

**JOINT FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, January 20, 2012

**MEMBERS PRESENT:**

Rep. Ken Weyler (Chairman)

Rep. Beverly Rodeschin

Rep. Dan McGuire

Rep. John Reagan (Alt.)

Rep. Randy Foose

Sen. Chuck Morse

Sen. Bob Odell

Sen. Peter Bragdon

Sen. Sylvia Larsen

Sen. John Gallus

(Convened at 10:10 a.m.)

**(1) Acceptance of Minutes of the December 2, 2011 meeting.**

CHAIRMAN WEYLER: I will open the meeting of the Joint Committee -- Joint Fiscal Committee for January 20, '12.

\*\* REP. RODESCHIN: I make a motion that we approve the minutes of 12/2.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Motion and a second to accept the minutes under Tab (1) of December 2nd meeting. Any further discussion or corrections? Seeing none; are you ready for the vote? All in favor say aye? Opposed no. The motion is accepted.

REP. MCGUIRE: Abstain. I wasn't here.

CHAIRMAN WEYLER: Representative McGuire abstains not having been at the meeting.

\*\*\* {MOTION ADOPTED}

(2) Old Business.

CHAIRMAN WEYLER: Moving on to Tab (2), Old Business. We have a request for MMIS report. Is Commissioner Toumpas here? Someone -- yes, he is. And Office of Information Technology as well. Good morning. Welcome to the Committee.

BILL ROGERS, Commissioner/CIO, Department of Information Technology: Good morning.

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

CHAIRMAN WEYLER: Good morning.

MR. ROGERS: Bill Rogers, Commissioner of Department of Information Technology.

CHAIRMAN WEYLER: Good morning, Commissioners. How we doing?

MR. TOUMPAS: We're doing fine.

CHAIRMAN WEYLER: Glad to hear it. How's the MMIS schedule doing?

MR. TOUMPAS: On the MMIS schedule, the -- the number of -- number of things that we are doing right now, the first phase of the program went live on December 16th and that is the provider enrollment component of it. And that is where all providers to the Medicaid Program need to re-enroll into the program, precedent to gathering all the information so that when the core of the system goes live we'll be able to process the claims and such. So that piece of it has gone live and it is going well on that, being

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well-received by the provider community.

The testing with respect to the core of the system continues. That -- that piece of it, again, we still target a July 1 go-live date for that. Still a number of things that we need to do on that. We are in the process right now of developing the -- we're going through -- the phase that precedes the go-live is a user acceptance test and what we have done, similar to what we did in the provider enrollment, whereas the team creates a set of criteria that basically said we're ready to go to user acceptance testing, and then to really define what those criteria are as well as measurable tasks associated with that. And then you conduct the tests, go through the tests, and then there's an exit criteria so that if based on whatever percentage passed, et cetera, et cetera, that we go through. So that is being -- that has been developed and we are setting up a time with -- with people from the ACS organization, from the Department, from the Department of Information Technology, and from the Federal Government, CMS, to be able to sit down and jointly go through that and see where we stand and whether or not we are ready to be able to move into the user acceptance testing phase of the program.

All the testing -- testing has been going and going well on that part of it. The -- the part that we are -- we'll be testing and doing the decision in terms of whether we go into user acceptance testing is for the core system that was developed and for which we have contracted. The -- where the managed care initiative that the Department has been working, and I will be updating the Committee a little bit later on in the meeting, we know that there are gaps between that which we will need in the managed care and that which we have in the system. We're doing a gap analysis on that in order to be able to look at what those -- what those gaps are, and therefore, what changes, large or small, that would need to be made to the system in order to be able to accommodate our requirements under managed care.

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CHAIRMAN WEYLER: Anything to add, Commissioner Rogers?

MR. ROGERS: The only thing to add is that the consultant study that was required under HB2, we've continued to meet with firms. We have one firm who estimates it would take six months to do their study which would be in conflict with the project as we're planning to go-live July of this year.

