

CAPITAL BUDGET OVERVIEW COMMITTEE

Legislative Office Building, Room 201

Concord, NH

Wednesday, January 9, 2013

MEMBERS PRESENT:

Rep. David Campbell (Chairman)

Rep. John Graham

Rep. John Cloutier

Rep. Dan Eaton

Rep. Ken Weyler

Rep. Bernard Benn

Sen. David Boutin

Sen. Nancy Stiles

Sen. James Rausch

Sen. Sylvia Larsen

(Hearing convened at 10:04 a.m.)

1. Organization of Committee:

REP. CAMPBELL: Good morning, everyone. I'll open the Capital Budget Overview Committee.

For the purposes of organizing the committee, we need a chairman, a vice chairman and a clerk. Are there any motions?

****** SEN. BOUTIN: Mr. Chairman, I move that Representative Campbell be nominated for Chair.

REP. CLOUTIER: I second that motion.

REP. CAMPBELL: Any other nominations? All those in favor, aye? Thank you very much.

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

REP. GRAHAM: You had to ask for the nays.

CHAIRMAN CAMPBELL: Nay. Okay. All right.

REP. WEYLER: I'll wait until I make the motion to cast my ballot.

CHAIRMAN CAMPBELL: That's right. Exactly.

Do we have nominations for a vice chair?

** REP. EATON: Mr. Chairman, I would nominate Senator Boutin to be vice chair.

SEN. LARSEN: Second.

CHAIRMAN CAMPBELL: Made and seconded that Senator Boutin be the vice chair. All in favor say aye. Opposed? Seeing there are none.

*** **{MOTION ADOPTED}**

CHAIRMAN CAMPBELL: And for clerk.

** REP. GRAHAM: I would move that Representative Cloutier be elected as the committee clerk.

SEN. BOUTIN: Second.

CHAIRMAN CAMPBELL: Moved and seconded that John Cloutier be the clerk. All in favor say aye? Opposed? Thank you.

*** **{MOTION ADOPTED}**

REP. CLOUTIER: Thank you for the nomination.

CHAIRMAN CAMPBELL: Thank you very much. We have committee officers.

2. **Committee Orientation:**

CHAIRMAN CAMPBELL: I have asked ahead of time we get a little small orientation presentation from the LBA. Mike Kane has graciously agreed to do that for us. Many of you may have served on this, but I haven't, as a matter of fact, so I will enjoy the --

REP. GRAHAM: And we elected you chairman? (Laughter).

MR. MICHAEL KANE, Deputy Legislative Assistant, Office of the Legislative Budget Assistant: Good morning, Mr. Chairman, and members of the committee.

For the record my name is Michael Kane. I'm the Deputy Legislative Assistant for the Office of Legislative Budget Assistant.

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In your packet you have CAP 13-010. What this is is a list of all the RSAs relative to the Capital Budget Overview Committee. It will provide the duties of the committee, the membership of the committee, how officers are elected and also various approvals that are needed by agencies.

I'll be very quick. I'll just point out a couple of the statutes that I think will be of interest. We do have, on page 2 of the handout, Department of Resource and Economic Development under RSA 12-A:29(b), Cannon Mountain Advisory Committee. Relative to the Commission, recommendations approved by the Commissioner of DRED shall be submitted to the Capital Budget Overview Committee. Recommendations approved by the Capital Budget Overview Committee shall be submitted to the Governor and Council for approval. These are recommendations for the capital improvements for the ski area related to Cannon Mountain.

We also have on page 3, RSA 12-G -- or D -- :46, Harbor Dredging and Pier Maintenance fund established. If we move over to page 4 we can see that relative to that fund, the PDA cannot encumber, obligate or expend any funds from the Harbor Dredging and Pier Maintenance Fund without the prior approval of the Capital Budget Overview Committee. Geno Marconi from the PDA may be here. Historically he'll come in a couple of times a year to ask for -- to use funds from that. He does need Capital Budget Overview Committee to do that.

We also have on page 5, just the organization of the Committee. The Chairperson of the House of Public Works, two other members of the House of Public Works, three members of House Finance, Chairperson of Senate Capital Budget, three other senators appointed by the President of the Senate. The Committee does vote as a block. The House has a single vote and the Senate has a single vote. The Committee elects its own officers as has just occurred.

REP. GRAHAM: Question on that. Thank you, Mr. Chairman.

It's never happened when I've been on it, but what if there is a one-one tie?

MR. KANE: Yes, that's a good question. We did -- I spoke with Karen Wadsworth, the House Clerk, and I've also spoken with Jeff Pattison. In the event of a tie, the motion fails is our interpretation of that.

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REP. GRAHAM: Just wanted to make sure --

MR. KANE: It doesn't happen a lot, that is true so...

REP. GRAHAM: Yes.

CHAIRMAN CAMPBELL: But I will point out that in most of our lifetimes, that I don't believe that -- the Senate and House have always been -- had the same parties at the same time. This time we have a split so it could be a little more intriguing than in times past. There are four senators so I would assume that three senators have to be in agreement in order to have an affirmative vote.

SEN. RAUSCH: I think you're correct.

CHAIRMAN CAMPBELL: So if it's two-two, that fails and --

REP. GRAHAM: Same here.

CHAIRMAN CAMPBELL: But, I mean, does that mean it's a negative move or is it no move? If the House votes one way and you tie two-two --

SEN. BOUTIN: It's just like a conference committee, Mr. Chairman. It fails.

CHAIRMAN CAMPBELL: I think you're right. I mean, I don't know how to interpret it. It's never come up before and no one's really had to look at it before --

SEN. RAUSCH: Are you nervous or something?

CHAIRMAN CAMPBELL: Not yet.

REP. GRAHAM: We have two years.

CHAIRMAN CAMPBELL: We have two years. I just want to get it on the table.

SEN. BOUTIN: Mr. Chairman, I would like to speak on behalf of the Senate, that we will work in a very collaborative and cooperative spirit and hope we might allay some of your members' fears about having a split vote.

CHAIRMAN CAMPBELL: Not afraid. Just want to know that is

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the procedure if two-two -- two-two would be a problem.

SEN. BOUTIN: Mr. Chairman, it was the first agenda item so we wanted to make sure you understood where we are coming from.

CHAIRMAN CAMPBELL: Thank you. Thank you very much, Senator Boutin.

Go ahead. Sorry.

MR. KANE: Okay. Going to move forward to page 12 of the RSAs and just point out that RSA 228:12-a. You do have a few items on the agenda today that are coming under RSA 228:12-a relative to the use of toll credits. The Department is allowed to use toll credit as a match for Federal highway funds on highway and road projects without the approval of the Capital Budget Overview Committee. However, any use of toll credits other than as a match for Federal highway funds on highway and road projects shall require prior approval of the Committee. That's what you're going to see before you today.

I'll go to page 13. The last RSA I'll reference is RSA 282-A Section 112. Relative to the Department of Employment Security, you'll see a couple items come before you. If you go down to the bottom of the page, Roman Numeral V, notwithstanding any provision allowed to the contrary, the consent to the Capital Budget Overview Committee established in RSA 17-J shall be required for all total project agreements exceeding \$50,000. Do not have to be bonded projects, it's any project. I think they came in for security cameras last session. So any project agreement exceeding 50,000 does need prior approval of Capital Budget Overview Committee.

CHAIRMAN CAMPBELL: Okay.

MR. KANE: Then just to wrap up quickly, for the members of the Committee and members of the public, on our web site we have a section relative to Capital Budget Overview Committee where we'll mention the meeting date. We'll also post the agenda. We have begun -- in 2013 we'll post the items that the members receive so the members of the public can go on line and see the same packets that the members have. We post the minutes once their approved at the subsequent meeting and we'll also start -- we have posted for '12 and will continue -- to post the transcripts of the meeting on our web site. So members of the committee or the public can just go to the LBA web site under the Capital Budget Overview and they can see

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exactly what's going on with the committee.

