY: No.

REP. FORD: Senator Kahn.

SEN. KAHN: No.

REP. FORD: Senator Rosenwald.

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SEN. ROSENWALD: No.

REP. FORD: Senator Morse.

SEN. MORSE: Yes.

REP. FORD: Senator -- Representative Wallner.

CHAIRWOMAN WALLNER: No.

REP. FORD: The vote is one, two, three, four -- six nos, and four yeses.

CHAIRWOMAN WALLNER: The tabling motion failed.

REP. FORD: I'm sorry, it's three yeses.

CHAIRWOMAN WALLNER: Can you give me the vote again, the total vote?

REP. FORD: Seven yeses -- seven nos, three yeses.

CHAIRWOMAN WALLNER: Thank you. The motion -- the motion failed. Seven voted nay and three voted yea.

**\*\*\* {MOTION TO TABLE FAILED}**

CHAIRWOMAN WALLNER: Are we ready to vote on Senator Rosenwald's motion?

REP. OBER: I had my hand up for a question.

CHAIRWOMAN WALLNER: I can't see you. Okay. Yes, Representative Ober.

REP. OBER: Thank you, Madam Chairman. I'm going to thank Senator Kahn for supporting the fact that I believe we should get this in writing. He said that last time we had a motion. We

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had an informational item in the amount of \$15 million. And, fortunately, we're recording this so you can replay that. However, this motion is for \$26 million. Now, I don't believe that Senator Kahn was correct when he said 15 million, but I think it shows clearly why Fiscal has in the past and should going forward be very certain about what they are voting on and why, because that's a difference in \$9 million. And we don't have this in writing. Most of us didn't know it was coming, but clearly seven of us knew it was coming.

So also, clearly, the partisanship we've been seeing in Fiscal this time continues which just stresses me no end as this Committee did not used to be partisan. But I would like to know why we have to do this today without writing when we are at the call of the chair, Madam Chairman, and you could get that information out appropriately. We could all read it and be ready, and we could have a meeting at the call of a chair.

CHAIRWOMAN WALLNER: Further discussion?

MS. REED: Ma'am, Senator Morse has his hand raised.

CHAIRWOMAN WALLNER: Yes, Senator Morse.

SEN. MORSE: Yes, Senator Morse. In this virtual world I -- I just find that to be totally wrong that we're not notifying the public on an action. I mean, I understand making amendments to an action, but there is no action presented on our agenda today, and yet we're going to go forward with a motion to do something that we haven't put out to the public. I think that's totally wrong. And in the day of lawsuits, does that mean that the minority party now can hire an attorney to basically question this on May 8<sup>th</sup>?

CHAIRWOMAN WALLNER: Thank you, Senator Morse. Further discussion of the item? No.

SEN. MORSE: I didn't get an answer, Madam Chair. Can the Committee -- can we have an attorney present on May 8<sup>th</sup> to answer the question of whether this is legal or not?

CHAIRWOMAN WALLNER: Can we have an attorney present on May 8<sup>th</sup>? Is that the question?

SEN. MORSE: Yes. I think Mike Kane made it perfectly clear that an attorney needed to be consulted on this action.

CHAIRWOMAN WALLNER: And I believe Senator Rosenwald stated that she had spoken with the Senate attorney.

SEN. MORSE: It would be nice if the public saw that.

CHAIRWOMAN WALLNER: Am I correct? Am I correct --

SEN. ROSENWALD: Yes.

CHAIRWOMAN WALLNER: -- Senator Rosenwald?

SEN. ROSENWALD: That is correct.

CHAIRWOMAN WALLNER: Further discussion?

REP. OBER: Madam Chairman, you didn't answer my question either.

CHAIRWOMAN WALLNER: And what was your question again?

REP. OBER: My question, Madam Chairman, was since we're meeting at the call of the Chair, why the Chair would not recess this meeting to the call of the Chair, get this paperwork available and posted, and out to members, and allow us to see it before we vote?

CHAIRWOMAN WALLNER: Thank you. I think that Senator Rosenwald was able to state her motion very clearly, and I think that the Committee is capable of understanding what the motion

was. The motion dealt with an item that we approved last -- last week or we saw last week. And that we're -- it's only allows us to move the money back to those accounts if the federal guidance allows that. And I think that this is a motion that the Fiscal Committee can make at this point. It depends upon the federal guidelines.