CHAIRMAN WEYLER: Senator Morse.

SEN. MORSE: Commissioner, I guess there's two commissioners. Nick, the go-live date you said is targeted for July 1. What happens if you don't make it?

MR. TOUMPAS: What --

SEN. MORSE: How does that affect the other half? How does that affect managed care?

MR. TOUMPAS: If we are not able to go-live with that, one of the things that -- it would have an impact on our ability to be able to implement managed care by -- by -- the two of them are very much linked with each other.

As I've indicated to the Committee, Senator, is that we -- and again, I will provide an update on the managed care piece of it a little bit later on -- we are tracking to the legislative time lines that were set in Senate Bill 147. But from a budgeting standpoint, if what we know is that we have a \$16 million savings that is tagged to that. So if we are delayed in any way, we -- we have contemplated and have come up with savings that we would achieve elsewhere in order to make sure that we achieve the legislatively mandated savings.

The time line, I indicated all along, is extraordinarily aggressive and we're at that point right now where the -- everything that was within the control of the Department now is a shared responsibility 'cause I have

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CMS and the organizations with whom we would want to contract with.

Now there's a group of other individuals that are involved on this right now that would impact the time line. But we continue to target that as a -- as a go-live date. But if it is a slip in the -- in the MMIS, then yes, that would impact the managed care. I will -- I need to emphasize again that the system for which the Department contracted with ACS a number of years ago was the foundation for that, was a fee-for-service system. And what we are looking at right now in managed care is something quite different from that.

Now, we know the system that we have built and is being tested has managed care capabilities in that. But until we sit down and go through, and that gap analysis is happening right now as we speak to go through that, to say is it a small change, is it something that we can phase in over a period of time in terms of the type of issues. Do we have some workarounds that we could do? So there's a number of things that we need to take a look at before I'm ready to say that July 1 is or is not -- is or is not going to be able to -- to be met.

CHAIRMAN WEYLER: Further questions from the Committee? Seeing none. Keep working toward that deadline. Thank you very much. Okay. Nothing more on Tab (2).

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

CHAIRMAN WEYLER: Moving on to Tab (3). The first item on the Consent Calendar, Item 12-050. This is a -- I'll recognize Senator Bragdon.

SEN. BRAGDON: Oh, sorry. What tab are we on, sir?

CHAIRMAN WEYLER: Tab (3).

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SEN. BRAGDON: Yeah, okay.

CHAIRMAN WEYLER: Performance audit recommendation.

SEN. BRAGDON: I heard you say Consent Calendar.

CHAIRMAN WEYLER: I'm sorry. It's Tab (3). I haven't gotten to the Consent Calendar.

SEN. BRAGDON: Thank you, Mr. Chairman. The Legislative Performance and Oversight Committee recommends the topics you see here for performance audit purposes. There have been very few, if any, significant audits of Corrections Department and these are particular areas which the Audit Bureau has indicated are typically areas that State would look into as part of an audit.

CHAIRMAN WEYLER: Is there a motion?

\*\* SEN. BRAGDON: So move.

CHAIRMAN WEYLER: Senator Bragdon moves. Is there a second?

REP. REAGAN: Second.

CHAIRMAN WEYLER: Any questions of Senator Bragdon on the recommendations?

REP. MCGUIRE: Do we know when such an audit would likely be done?

SEN. BRAGDON: The average audit seems to take about six months. This might be a little more than average. So it would be, I would say, between six to twelve months.

REP. MCGUIRE: In the summer?

SEN. BRAGDON: That's my guess. Mr. Mahoney could add further if you need more information.

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REP. MCGUIRE: Okay. Thank you.

CHAIRMAN WEYLER: Further questions? Seeing none; are you ready for the question? All in favor say aye? Opposed no? And the recommendation is adopted.