REP. WEYLER: For the first time --

CHAIRMAN CAMPBELL: Right.

MR. KANE: And that's all. I won't take up any more of your time. If you have any questions, I'd be happy to answer them.

CHAIRMAN CAMPBELL: Thank you. Are there any questions?

Representative Weyler.

REP. WEYLER: Thank you, Mr. Chairman.

Mr. Kane, this is -- 228:12 is fairly recent legislation. I'm fearful whether this will stand up to the test of litigation or audit by the Feds where they suddenly decide five years hence we've overused these credits and we should pay millions of dollars back. Is this something that's been in existence for very long at the Federal level; have other states been doing this? Has this stood the test of time, I'm wondering, or is this pretty recent?

MR. KANE: It's new for New Hampshire. What I'm going to do is I'll defer to the Department of Transportation. They are going to give an overview of toll credits and the use of them and they'll be able to provide a better answer to that question.

REP. WEYLER: Thank you very much.

CHAIRMAN CAMPBELL: Any other questions for Mr. Kane?

Seeing none, thank you for that. It's very helpful. Appreciate it.

MR. KANE: Thank you very much.

3. Acceptance of Minutes of the October 17, 2012 Meeting:

CHAIRMAN CAMPBELL: Our next order of business is acceptance --

** REP. GRAHAM: Being one of the few members that are still listed, I accept --

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REP. WEYLER: I second.

CHAIRMAN CAMPBELL: As Representative Graham and Representative Weyler are both here, move to accept the minutes of October 17, 2012. All those in favor, aye? Opposed? Minutes are adopted.

*** {MOTION ADOPTED}

CHAIRMAN CAMPBELL: We are here mostly because the Department of Transportation -- I guess all the items are about toll credits that are non-highway related -- so I've asked Bill Cass and his people from DOT to come up and give us a little presentation on the status of toll credits, how it's worked and it would be appropriate for Ken Weyler's -- Representative Weyler's question and any others we may have.

So welcome, Mr. Cass.

MR. WILLIAM J. CASS, Director of Project Development, New Hampshire Department of Transportation: Good morning. Thank you. I'm Bill Cass, Director of Project Development for the DOT. You should have a handout in front of you, which is a letter dated March 28, 2012 and on the back is a chart that kind of summarizes the use of Turnpike Toll Credits, both recently and in the -- dating back to 1987 --

MR. KANE: On the back of that handout.

MR. CASS: Do you have the letter -- I have extra copies if you don't, but I know we provided it in advance. I'm sending them around just so you have the most recent --

CHAIRMAN CAMPBELL: In the back of the manila package. The last sheet in the manila packet.

MR. CASS: So just as a very introduction -- and Representative Weyler, in answer to your question -- toll credits actually date back quite some time; and I think the history of applying toll credits gets back to the origination of the interstate system when, you know, a lot of states -- turnpikes preceded the interstate system and the interstates, when they were laid out, were laid out on top of or along turnpike routes. So that's kind of the genesis, that's kind of the origin, of this idea of Turnpike Toll

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Credits.

Essentially, it's -- the Federal Highway Administration recognizes the investment of state dollars in routes of interstate commerce, particularly the Turnpike system, which serves interstate travel and interstate commerce. So they recognize that investment and they let states -- based on a formula and based on a maintenance of effort determination -- they let us -- they let states claim credit for the investment of state dollars in those roads and they let us claim a credit.

The way it works is most Federal highway funding comes with a match requirement. Mostly Federal highway dollars come -- you can use 80 percent Federal and they require a 20 percent state match. What the Turnpike Toll Credit does is they allow us -- by applying the Turnpike Toll Credit and that recognition of state dollars being invested, they let us utilize -- they let us use that as match for the Federal dollars. It's important to realize that it's a credit, it's not additional funding. They allow us to essentially use the Federal dollars that we receive at 100 percent rate with no state match rather than at the 80 percent rate with a required state match. So it is truly a credit. It isn't additional funding, it's the same amount of Federal funds. The Federal funds we're just allowed to use at a higher rate, a faster rate so they don't -- so by applying Turnpike Toll Credits they don't go as far.

CHAIRMAN CAMPBELL: So to summarize it then, because we take care of -- our turnpikes take care of some Federal roads, it generates toll credits for our taking care of those roads.

MR. CASS: Right.

CHAIRMAN CAMPBELL: Those can be used as matching funds dollar for dollar -- for the match portion.

MR. CASS: It's important to realize they can be used as a credit towards the match. There aren't additional funds that can be used as a credit, yes.

CHAIRMAN CAMPBELL: Now the other point I want to bring out to everybody, that that has been used widely -- as our funds have shrunk in the highway fund, we are using toll credits almost exclusively for our matches now, but by doing that, instead of using cash -- so if you have 100 -- if you have a million dollar project and you're using 20 percent toll -- \$200,000 worth of toll -- you're

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getting \$800,000 worth of work on our roadways, not a million. The chits -- the match is just fiction, it's a credit. So in the old days we used to put in real money. We used to put in \$200,000 for \$800,000 Federal. We have a million dollars' worth of work. So this has created a way for us, being broke basically, to get Federal moneys, but it's also decreased our ability to do work on the highways by 20 percent.

MR. CASS: Exactly. Exactly.

CHAIRMAN CAMPBELL: Senator Rausch.

SEN. RAUSCH: Thank you, Mr. Chairman.

Why is there about a \$4 million difference between your spreadsheet on the back -- you've got 198 million -- but your cover letter will increase to 194 million. Why is there about a \$4 million discrepancy?

MR. CASS: I think it's just that the spreadsheet is a little more recent than the cover letter on the front. I put them together so it was on one sheet, but the cover letter on the back is -- actually, if you look at that update, it's dated October 2012 and the cover letter was what the balance was as of March 2012 so they're a little bit out of sync. It's constantly updated and kept up to date; but essentially for the cover letter in March 2008 (sic) we typically -- at the end of every calendar year, based on the construction season -- do an assessment of the investment in the turnpike system and then write formally to Federal highway to claim that year's credit. We have to show that -- I can go into the details, but there is a maintenance of effort. We have to show that we have sustained investment in the Turnpike system of over a three-year average in order to claim that Turnpike Toll Credit. And if we meet that test of maintenance of effort, we can claim that entire year's expenditure on Turnpike investments as a credit. So that's at the end of -- in March of 2012 we assessed the 2011 construction season and were able to claim -- we showed the maintenance of effort and were able to claim \$63,000 of Turnpike Toll Credit. As of March --

CHAIRMAN CAMPBELL: 63 million.

MR. CASS: I'm sorry. 63 million, yes. And as of March, that balance was one hundred -- and the total balance was 194,000 -- 194 million, excuse me.

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SEN. RAUSCH: The 169,130 is accurate as of 9/30.

MR. CASS: Yes. Exactly. And we'll be doing a reassessment -- now that calendar year 2012 is done -- at probably about the same time. Spring of this year, we'll be writing a similar letter to Federal highway.

And the chart on the back -- again in answer to your question, Representative Weyler -- you know, Turnpike Toll Credits go back to -- we have a history of Turnpike Toll Credits that, you know, dating back to 1992. 1992 is about the time we started investing in, you know, the initial capital Turnpike expansion program through Nashua and stuff. So -- but you can see the activity that it really wasn't until, you know -- again, as you had pointed out -- until we had some budget crunches in the more recent bienniums, that we put the real emphasis on claiming and utilizing Turnpike Toll Credit.

And that's a fairly consistent -- it's based on the expenditures but, you know, those last couple of years in looking forward for the foreseeable future with the current Turnpike Capital Program we can probably expect in that range of expenditures for the next couple of years to keep building Turnpike Toll Credit probably around 60 to \$70 million a year of expenditures. The utilization of Turnpike Toll Credits again is dependent on the Federal program, but probably, you know, for planning purposes, between 35 and \$40 million a year in the next few years that we would be anticipating to claim for Turnpike Toll Credits. So we have a healthy reserve, we have a healthy balance and it's on the positive building right now.