REP. OBER: So if I may paraphrase your answer to be sure I understood what you said, my question was why not do this at the call of the Chair, get the paperwork out, get an amended agenda out so that the public can know, and your answer is Representative Rosenwald read her motion, which she took to the Senate attorney without knowledge of any of the people on Fiscal Committee, to my knowledge, she hasn't said that, although I gather from the conversation there was knowledge. Just wanted to be sure I had that correctly. So we basically are saying no transparency for the public and that's okay. Thank you, Madam Chairman.

CHAIRWOMAN WALLNER: Further discussion?

SEN. D'ALLESANDRO: I had my hand up.

CHAIRWOMAN WALLNER: Oh, is that Senator Rosen -- is that Senator D'Allesandro?

SEN. D'ALLESANDRO: Yes, Madam Chair. I had my hand up.

CHAIRWOMAN WALLNER: Okay. Yes, Senator D'Allesandro.

SEN. D'ALLESANDRO: I want to address the issue. And I want to move partisanship to the side basket. There is no partisanship in this motion. Every one of the items that Senator Rosenwald brought forward was in the budget. We all discussed it, and it was voted on by the House and by the Senate. What -- what she's trying to do is in the best interest of the public in this fashion.

Those items were withdrawn from expenditures that we had approved in order to deal with a specific situation, cash flow. We now have the money. And if, indeed, it meets the requirements set forth by the Federal Government, we can again restore to the public items that we thought they needed at the time so there's no disruption in service. And I'm thinking of the home care health care services and the drug situation and the payment of the loans. These are all issues to the public and important to our constituents. The public -- the public heard this in our last meeting when we allowed for these transfers so that we could deal with the situation that was -- that was pending.

So I think we're doing the right thing and the motion brought forth states quite clearly that it must meet the criteria set forth by the regulations that come from the Federal Government, which it's doing the right thing in restoring things that we all voted -- voted on.

Now, I -- I don't want anything to be considered a partisan issue. We're all here for the public good. We're here for the public good. These were all items that we voted on for the public good, and we are restoring these items for the public. Given the situation, given the situation, we got \$625 million from the Federal Government associated with the virus. Any of -- any monies that we would spend to directly deal with the virus could be taken care of. We're going to get an official presentation of that from the Feds. If that proves inaccurate, then we have to make the change. But it seems to me we're doing the right thing at the right time and acting as the Fiscal Committee should. That's why we're here, and the public is aware. The public is aware because the public was listening last time to what we did in terms of the transfer, and that's why I support it. Did I -- did I know about it? No. I mean, I ran across an e-mail, I was on the virtual thing for the court. So things happen quickly, but I think in this case it's for all of the people and that's what we're here for. Thank you, Madam Chairman.

CHAIRWOMAN WALLNER: Thank you, Senator D'Allesandro.

**JOINT LEGISLATIVE FISCAL COMMITTEE**

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SEN. KAHN: Madam Chair. This is Senator Kahn.

CHAIRWOMAN WALLNER: Yes, Senator Kahn.

SEN. KAHN: I had my hand up there. The item that I pulled up for this meeting is a memo that came from the LBA and Mike Kane, and it describes the inner agency transfers that are a part of this motion. So he states here that attached is the list of sources DHHS has transferred from areas within the Department to dedicate approximately 26 million towards Covid-19 activities. And it's the follow-up. You did have a discussion at last week's (Ringing in the background) -- at last week relative to transfers. (Ringing in the background) So, you know, I think that were notice about generally, and I think that Senator Rosenwald's motion is one that responds to information --

REP. OBER: Senator Kahn needs to get his phone away from his computer. It's screeching over the line and he's totally breaking up.

SEN. KAHN: Hello. Good now?

REP. OBER: Yes.

SEN. KAHN: I was referencing the -- I'm sorry -- the April 16<sup>th</sup> memo from Mike Kane and it specifically calls our attention that attached are the list of DHHS transfers from various areas of the Department dedicated to \$26 million towards Covid-19 activities, and then he references you did have a discussion at last week's Fiscal meeting relative to most of these transfers. And second part of that memo then describes the CARES deposit that was received of \$612 million.

My point in recalling that we all received that memo last Thursday in preparation for discussion today is that the motion that's before us comes directly from that memo which then details the sources of the \$26 million referenced in Senator Rosenwald's motion.

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CHAIRWOMAN WALLNER: Thank you, Senator Kahn. Further discussion?

MS. REED: Ma'am, I had Senator Rosenwald's hands up, but it's raised -- it's lowered. I'm not sure if she --

CHAIRWOMAN WALLNER: Senator Rosenwald.