\*\*\* {MOTION ADOPTED}

**CONSENT CALENDAR**

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

CHAIRMAN WEYLER: All right. Now moving on to the Consent Calendar. First item under Tab (4), 12-025.

\*\* SEN. BRAGDON: Move approval.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Mountaintop Tower Fund. Motion by Senator Bragdon, second by Representative McGuire to approve the item. Any questions? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The motion is adopted.

\*\*\* {MOTION ADOPTED}

**(5) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$50,000 from Any Non-State Sources:**

CHAIRMAN WEYLER: Moving on to Tab (5). Several items on the Consent Calendar. Anybody wish removal of any of these items?

REP. MCGUIRE: Unfortunately, I have several.

CHAIRMAN WEYLER: All right. Representative McGuire, if you would go over the items you wish to remove.

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REP. MCGUIRE: Number one.

CHAIRMAN WEYLER: 01.

REP. MCGUIRE: Three.

CHAIRMAN WEYLER: Three.

REP. MCGUIRE: Four.

CHAIRMAN WEYLER: Four.

REP. MCGUIRE: 16.

CHAIRMAN WEYLER: 16.

REP. MCGUIRE: 24.

CHAIRMAN WEYLER: 24.

REP. MCGUIRE: And 35.

CHAIRMAN WEYLER: And 35. Those items are now removed from the Consent Calendar. Is there a motion to accept the rest?

\*\* SEN. ODELL: So move.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Motion by Senator Odell, second by Representative Foose. Is there any further questions on the rest of the Consent Calendar? Seeing none; are you ready for the question? All in favor say aye? Opposed no? And the rest of the Consent Calendar is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on first to Item 12-001 for the Division of Administration.

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REP. MCGUIRE: Department of Corrections.

CHAIRMAN WEYLER: Oh, wait a minute. Department of Corrections, Division of Administration. All right. Very good. See Mr. Mullen is here to answer questions.

ROBERT MULLEN, Director of Administration, Department of Corrections: Good morning. For the record, my name is Bob Mullen. I'm the Director of Administration for the Department of Corrections.

CHAIRMAN WEYLER: Representative McGuire is recognized for a question.

REP. MCGUIRE: Thank you, Mr. Chairman. Thank you, Mr. Mullen. Hm -- was this money anticipated when we created the budget for the Department of Corrections or is this unanticipated?

MR. MULLEN: When we budget for this award, we budget on what we think the unspent balance forward is going to be for a staff award, plus what we anticipate or project it will be for next year. We under budget in this present Fiscal Year, the reason being is the monies that we carried forward in the prior Fiscal Year were much greater than what we had anticipated. What we're doing with this award is, you can see on the first page in the class lines, I'm earmarking that or we're earmarking that to invest in overtime deficits and also for possible equipment purchases that we're unable to budget through the general funds.

REP. MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: Thank you. So in some sense, it's not that we have more prisoners in this category than expected, it's that we have more money to fund them. So I'm wondering if -- so it seems to me that maybe we -- we budgeted for the number of prisoners we have; and

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therefore, this is extra money that an equivalent amount could be returned to the general fund, no?

MR. MULLEN: This is Federal funds that can only be used for correctional purposes, specifically in the prison environment for equipment, overtime, vehicles. It cannot be transferred to the general funds. The way this award works it's based upon the number of illegal aliens or illegal alien days that we have in our prison system. In this award we had 99 illegal aliens. That number and that number of illegal alien days is thrown into the pot and the Federal Government, the Bureau of Justice in which in this particular Federal Fiscal Year there were just over a million illegal alien days. Our award is \$135,000. The total award for all states and municipalities in this Federal Fiscal Year was \$272 million. So as a state, we received very little. A larger portion will go -- goes to Texas, Arizona, California.

REP. MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: Thank you. I guess what -- I'm not suggesting we put this money into the general fund, but what I'm suggesting is most of your funds come from the general fund. And therefore, these are not unexpected prisoners. And, so therefore, the overall budget should have been enough to cover them. So the fact that we have this money to cover them, to pay the overtime, to pay the equipment and so on, doesn't that mean some of our own general fund money won't be needed for those purposes?