CHAIRMAN CAMPBELL: We have several questions. Senator Stiles.

SEN. STILES: Thank you.

And thank you for explaining this. This is my first time on the committee. My understanding is we earn credits and then we expend some credits. Is there an appropriate balance that we should be keeping?

MR. CASS: That's a hard question to answer, is there an appropriate balance we should be keeping? Certainly the way we're budgeting now, where we're budgeting all of our Federal program -- where we're budgeting no hard match for the Federal dollars and depending solely on Turnpike Toll Credits, we should be keeping a

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fairly robust and a fairly healthy balance.

CHAIRMAN CAMPBELL: Bill, if I could, to put it in perspective, what is our entire Federal grant from Federal highway; how much money do we get on an annual basis?

MR. CASS: On an annual basis it's about -- the last few years it's been fairly consistent, about 140 to \$150 million a year.

CHAIRMAN CAMPBELL: So a 20 percent match of that is about \$30 million.

MR. CASS: Yes.

CHAIRMAN CAMPBELL: So we have a lot in the bank. Especially if it's still coming in at a rate over the next several years of 60 to \$70 million.

MR. CASS: Exactly.

CHAIRMAN CAMPBELL: So we're actually getting more in on an annual basis than we're spending. So that 160 million I would see for the foreseeable future as being in the bank.

MR. CASS: Right.

CHAIRMAN CAMPBELL: I agree we should keep a balance, but I don't think we're anywhere near it because of the fact that we are still accumulating tax dollars.

MR. CASS: Right. We have a very robust Turnpike Capital Program right now which is allowing us to build and sustain those Turnpike Toll Credits.

CHAIRMAN CAMPBELL: Senator Larsen.

SEN. LARSEN: A couple questions if I could.

The first, could you explain the column indicated "warehouse".

MR. CASS: Which column is --

SEN. LARSEN: TPK credit and the retro processed, warehouse. It's the -- second from the end.

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MR. CASS: That -- the TPK credit is the credit that we are expending or what we're utilizing every year.

SEN. LARSEN: What's retro processed?

MR. CASS: Retro -- when we had started this -- when we first -- when hard match was initially not budgeted in the state budget, we worked with Federal highway and we looked back -- you know, as of a certain date, we were allowed to look back at previous expenditures, not just the expenditures from the immediate year, but we are able to look back several years and claim Turnpike Toll Credits retroactively. So essentially, those expenditures back to essentially the year 2000 -- you know, if you look at the line item for number -- for the year 2000, the 5.97 and 6.4 and the 8.6 and the 11.1, we did not necessarily claim those in those years that they were spent. It wasn't until 2009 when hard match first was not budgeted that we reached back into the previous expenditures and claimed that Turnpike Toll Credit; and it was called retroactively because it was a look back.

SEN. LARSEN: And a second question if I could.

CHAIRMAN CAMPBELL: Sure.

SEN. LARSEN: Is the ability of New Hampshire to use these toll credits unique to New Hampshire? Is it a waiver process or does every state have this?

MR. CASS: Every state that has a turnpike system and has substantial investment of state dollars into their interstate commerce is allowed to utilize toll credits.

SEN. LARSEN: A follow up question?

And so is there a point when this gets renewed as language in some Federal highway language or is this standing law that -- so we're not perpetually wondering if it's going to continue.

MR. CASS: Currently it's standing law. It's in the Code of Federal Regulations. It's not saying that some future transportation reauthorization couldn't alter that law, but there has been no --

CHAIRMAN CAMPBELL: It's feeding a lot of --

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MR. CASS: Yeah, it's feeding a lot of states. And I don't necessarily foresee that, but it is in the Code of --

CHAIRMAN CAMPBELL: Representative Weyler, you have a question to be answered?

REP. WEYLER: Yes. The audit problem I see -- we have a million dollar project, we say we're using 200,000 for match credit and they give us the \$800,000. We go ahead with the project. We can't do a million dollar project, we can only do 800,000. In a subsequent audit they're going to come in and say, wait a minute, we paid for a million dollar project, we paid 80 percent of it. It doesn't look like a million dollar project. What do we do about the last 20 percent?

MR. CASS: The one thing about that is before we go forward with a project, we need to get authorization for the funding up front. When we award a construction contract, the funding is already worked out and already in place. So when we award that million dollar construction project, it's already figured in. It's already established that the authorization for that million dollars is a million dollars of Federal funds and the 20 percent match is already authorized.

CHAIRMAN CAMPBELL: The Federal Government is aware up front.

MR. CASS: Yes. Aware up front.

REP. WEYLER: They're not going to come back on us and say, you didn't complete the project we paid for.

MR. CASS: No. No. That's looked at up front as part of the authorization.

CHAIRMAN CAMPBELL: Representative Benn.

REP. BENN: Thank you, Mr. Chairman.

To make sure I do understand this, we take our tolls, we invest in the Turnpike System with those tolls.

MR. CASS: Yes.

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REP. BENN: These credits are an indirect way of using our investment in the turnpike system and the tolls basically to invest in other projects that are not turnpike related. Correct so far?

CHAIRMAN CAMPBELL: If I could, I would say it's an indirect way the Federal Government is reimbursing us for our capital projects on the Turnpike System.

REP. BENN: On the Turnpike System only.

CHAIRMAN CAMPBELL: Right. The Turnpike System overlaps Federal roads. It's the Federal Government's way of reimbursing the states. They don't give us money, but they give us a credit that we can use as match money. So it's basically -- it's like you're at a casino and they give you a chip that you can only use to play on a bet.

REP. BENN: But I guess my question is its investment in projects that are turnpike related still? No? We can go beyond --

CHAIRMAN CAMPBELL: That's the question I think Representative Weyler was also asking earlier. There is a history in other states of these credits being used not just for highway projects, but for other Federal projects. There is a history of that that you're comfortable with, correct?

MR. CASS: The law is written that as far as the use of Turnpike Toll Credits, it's worded that the Turnpike Toll Credits can be used on any Federal aid eligible project expense. So it's anything covered -- it's Code 23 of the US Code -- but that essentially is the Federal Aid Highway Program. The only restriction on that is that because it's funded from a different area, we cannot use Turnpike Toll Credits on emergency relief funds. So for some of the flood repairs that we had done and we had Federal highway ER funds, we had to find a 20 percent state funded match for that --

CHAIRMAN CAMPBELL: On the hard match.

MR. CASS: On the hard match. Because that was outside of the authorization for use of Turnpike Toll Credits, as an example.

CHAIRMAN CAMPBELL: Representative Graham.

REP. GRAHAM: Thank you.

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We've begun to touch on this, Mr. Cass. You've talked extensively about using it for Federal highway. Several of the items that are before us today deal with other modes of transportation. Are those all covered in the same USC Title 23 and are they specific? Do they say things like busses, rail studies, construction of rail, purchase of rail, those types of things. Because I can see us going down this road in the future.

MR. CASS: Right. Title 23 of the US Code which covers essentially the entire Federal aid program, FHWA, Federal funded program has broad range of applicability in terms of planning -- there are some planning items in front of us -- in terms of safety, in terms of Congestion Mitigation and Air Quality. Those are all valid uses of Federal aid dollars and associatively can utilize Turnpike Toll Credits. Even if it's not strictly highway or bridge work, they are an eligible use of the Federal aid dollars.

CHAIRMAN CAMPBELL: So we're all clear, so for any Federally funded project, highway or non-highway, except for the emergency relief moneys.

MR. CASS: Right.

CHAIRMAN CAMPBELL: Yes. Bike paths, anything --

SEN. BOUTIN: Mr. Chairman, thank you.

Just to clarify, this toll tax credit does not take any of our toll revenue collected and use that to pay off -- for example, we have -- Representative Weyler mentioned a million dollar project, \$200,000 paid by tax payers. We're not using toll revenue. Tax payers ought to know we're not using their money to pay that \$200,000 loan. It's just an accounting thing.