SEN. ROSENWALD: I withdrew it because I was going to bring the April 16<sup>th</sup> e-mail that went to the entire Fiscal Committee plus some legislative staff, also; but Senator Kahn mentioned that.

CHAIRWOMAN WALLNER: Thank you.

MS. REED: I have Representative Ober next.

CHAIRWOMAN WALLNER: Representative Ober.

REP. OBER: Thank you, Madam Chairman. I wish to respond to the Senator who said this is not partisan. Madam Chair, you could recess us and post the meeting. Actually, for tomorrow afternoon because you only need 24 hours, and get the written motion out not only to us but to the public. And since the Judge has not ruled yet, and Mr. Kane has said that we might make an advisory motion only, it is unlikely that that would delay money. And because we're rushing this, it does seem to be very partisan and it seems we are trying to hide things from the public. And it's disappointing that we don't want to be transparent since we're at the call of the Chair. Thank you.

CHAIRWOMAN WALLNER: Further discussion?

MS. REED: Ma'am, Mr. Kane had his hand raised.

CHAIRWOMAN WALLNER: Mr. Kane.

MR. KANE: Sure. Hi! Mike Kane, Legislative Budget Assistant. I just wanted to clarify. So the e-mail that they referred to was follow-up to a discussion had at last Fiscal Committee meeting. You remember two informational items presented by HHS relative to transfers. So what we sent -- what I sent to the Fiscal Committee on e-mail on Thursday, the 16<sup>th</sup>, at 10:08 a.m. was more detail for you so it would show both of those Fiscal items, as well as an initial \$8 million allocation. And I provided that to the Fiscal Committee, as well as the Legislative Advisory Board on the GOFERR, as information as far as the detail of what has occurred.

So I just did want to clarify that. Because it is being discussed now, what we will do is post it, which is just the informational, the information, we'll post that on our website under late items, other materials, just so the public understands the document that is being referred to.

Again, no motion in that document. It's just additional detail for the Committee. So the public has been hearing this, we will post that to our website.

CHAIRWOMAN WALLNER: Thank you, Mr. Kane. Further discussion? Seeing none, I will --

MS. REED: Ma'am, Senator Morse has his hand --

CHAIRWOMAN WALLNER: Oh, Senator Morse.

SEN. MORSE: Yes. I just want to be very clear to the public. I have the Fiscal Committee Special Agenda. It has Call Instructions as number one. It has Acceptance of Minutes from April 10<sup>th</sup> as number two. It has Old Business for the Department of Education as number three. Number four is Miscellaneous which was the update we received from Mike Kane today. And number five is the date of the next meeting. There is nothing on this agenda that references this motion. So I think the public needs to understand what we're doing today.

CHAIRWOMAN WALLNER: Thank you. Further discussion? If the motion fails, I will call us back to take it up at a later date, which will be very soon. I'll ask the Clerk -- unless someone else has comment, I'll ask the Clerk to call the roll.

REP. FORD: Thank you, Madam Chair. Representative Leishman.

REP. LEISHMAN: Yes.

REP. FORD: Representative Ford votes yes. Representative Ober.

REP. OBER: Lacking any written confirmation what we're really voting on, I'm going to have to vote no.

REP. FORD: Representative Hennessey.

REP. HENNESSEY: No.

REP. FORD: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

REP. FORD: Senate President Soucy.

SEN. PRESIDENT SOUCY: Yes.

REP. FORD: Senator Kahn.

SEN. KAHN: Yes.

REP. FORD: Senator Rosenwald.

SEN. ROSENWALD: Yes.

REP. FORD: Senator Morse.

SEN. MORSE: No.

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REP. FORD: The vote is seven to three.

CHAIRWOMAN WALLNER: I don't believe you called my name.

REP. FORD: Oh, your name is on the top. I'm doing this paper and pencil, not computer. It's getting confusing. Representative Wallner.

CHAIRWOMAN WALLNER: Yes.

REP. FORD: Thank you. The vote is seven to three.

CHAIRWOMAN WALLNER: Vote is seven to three, the motion passes.

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

CHAIRWOMAN WALLNER: Further things to come before our Committee? Seeing none. At this point, I will recess us until May 8<sup>th</sup>, 2002 (sic), at 10:00 o'clock a.m. and reserve the right to call us back at any point before that date if need be. Meeting -- meeting is recessed.

(The Fiscal Committee meeting recessed at 11:53 a.m.)

**JOINT LEGISLATIVE FISCAL COMMITTEE**

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## CERTIFICATION

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

*Cecelia A. Trask*

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