MR. MULLEN: Our budget, general fund budget for overtime and for equipment is not sufficient for our operations. We rely upon this money to help supplement the insufficient monies that we do have in our present budget for overtime and for equipment.

CHAIRMAN WEYLER: Further questions?

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REP. MCGUIRE: No, thank you.

CHAIRMAN WEYLER: Any further questions from the Committee? Do we have a motion on this yet?

REP. RODESCHIN: No, you don't.

CHAIRMAN WEYLER: All right. I'll entertain a motion to approve the Item 12-001.

\*\* SEN. LARSEN: Move approval.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Senator Larsen moves, Representative Foose seconds. Further questions? Seeing none; all in favor say aye? Opposed no? And the motion is adopted.

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

CHAIRMAN WEYLER: Moving on to Item 3, 12-003, Department of Safety.

REP. MCGUIRE: Could we consider --

CHAIRMAN WEYLER: Mr. Colby.

REP. MCGUIRE: -- number (3) and (4) together since they are similar?

CHAIRMAN WEYLER: Yes, (3) and (4) we'll be discussing together, and I'll recognize Mr. Colby.

WES COLBY, Director of Administration, Department of Safety: Good morning. For the record, I'm Wes Colby, Director of Administration for the Department of Safety.

CHAIRMAN WEYLER: We are going to be referring to items (3) and (4). I'll recognize Representative McGuire.

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REP. MCGUIRE: Thank you, Mr. Chairman. Thank you, Mr. Colby. So in this particular case these are monies for enforcement of traffic and also DWI patrols. And my question is do we spend any of our other funds in the Department besides Federal funds on those -- on those tasks?

MR. COLBY: Yes. But I would ask perhaps bringing Colonel Quinn up, because I brought him on several of these items today. So Colonel, could you join me?

We do have -- we do have overtime monies in the various accounts. We use these funds to augment that. We receive significant funding every year from the Highway Safety organization for targeted patrols and to augment the funds that are in the State Budget.

REP. MCGUIRE: I guess -- may I follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: Thank you. So this one it explicitly does say in here that the anticipated amount was underestimated. So you didn't expect to receive this money for these purposes.

MR. COLBY: I think what that's referring to is we budgeted this grant in the State Budget.

REP. MCGUIRE: Hm-hum.

MR. COLBY: It's just that when we got the funds from New Hampshire Highway Safety, we ended up with more money than we anticipated a year and a half ago when we put the budget together. So we had \$96,000 budgeted, but we received one hundred -- between the two years actually 211,000. So we need to raise the appropriation in order to have room enough to spend the grant. So it wasn't that we didn't budget the money. We didn't anticipate that we would be receiving this amount of money.

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REP. MCGUIRE: Exactly. Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: So I guess where I'm going here is that just -- just because we have extra money here from the Federal Government for these particular purposes, the traffic enforcement, and DWI, should that necessarily mean -- and we are spending some of our own money on those purposes. So therefore, could we not keep traffic enforcement and DWI at the level the budget anticipates and use our own money on other needs of the Department besides this? Because I'll tell you, I was shocked yesterday at that report I read in the *Union Leader* about how few crimes are actually prosecuted, and how few arrests are made. So might our own money be better spent on detectives or State Police or other things? Do you see what I mean?

COLONEL ROBERT QUINN, State Police, Department of Safety: If I may? Good morning.

CHAIRMAN WEYLER: Colonel go, ahead.