CHAIRMAN CAMPBELL: Yes. Again we accumulate them because we are spending money on the Turnpike System where the Federal roads overlap. We're getting a credit that the Feds let us use just for Federally funded projects, but there is no tax payer dollars being used here. But again, the only dark side of this is when you're doing road projects is you're putting in credits instead of hard cash for a match so you're getting less work done on the roads.

REP. GRAHAM: Or any project.

CHAIRMAN CAMPBELL: Or any project.

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REP. WEYLER: I understand.

CHAIRMAN CAMPBELL: Thank you. That was a very helpful tutorial. Thank you very much.

With that, unless there are any other questions on the subject, I think we move to the agenda.

The first item before us -- are you going to present?

MR. CASS: Yes. I think most of the first -- most all of them are projects I'm associated with, yes. So --

4. Old Business:

5. New Business:

CHAIRMAN CAMPBELL: Let's go to the first agenda item. CAP 13-001. Would you like to --

MR. CASS: Sure. Are we taking them one by one or as a block?

CHAIRMAN CAMPBELL: Yes.

MR. CASS: The first project, CAP 13-001, that is for funding match requirements for our transportation systems -- for our transportation management center. We put CMAQ funds towards the operational costs of the TMC. The Transportation Management System manages congestion, manages the camera, manages incidents, manages responses on the highway. So in utilizing those CMAQ funds as part of the costs to support the TMC they come with a match requirement and we're proposing to use the Turnpike Toll Credits as part of that match.

****** SEN. RAUSCH: Move to accept.

REP. WEYLER: Second.

CHAIRMAN CAMPBELL: How does the House vote?

REP. CLOUTIER: Aye.

REP. GRAHAM: Aye.

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REP. EATON: Aye.

REP. WEYLER: Aye.

REP. BENN: Aye.

CHAIRMAN CAMPBELL: How does the Senate vote?

SEN. BOUTIN: Aye.

SEN. STILES: Aye.

SEN. RAUSCH: Aye.

SEN. LARSEN: Aye.

***** {MOTION ADOPTED}**

CHAIRMAN CAMPBELL: Okay. That's adopted. CAP 13-001 is adopted.

Next one, please. 002.

MR. CASS: The second one is a contract that we're looking at and this is using planning funds, it's using SPR funds. We're looking at a contract to establish a database to help manage all -- manage and analyze the traffic counts and the traffic information that we receive. It's more of a planning effort. It's being funded under the SPR program. And again those are Federal funds, require a match and we're proposing utilizing the Turnpike Toll Credit as a match for that effort.

CHAIRMAN CAMPBELL: Any questions --

****** SEN. BOUTIN: Move to approve, Mr. Chairman.

CHAIRMAN CAMPBELL: Senator Boutin moves to approve.

REP. EATON: Second.

CHAIRMAN CAMPBELL: Seconded by Representative Eaton.

How does the House vote?

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REP. CLOUTIER: Aye.

REP. GRAHAM: Aye.

REP. EATON: Aye.

REP. WEYLER: Aye.

REP. BENN: Aye.

CHAIRMAN CHAMPBELL: House votes affirmatively.

How does the Senate vote?

SEN. BOUTIN: Aye.

SEN. STILES: Aye.

SEN RAUSCH: Aye.

SEN. LARSEN: Aye.

CHAIRMAN CAMPBELL: Okay. Motion adopted.

{MOTION ADOPTED}

SEN. BOUTIN: Mr. Chairman, just as a matter of procedure, I think you just ask for one vote.

CHAIRMAN CAMPBELL: Thank you. I appreciate that.

SEN. BOUTIN: If there is a controversy, we'll --

CHAIRMAN CAMPBELL: Thank you. Okay. Very good. We'll do that.

Item No. 3, please.

MR. CASS: The third item is anticipated -- with regard to the nine Regional Planning Commission contracts, we anticipate updating or redoing in this upcoming year. Again, it's part of the SPR funds that we get. SPR funds -- maybe I should explain that -- are set aside funds. Part of the Federal funds come with a certain amount that have to be spent on state-wide planning and research efforts. The Regional Planning Commissions are our partner in

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providing those planning efforts. So we have contracts coming up in the next year with the nine Regional Planning Commissions; and again, we're looking to utilize the Turnpike Toll Credit as the match to those SPR funds to support those contracts.

****** REP. WEYLER: Move to approve.

SEN. BOUTIN: Second.

CHAIRMAN CAMPBELL: Any questions? Any discussion? All those in favor? Opposed? Item passes.

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

 Number 4, please.

MR. CASS: Number four is associated with a specific CMAQ project that had been previously approved; that is, to build phase 2 of the ATMS, which is the Automated Traffic Management System. It's part of the communications, it's part of the system that allows all of the cameras and sensors and things that run the Transportation Management Center to better communicate and to have more automated and more real time response. Rather than depending on the operators at the consoles to be visually looking at all the cameras, there are flags and detections that will be built into the system that will help automate and send a flag when there is a delay, when there's an incident or there's something like that.

CHAIRMAN CAMPBELL: Representative Graham has a question.

REP. GRAHAM: Yes. Thank you, Mr. Chairman.

 Mr. Cass, how detailed is the information on, say, an individual vehicle that you collect and then how long is that data kept in any kind of files?

MR. CASS: I think the -- as far as for any one particular vehicle, it's very -- it's very -- my sense is it's very low level. I mean, it's more keeping track of travel times and things like that. The sensors and the cameras, when there is an incident, are used to help pinpoint location, pinpoint response, pinpoint what can be done to clear it; but you know, it's not vehicle specific, the data or the information that's necessarily kept.

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CHAIRMAN CAMPBELL: Representative Benn.

REP. BENN: Thank you, Mr. Chairman.

I have always wondered about all this information. What do you do -- I mean, I can understand if there is an accident, you would send out the troopers and the fire department and all that sort of thing based on the information that you're gathering, but sometimes -- you know, on my way down to New York, I'm caught in traffic and there is this billboard up there that's flashing and saying, 20 minutes delay. Now, what good does that do for the person who is stuck in traffic? He's stuck there and so is that part of this system?

MR. CASS: That is part of the system to provide that real time information to the motorist. The only thing I can say to that, I know my own personal experience when I'm driving or something like that, it helps me to know if -- you know, if I come up to a delay, if I know it's only going to be a mile or two, if it's something that's, you know, going to be 45 minutes or something, I may get off and look for an alternative route. In most of the cases if there is an incident that's serious enough, those message boards would be providing alternative routing information.

And I know part of our strategic location of some of those are -- for instance, before the split of -- if you're going southbound, there is a message board located before the split for 93 and 293. So if there is a major incident on 93, we can let motorists know, you know, above the incident to take an alternative route. Like go down the Everett Turnpike or things like that. And it also helps -- I know specifically on the 93 corridor, there are alternative route plannings in place so that if there is an incident, say, between exits 3 and 4, we can provide the information to alert motorists to get off at exit 4 southbound and take, you know, alternative routing, which I think is like down Route 28 or 128 or something like that. So it's just real time information.

** SEN. RAUSCH: I'll move to accept.

And I will mention to Representative Benn, if he buys a new GPS it will tell him exactly what to do.

SEN. BOUTIN: I second.

CHAIRMAN CAMPBELL: And where to go.

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SEN. RAUSCH: Spend a little money on technology and it will help you. That's what this is all about is technology.

CHAIRMAN CAMPBELL: You second?

SEN. BOUTIN: Yes.

CHAIRMAN CAMPBELL: Motion made by Senator Rausch, seconded by Senator Boutin. All those in favor? Opposed?

***** {MOTION ADOPTED}**

Number 5, please.

MR. CASS: Number 5 is, you know, associated, it's a similar type of thing. It's a little bit lower scale. As we have been bringing some of these devices on, we have programs -- CMAQ funds, as a maintenance and repair contract for some of the cameras, some of the devices that we don't necessarily have the in-house expertise to develop and service. So this is really a maintenance contract for those ITS devices; and we're allowed to use Federal highway funds, we're allowed to use CMAQ funds to support that effort and we're proposing to use the Turnpike Toll Credits as the match for those Federal funds.

CHAIRMAN CAMPBELL: Thank you.

****** SEN. BOUTIN: Move to approve, Mr. Chairman.

REP. GRAHAM: Second.

CHAIRMAN CAMPBELL: Moved by Senator Boutin, seconded by Representative Graham. All those in favor, aye? Opposed? Motion passes.

***** {MOTION ADOPTED}**

Number 6, please.

MR. CASS: Number 6 and number 7 are kind of interrelated. As part of our pavement management system we have a -- we have a software system data and pavement management system that allows us to manage the pavement data and does the scenario planning and information. So we need to update that and extend that contract.

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That will be coming forward. That's for the use of that pavement management software.

Again, it's part of our overall asset management and we use planning and research funds, the SPR funds, to support that effort and we're proposing the use of Turnpike Toll Credits as a match for those Federal SPR funds.

****** CHAIRMAN CAMPBELL: I'll make a motion to accept both.

REP. GRAHAM: I do have one question. Thank you, Mr. Chairman.

Both of them say mandatory set aside. In the recent short reauthorization of highway funding, did we get any relief from all of these mandatory stove pipes on how we had to spend the money that came in to us or is it still what it was prior?

MR. CASS: We got some relief. Some of it has been consolidated, some of the core programs do still -- CMAQ, planning, safety. Those are some of the core programs that still require -- that still have those set aside requirements. A lot of --

REP. GRAHAM: Move approval.

CHAIRMAN CAMPBELL: Representative Graham moves approval of item 6 and 7.

SEN RAUSCH: Second.

CHAIRMAN CAMPBELL: And seconded by Senator Rausch. All those in favor, aye? Opposed? That item passes.

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

Item number 8 we have a substitute action request from DOT, which is in our manila folders.

Gentlemen.

MR. THOMAS GALLAGANI, Economic Development Director, Office of the Mayor of Nashua: Hi, I'm Tom Gallagani. I'm the Economic Development Director in the office of the Mayor in Nashua. I'm here representing Mayor Donnalee Lozeau. She sends her apologies she couldn't make it this morning. She had another commitment that

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she could not move, but thank you for having me.

CHAIRMAN CAMPBELL: You're welcome. Thank you.
Gentlemen.

MR. CASS: This project is for a -- there is an approved -- we do have an approved CMAQ project for the development of up to two Park and Ride facilities in the City of Nashua. This specific request is for one of those facilities and specifically to acquire the property at 25 Crown Street to support that Park and Ride. And again, it's using CMAQ funds and we're proposing the use of Turnpike Toll Credits to match that. I think, Representative Campbell, I heard you talking before. We had some discussions and because of some of the uncertainty of scope, until we get the engineering studies and the details completely worked out, we're proposing just the initial -- just the initial phase of the right of way acquisition of the property and we will be back with the specifics on the construction of the site and layout so...

CHAIRMAN CAMPBELL: This covers the match money for 1.425 million for the purchase cost and the related \$175,000 for the hazardous waste study, which is in the purchase and sale agreement.

MR. CASS: Right. In anticipation of the -- we have to do studies to satisfy NEPA, so that is engineering costs associated with those studies.

CHAIRMAN CAMPBELL: There is a deadline in here for the purchase and sale, isn't there?

MR. CASS: Tom, you can probably speak to that more.

MR. GALLIGANI: Our deadline is tight. It's actually next week. We're in the process of negotiating an extension onto that. So we're going to need the extension in order to meet some of the NEPA requirements that Mr. Cass is speaking about so...

CHAIRMAN CAMPBELL: Thank you.

Representative Benn.

REP. BENN: I just have one question. Looking at the map, how accessible is this lot or Park and Ride to be to the major highway?

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MR. GALLIGANI: Well, it's located -- you're very true, it's off of the major highway. We see this as a location that's right after a big pinch point in Nashua coming across the Hudson Bridge across the Merrimack River, it's located right there. Some of the planning work that we're doing right now considers relocating some of our bus lines and the bus routes so that we can allow people to get over the bridge from the other side of Hudson and Litchfield, et cetera. Be able to take a bus and use this as a Park and Ride facility to continue on to the rest of their trip.

CHAIRMAN CAMPBELL: Representative Graham.

REP. GRAHAM: Thank you.

Mr. Cass, you said it was approved and I see there is a number. This project is in the current ten-year plan?

MR. CASS: Yes.

REP. GRAHAM: Thank you.

CHAIRMAN CAMPBELL: Senator Rausch.

SEN. RAUSCH: Thank you, Mr. Chairman.

I actually don't have a problem with the project because it's cars and busses, but as long as I've been doing this, I still sometimes get the math. Because when we go back to this document, it is 6,500,000 with 100 percent of the cost coming from the Federal highway funds with the state match being provided. So I still get our 80/20 math. Once -- it says the Federal funds are 100 percent, but yet it's an 80/20 match.

MR. CASS: Well, it's written that way and we write our GNC resolutions that way because with the application of the Turnpike Toll Credits, we are essentially using the Federal funds at 100 percent. So that's what that --

CHAIRMAN CAMPBELL: Is it also meant to differentiate to mean there is no state funds by saying 100 percent Federal funds? So the question is --

MR. CASS: Exactly.

CHAIRMAN CAMPBELL: You don't see it that way?

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SEN. RAUSCH: I don't think you can do it that way, but --

MR. CASS: Maybe that should be clarified. I know the language, standard language, we kind of put in our GNC resolutions, we typically say Federal funding is 80 percent with a 20 percent match. The 20 percent match is being met utilizing Turnpike Toll Credits, thereby effectively using Federal funds at 100 percent. And for administrative services and on the use of funds that we have to put in the GNC resolutions, we put 100 percent Federal funds because exactly what you said, by the use of Turnpike Toll Credits there are no state funds involved in it.

CHAIRMAN CAMPBELL: Does this warrant a clarification?

SEN. RAUSCH: I don't know. I have an additional follow up; and that is, all the documents that have been signed are for the full project and now we have altered that so that we're doing it in two phases evidently. So are these documents that have been signed, that I have a copy of here dated the 28th of December, do these all have to be redone then?

MR. CASS: I don't necessarily think they have to be redone. I mean, that agreement is between the Department and the City to develop the full project, but I think the Capital Budget Overview Committee can take this action, puts that piece meal step by step process in place. So that's probably -- I would look at it as that's an overarching agreement between the Department and the City to work on this project under those premises, but the approval process -- the specific approval process that we're going through here puts that step by step piecemeal approach in place.

SEN. RAUSCH: But do we have to -- voting today, do we have to in essence approve the 6.5? I mean, that's -- I guess ultimately what I'm trying to get at is we're separating this out different from what the original proposal was.

CHAIRMAN CAMPBELL: Can I take a crack at this? The CMAQ moneys were granted some time ago. How many years ago were they granted?

MR. CASS: Dates back to the '90s.

CHAIRMAN CAMPBELL: So this is an overarching agreement that there is six and a half million dollars' worth of CMAQ money for

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up to two different ones and the second site hasn't even been located yet. What we're doing now is acting on and matching what we know for real. We know there is a purchase and sale agreement and we know how much it is. We know there's a hazardous waste study and how much it's going to cost. To just -- I mean, it's been there forever. It wasn't authorized because there was nothing real. This is real and we're authorizing that part of it. I do see this as an overarching agreement. You may even have a second site at some point, correct, under this agreement?

MR. GALLIGANI: We presume we will, but we don't have one identified now.

CHAIRMAN CAMPBELL: Thank you.

SEN. RAUSCH: So the only vote that you are looking for is the 1.6 million and 320,000 toll credits?

MR. CASS: Yes; that's correct. And if more of this gets developed, we'll be back before the committee for the next steps.

SEN. RAUSCH: Okay. That's all right with me, but it just seems that when you have documentation that says 6.5 million and we're only authorizing 1.6, I'm not sure how those two blend together, but I'm okay.

SEN. LARSEN: And I --

MR. CASS: What we can do, for clarification, the Commissioner hasn't signed that agreement yet. We're looking for the initial approval of Turnpike Toll Credits before the Commissioner signed that. We can qualify that agreement when we send back our signed copy. We'll send it back with a cover letter that -- we'll document this process and explicitly document what we have the authority and approval for from the Capital Budget Overview Committee.

CHAIRMAN CAMPBELL: That works.

SEN. RAUSCH: Okay.

CHAIRMAN CAMPBELL: Thank you.

Senator Larsen, you have a question?

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SEN. LARSEN: I was going to point out the contract -- the agreement is -- it states in the "whereas" statement, but the agreed upon -- "mutually agreed" upon starts with duties and responsibilities so that whereas statement is not a binding -- it's information of an agreement, but it is not the binding portion of it, I suspect.

CHAIRMAN CAMPBELL: I think your suggestion will satisfy us.

SEN. LARSEN: Yes, I think that does.

CHAIRMAN CAMPBELL: Thank you.

Entertain a motion. Yes, go ahead. Sorry, Senator Boutin has a question.

** SEN. BOUTIN: I'll move the question and I would like to speak after the second.

REP. GRAHAM: Second.

CHAIRMAN CAMPBELL: Been moved by Senator Boutin and seconded by Representative Graham to adopt the motion.

And you are recognized to speak.

SEN. BOUTIN: Thank you, Mr. Chairman.

Mr. Chairman, I'm very sympathetic to what Senator Rausch is bringing up to the extent that this is leaving a rather cloudy trail. And as time goes on, there may be new members here in future years -- and I know that Representative Cloutier does excellent note taking --

CHAIRMAN CAMPBELL: As is the transcript.

SEN. BOUTIN: The notes -- the question is about the survivability of those notes. I would suggest to make this completely clean is to reissue this January 4th letter indicating the 1.6 million is a portion of the 6.5 as reflected in the agreement and then we would know and there would be no question and each member would have that in the file that would reflect that. I would suggest, Mr. Chairman, that that would make it -- that would satisfy Senator Rausch's concerns, satisfy my concerns as well.

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CHAIRMAN CAMPBELL: Senator Boutin moves that the item be adopted with the caveat that the agreement reflect that we are doing a portion of the --

SEN. BOUTIN: The cover letter, the January 4th cover letter.

CHAIRMAN CAMPBELL: Right.

MR. CASS: The requested action -- if I may just to clarify -- I think I get -- you want it written right in the requested action that this 1.6 is only a portion of the total 6.5 project amount and I think we can do that.

CHAIRMAN CAMPBELL: Is that clear to everybody? Is there a second to that?

REP. CLOUTIER: I'll second that motion.

CHAIRMAN CAMPBELL: Representative Cloutier seconds. Are you ready for the question? All those in favor, aye? Opposed? And the motion is adopted.

*** **{MOTION ADOPTED}**

MR. CASS: I will let someone else speak to the final --

CHAIRMAN CAMPBELL: Are you bailing out on this one?

MR. CASS: Thank you.

CHAIRMAN CAMPBELL: Thank you very much.

MR. PATRICK HERLIHY, Director of Aeronautics, Rail and Transit, New Hampshire Department of Transportation: Good morning, Mr. Chair, members of the Committee. My name is Patrick Herlihy. I'm the Director of Aeronautics, Rail and Transit at the Department of Transportation.

CHAIRMAN CAMPBELL: Would you like to present the item for us, please?

MR. HERLIHY: Yes, I would.

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The next item on the agenda is a request for \$380,000 in Turnpike Toll Credits to match \$1.9 million in Federal Transit Administration funding to help us study the transportation problems and challenges in the capitol corridor. It would include an alternative analysis including a range of transit modes and would measure forecast ridership, capital costs, operating, maintenance costs, environmental, economic and land use impacts on providing alternative modes of transportation in the corridor. It's all part of an overall \$4.4 million study that includes Federal Railroad Administration funding in the amount of \$2.5 million. The FTA money, Federal Transit money, is eligible for Turnpike Toll Credits match.

CHAIRMAN CAMPBELL: Can I ask how about the 2.5 million, does that not require a match?

MR. HERLIHY: That requires a match. That is a hard match of \$500,000. That was appropriated in the capital budget back in 2007.

CHAIRMAN CAMPBELL: Thank you for that. And one more question. This is FTA money. Can you describe what FTA money covers in terms of a study?

MR. HERLIHY: Federal Transit Administration money -- that is the alternative analysis on transit modes in the capitol corridor from Nashua to Manchester, New Hampshire. It would include looking at passenger rail, additional transit, additional bus opportunities. A whole range of transit modes.

CHAIRMAN CAMPBELL: If it is the corridor, does it look at -- for instance, east/west connections in the state are very bad and the corridor would run through the airport.

MR. HERLIHY: Yes.

CHAIRMAN CAMPBELL: Would it include east/west connections into the corridor?

MR. HERLIHY: Yes.

CHAIRMAN CAMPBELL: Representative Graham.

REP. GRAHAM: Thank you, Mr. Chairman.

We're talking about the entire study. It was my

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understanding that the moneys were turned down by the Governor and Executive Council to do this. Are the moneys still available now that the state has said no?

MR. HERLIHY: Yes, the money is still available. We've checked. We both had a discussion with the Federal Transit Administration. That money is still available and still has broad support from FTA to complete the study. The Federal Railroad Administration funding had a more finite term of completion. That needed to be completed by December of 2013. We have had discussions with the FRA to extend that to 2014 so if we do move forward with the study now, which would be approximately about a year later, we would have time to complete the study. They have given us preliminary approval for that based on us submitting the paperwork for final approval.

CHAIRMAN CAMPBELL: Senator Rausch.

SEN. RAUSCH: Thank you, Mr. Chairman.

If I understand this, if we approve this with the toll credits, this would also interact with the rail study of the half million dollars that was authorized in the capital budget in '07, but not issued; is that correct? So if we authorize this, we are also potentially authorizing a half a million dollars of capital expense.

MR. HERLIHY: Half a million dollars has already been authorized.

SEN. RAUSCH: I know that, but I'm saying we would be issuing it if we approved these credits.

MR. HERLIHY: It would allow the complete study to go forward, yes.

SEN. RAUSCH: Again clarification. We are going to spend a half a million dollars of bonded money to do that study.

MR. HERLIHY: Yes.

SEN. RAUSCH: Thank you.

CHAIRMAN CAMPBELL: As I understand this, this vote has no bearing on the FRA money.

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MR. HERLIHY: It has no bearing on --

CHAIRMAN CAMPBELL: \$500,000 has been encumbered, as in authorized. The \$2.5 million study will go forward. That's the rail study. This is actually the alternative study --

MR. HERLIHY: That is correct.

CHAIRMAN CAMPBELL: -- that may say the rail may not make sense because busses do it cheaper --

MR. HERLIHY: That's correct.

CHAIRMAN CAMPBELL: -- the rail may not make sense because it costs too much. The rail should connect east/west perhaps and have those other corridors -- so this is really the alternative study to show whether --

MR. HERLIHY: To give us the facts.

CHAIRMAN CAMPBELL: -- to show you whether the rail is viable or not.

MR. HERLIHY: That's correct.

CHAIRMAN CAMPBELL: Thank you.

SEN. BOUTIN: Thank you, Mr. Chairman.

Mr. Herlihy, that \$500,000, is that -- that's to address the condition, the current rail lines. It would also address the freight issue --

MR. HERLIHY: Yes, it does.

SEN. BOUTIN: -- and that piece is going to be addressed.

MR. HERLIHY: Yes, it is. That includes passenger and freight rail.

SEN. BOUTIN: So the 380 and 5 hundred combine to do a complete analysis of rail, passenger, freight. The feasibility of passenger and to do the freight analysis.

MR. HERLIHY: That's correct. The 380 being credit, yes.

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That's correct.

CHAIRMAN CAMPBELL: Again, this isn't really analyzing the rail, this is analyzing alternatives to the rail.

MR. HERLIHY: The 380 matching the 1.0 of FTA money is to look at the alternative to passenger vehicles in that corridor. The Federal Railroad Administration funding is looking at specifically rail, passenger rail, from Nashua to Concord, New Hampshire.

CHAIRMAN CAMPBELL: Which is not before us.

MR. HERLIHY: That's right.

SEN. BOUTIN: And I want to clarify, you are going to be addressing the freight issue.

MR. HERLIHY: Yes. I'm sorry -- that's right. Passenger rail and freight rail in that corridor.

CHAIRMAN CAMPBELL: Senator Rausch.

SEN. RAUSCH: I guess my question is is that we have spent a lot of money -- CMAQ, matching moneys -- for this corridor already on busses. We have a system that's up and running and from at least the seacoast, I believe now they're break even and the I-93 corridor is almost break even. So we've already implemented a system. Why are we studying after there has already been a system that's implemented?

MR. HERLIHY: To see if there's additional types of transit systems like bus on shoulder, where we have dedicated shoulders that busses can ride on. Whether or not there is a need for additional bus services. The bus services are pretty well subscribed right now. Do we need to look at additional bus service beyond what we're already providing with the Boston Express Service. So that will all be part of the study.

CHAIRMAN CAMPBELL: Again, that would include east/west?

MR. HERLIHY: Yes.

SEN. RAUSCH: Excuse me. We just voted on an east/west from Portsmouth to Manchester. We already gave you toll credits for that one --

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MR. HERLIHY: Yes.

SEN. RAUSCH: We just did that last year.

MR. HERLIHY: But with east/west, I'm looking at connections to the airport. So with the capitol corridor move and connections with the airport and with Concord and how that would work.

SEN. RAUSCH: Isn't that what the contract with Fleet is supposed to do?

MR. HERLIHY: But that's going over from Portsmouth. That's not in the capitol corridor. That's going from Portsmouth over into Manchester.

CHAIRMAN CAMPBELL: Senator Larsen.

SEN. LARSEN: Living in the Capitol City, we pointed out the last meeting that we have no way, as residents of this area, to get to the Manchester Airport. We heard members of the past Capital Budget Committee saying that they preferred to go to Logan because it was easier to get there -- from North Conway to Logan -- than to take another form of transit and get to our own airport.

I pointed out, and I sincerely believe, the Manchester Airport is a huge economic engine for our state and if we don't have access capability -- east/west, north/south, Lowell up to the Manchester Airport -- I fly out of Manchester almost 100 percent. And a lot of those people are Massachusetts people using our airport, but the fact that they're supporting our airport means that our corporations, all of those entities that look to moving to New Hampshire, see that there is a frequency of travel and flight opportunities so that they choose to move to New Hampshire with their businesses. So it's a huge economic engine. And if we ignore the fact that people need alternative modes of transportation other than cars -- I would -- if I could just add, there was an air pollution advisory out today. When I woke up this morning, they were saying on a perfect January day, we have -- people with asthma should worry today because they shouldn't be out breathing the air. The CMAQ moneys are to offer options that get fewer cars perhaps on the road, more people in busses, more people on rail if it's there. And, you know, this was a state that had a significant rail history and we've let it die.

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So I think we need to explore the possibility, all of them, so that we have data in our hands that tells us, is it a wise investment or is it not. And for us to turn down the investment of this study would -- I think would be a mistake.

CHAIRMAN CAMPBELL: Thank you, Senator.

Senator Boutin.

SEN. BOUTIN: Thank you, Mr. Chairman.

I'm not quite buying the notion that this is all about alternatives and busses on the shoulder of the road and I'll tell you why. Because of the 20 or 30 phone calls I got yesterday from Nashua and Bedford, rail and transit authority people, and New Hampshire residents, it was all about the rail, all about passenger rail. That's what this is all about so let's not paint the pig with lipstick. It's about passenger rail.

I want to say this, Mr. Chairman. I am going to vote for this. And I'm going to explain my vote. My vote is because I think it is the prudent thing to do, to look at -- finally look at this issue and whether or not the data will substantiate the building of passenger rail. I would also add that I am not persuaded at all that the data that will come back will indicate that it is fiscally or economically sustainable, but we'll have that data. And so for that reason, I'm going to support this but with the clear caveat that I just do not see how we can burden tax payers -- and remember -- people will say, we're going to get \$30 million from the Federal Government. And they're going to pay for it. Guess who pays for it after? And once it's built and once it's operating, it's a forever expense. And so that's why I'm not persuaded that this is something that's doable in the long run and burden the tax payers with it, but I do support -- do support doing a study and so I will vote for it.

CHAIRMAN CAMPBELL: And the study will go into not only the building of it, but the operating of it too in terms of viability.

Senator Stiles.

SEN. STILES: Thank you.

So this really is not committing us to a project?

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MR. HERLIHY: No, it's not.

SEN. STILES: It's committing us to a study to understand whether it's viable to do in the future and it will include all modes of transportation.

MR. HERLIHY: Yes, it will.

CHAIRMAN CAMPBELL: Senator Rausch.

SEN. RAUSCH: I will be voting against it because philosophically I don't believe -- I believe that tolls, gas tax and any credits derived from it stay -- just like our constitution, points out -- it stays with the highway system; but I also want to comment on -- I am a big believer and supporter in the Manchester Airport, but some of the issues that Senator Larsen discussed about getting there -- I do know that the bus companies have tried to make in-roads and one of the difficulties is parking garage fees have driven some of the decisions at the airport versus mass transit. And I think some of those issues -- there really has to be cooperation if we're going to be inter-modal. We can't say we want parking fees and then eliminate the option of bringing the busses there. The building of that parking garage has had a detrimental effect on the cooperation with some mass transit systems and I think that also has to be taken into account and making sure that we don't jeopardize options because of revenue sources.

CHAIRMAN CAMPBELL: Yes, go ahead.

REP. GRAHAM: Thank you, Mr. Chairman.

I tend to agree with kind of a split between Senator Boutin and Senator Rausch; and I think the study needs to go forward, but I do agree that no matter how indirectly it comes about, that we are going to be funding this -- in the perception of many people in my town and across the state -- with tolls. Just by saying toll credit, you're going to have that perception that we're using toll and Turnpike funds to fund this. So that's why I think that this is probably something that we need to do, but this is not the way to come up with the match.

CHAIRMAN CAMPBELL: I will state this for the record, for the press. There is no tax payer -- state tax payer money going into this. Let's be very clear about that.

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REP. GRAHAM: I know that. I said perception.

CHAIRMAN CAMPBELL: And I am trying to not have a bad perception.

REP. BENN: Another way to fund it --

CHAIRMAN CAMPBELL: Are we ready for a motion and a vote? Do we want to caucus separately --

REP. GRAHAM: Mr. Chairman, I would ask the House caucus and figure out how we're going to vote.

CHAIRMAN CAMPBELL: A one-minute caucus.

SEN. BOUTIN: Five.

CHAIRMAN CAMPBELL: Okay. Five-minute caucus.

(Brief Caucus)

CHAIRMAN CAMPBELL: Meeting come back to order, please.

We did this one by the rules -- and by Hoyle, I should say -- and the House's position is yes.

REP. GRAHAM: Is there a motion?

CHAIRMAN CAMPBELL: Yes. Well, I mean --

** SEN. LARSEN: Move approval.

REP. EATON: Second.

CHAIRMAN CAMPBELL: Senator Larsen moves approval; Representative Eaton seconds it.

The two sides have caucused and the House's position is yes.

What is the Senate's position?

SEN. BOUTIN: Yes.

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SEN. RAUSCH: How do we record no votes then?

CHAIRMAN CAMPBELL: Anybody can go on record, I guess, if they are so inclined.

SEN. RAUSCH: So inclined.

REP. GRAHAM: You already said that.

CHAIRMAN CAMPBELL: You're already on record.

SEN. RAUSCH: That's the final vote.

CHAIRMAN CAMPBELL: So the item passes.

*** {MOTION ADOPTED}

6. Miscellaneous:

CHAIRMAN CHAMPBELL: Miscellaneous items. Anything under miscellaneous?

7. Informational:

CHAIRMAN CHAMPBELL: Informational? We have two items for informational.

MR. KANE: We do. Representative Graham had a question on CAP 12-043. This is a report by the Community College System of New Hampshire on critical maintenance funds appropriated in the 10-11 biennium.

REP. GRAHAM: I got your e-mail.

MR. KANE: You did, okay. I did verify that -- we just wanted to make sure that the Community College System wasn't using any of the funds in violation of the actual appropriation. And it's okay -- it was a general appropriation for critical maintenance. We looked at the schedule and it appears that every project on here --

CHAIRMAN CAMPBELL: This is something asked for by the prior chair?

REP. GRAHAM: No. I just asked for it yesterday. There was money left over from one project that they were going to put into

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another and I just wanted to make sure the capital budget allowed that to happen in critical maintenance and not a specific project that the money had to be spent on. It generates other things.

SEN. RAUSCH: Can I ask somebody -- maybe the Assistant Commissioner -- to entertain a question?

CHAIRMAN CAMPBELL: Sure.

REP. GRAHAM: Of which department?

SEN. RAUSCH: DOT.

CHAIRMAN CAMPBELL: Yes. Commissioner Brillhart, would you like to come up and be put on the hot seat.

SEN. RAUSCH: I just read a blurb that the Attorney General's Office has won a lawsuit on the oil companies regarding MTBE which is part of the gas tax and I would like to know if our highway fund is perhaps going to reap the benefit of the settlement since it was gas tax that it was -- MTBE was put in the gas, citizens paid for it. You now have settlements that the Attorney General's Office has stated. Will that go to the highway fund or will that go to the general fund?

COMMISSIONER JEFF BRILLHART, Assistant Commissioner, State of New Hampshire, Department of Transportation: I don't know the answer to that question. I was unaware of the settlement, I guess, but I will check into it. Typically the DOT doesn't collect the gas tax, it's the Department of Safety that actually collects the gas tax.

CHAIRMAN CAMPBELL: Good question for the Attorney General; and maybe even could be the subject of some legislation, couldn't it?

SEN. RAUSCH: There's going to be a lot of people looking for it.

REP. WEYLER: If the substance of the lawsuit was, you polluted our water --

SEN. RAUSCH: It was.

REP. WEYLER: -- then DES will go after the money for

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mitigation. If it's that you've made people ill, then HHS will go after the money. It's all a matter of what the substance is within the settlement. Where is the harm and what are you going to do to mitigate it. And since it's unlikely you can say you harmed the roads, it's unlike any will go to DOT.

SEN. RAUSCH: Are we paying for any wells contaminated?

MR. BRILLHART: We pay for well contaminations but it's usually salt contamination. I don't know of instances where we've paid for a new well for MTBE.

CHAIRMAN CAMPBELL: Thank you.

SEN. RAUSCH: Thank you.

REP. CLOUTIER: I'm all set.

CHAIRMAN CAMPBELL: There is a second informational item here?

MR. KANE: Yes. 12-044. This is a quarterly report that the Department of Administrative Services, Mike Connor's office, will put together. It's a good report. It will provide the status of all current capital projects, what the original appropriation was, any balance forward, how much they've expended, how much they've encumbered and what the contract is for and how much is unencumbered as well as the status of that project. It's something -- a compilation of all the various information for the different departments and the projects that are currently ongoing. This is something the Department of Administrative Services provides quarterly. It's a good report.

CHAIRMAN CAMPBELL: Which is at the back of our package. We'll take a look at it.

REP. WEYLER: The balance is always --

CHAIRMAN CAMPBELL: Yes, Senator Boutin.

SEN. BOUTIN: Yes. Mr. Chairman, I would like to direct a question to Mr. Herlihy, please.

CHAIRMAN CAMPBELL: Sure. Go ahead.

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SEN. LARSEN: I don't think he can hear that.

Mr. Herlihy --

CHAIRMAN CAMPBELL: Would you come up, please. We have a question of the Senator. Sorry.

MR. HERLIHY: Sorry, I was in caucus.

SEN. BOUTIN: I would also ask the Assistant Commissioner to come up as well.

MR. HERLIHY: Good.

SEN. BOUTIN: Because I know Mr. Brillhart was here.

At the last meeting, I made a motion -- and Senator Larsen seconded the motion -- asking the Department of Transportation to commence a feasibility study -- and I think it's a very germane topic based on what we've talked about today -- and that is currently there is no bus service from Concord to Manchester that then goes over to the airport similar to what we just did with the east/west express in Portsmouth. And that's something that I'm inquiring about, as to whether or not that feasibility analysis has been done. If not, when is it going to be in and when do you think we'll get a report on it.

MR. HERLIHY: It hasn't been done. We are trying to set up a meeting with Senator Larsen and other members of the Senate and the House that we want to be -- from the Concord area. That has not taken place yet as far as I know. We would love to meet. We're more than eager to talk about what the parameters of the study would be and what we would look at before trying to find funding again for the study and possibly back here for match on that study.

SEN. BOUTIN: And we expect that you will set something up within the next two weeks.

MR. HERLIHY: I can certainly set something up within the next two weeks.

SEN. BOUTIN: Sylva, does that --

SEN. LARSEN: Yes. I know my staff was working with them and talking with --

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MR. HERLIHY: But we have not been able to get a date yet.

SEN. BOUTIN: I'd like to see that move ahead in the event we need to do something between now and June so --

MR. HERLIHY: It will.

SEN. BOUTIN: Mr. Chairman, this is an issue that is of high importance for both Senator Larsen and myself and so I hope that we can keep this on the radar screen and move it forward.

SEN. LARSEN: Just to add, it isn't just Concord residents getting to the airport, but I was trying to figure out how a Hanover resident might get to the airport; but the fact that if you can ride a bus to Concord and then get to the airport, that's the connector we need. So it would affect other communities around the state that would enable public transit a way of getting to the airport that doesn't currently exist. So I think Concord being a bus hub for the North Country and from the west and now that there is an east -- a seacoast to the airport way, it would begin to connect us in a public transit way to our airport.

CHAIRMAN CAMPBELL: Thank you. And Representative Graham just pointed out --

REP. GRAHAM: Senator, Commissioner, I would suggest if at all possible you invite Representative Bouchard to this meeting as a City Councilor, and as somebody who's well versed in everything that we've --

SEN. LARSEN: I understand --

REP. GRAHAM: And now is transportation chair with the House --

MR. HERLIHY: She's been on the e-mail trail trying to get this meeting together.

CHAIRMAN CAMPBELL: Is there any other business?

SEN. BOUTIN: I move to adjourn.

REP. CLOUTIER: I second that motion.

CHAIRMAN CAMPBELL: Moved and seconded -- Representative

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Cloutier seconds -- to adjourn. All in favor, aye? Opposed? At the call of the Chair.

***** {MOTION ADOPTED}**

(Hearing concluding at 11:22 a.m.)

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C E R T I F I C A T E

I, Michelle McGirr, LCR, RPR, CRR, CCP, a Licensed Shorthand Reporter and Notary Public of the State of New Hampshire, do hereby certify that the foregoing transcript is a true and accurate transcript of my stenographic notes taken at the place and on the date hereinbefore set forth to the best of my ability, skill, knowledge and belief.

MICHELLE A. H. MCGIRR, LCR, RPR, CRR, CCP

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