COLONEL QUINN: Good morning, Mr. Chair. Representative McGuire, I think I'd like to just clearly paint a picture of what these funds are and what the on-duty Trooper does. We went through a performance audit on State Police operations and it found that the Troopers, the road Troopers, are only spending eight hours on patrol and the other 32 are on other duties. Those other duties are covering crashes, covering calls for service, going to alarms, assisting other agencies. What we are seeing more and more is when that Trooper signs on at night, for instance, who's got 93 out here in Concord working ten at night to six in the morning, he may get called to Warner or Hill or Salisbury or Danbury on other calls. So the actual time that they're out there with a radar going on 93 or looking for impaired drivers going down. These funds here, whether it's for speed enforcement or DWI enforcement, when

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these Troopers sign on to work these details, they are focused on that and that only. And we select the Troopers that we get good return on our investment from. And I think you'll see that when the activity comes in, whether it's for the speed or whether it's for the DWI, the activity's there. So to your question on what we budget for, when the actual Trooper signs on, he can go out and either run laser, run radar, or look for DWI. But more and more they are getting pulled away. We would not be in a -- the place we need to be. We would not be able to continue our highway safety plan, our strategic plan to keep the accidents down and the fatals down without these additional funds from the Highway Safety Agency. So it appears that it may be a lot of money and we may be able to shift our other funds towards detectives, but we cannot replace those Troopers with this. This in and of itself has been a huge boon for us in patrol coverage. So these Troopers are out there. But the actual coverage, and again, and I know you understand a budget, we have no budget there to replace these Troopers that are on leave or that are in training. And a Trooper, whether he's on the SWAT Unit or the K-9 Unit or the TAR Unit, they have mandated training, those patrols are vacant. So when we have these 55, 65 patrols or DWI patrols at night, it's a huge public safety addition for the State.

REP. MCGUIRE: Okay. One more?

CHAIRMAN WEYLER: Further question.

REP. MCGUIRE: So I guess I'm not suggesting at all that we don't accept this money, all right. So I'm just wondering if we could look at if in looking at the bigger picture if the Department all of a sudden gets, however much money this is extra, is DWI patrols and traffic enforcement the best place to spend that or ought we maybe transfer this into areas where we're underperforming? I mean, if -- if only 15% of rapes are being prosecuted the -- I mean, there's something going on there.

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MR. COLBY: The issue with these grants is New Hampshire Highway Safety Agency or any other granting agency is granting this money for a specific purpose. You can't divert it to another purpose or you won't get the grant.

REP. MCGUIRE: Not this money, but our money that we are using for the same purpose. Do you see what I mean?

COLONEL QUINN: Yes. And your money, sir, when we budget for the patrol troopers out of our 403 account, we have some overtime built in there. That overtime -- we don't have sufficient overtime to say I'm going to put a Trooper out for six hours to look for DWI. It's not there. That overtime has to be utilized if a patrol Trooper's shift ends at midnight and he has a DWI arrest, he may have to stay out till two to finish processing if he catches a fatal or a bad crash at the end of it; but we are really stringent with our oversight on that because we just don't have -- we absolutely don't have the funds there to have a robust highway safety plan like we have with this plan.

CHAIRMAN WEYLER: Further?

REP. MCGUIRE: No, thank you.

CHAIRMAN WEYLER: Any further questions? Senator Odell -- Senator Bragdon.

SEN. BRAGDON: Thank you, Mr. Chairman. Not to belabor this, I don't think that Representative McGuire is getting the answer that he's looking for and I guess let me put an example out. Let's say you have a budget and you have \$100 for this particular line item of the regular budget stuff that you do. Outside of this grant you have \$100 for this category. You get a grant for \$100. I think what Representative McGuire is saying is you have two choices. You can either spend now \$200 on this line item, the hundred that you planned to, plus the hundred that you're getting, or you can take the hundred you're getting and use

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it for that line item and then use your original hundred dollars for something else. And I guess it seems to me that your decision as overseeing this Department is that the best use of the combined \$200 is in this account, But I'm not sure I'm hearing that directly.

COLONEL QUINN: I think I understand the question. And I think the answer is there is no decision to make. I have no choice. The choice is this. I have a budget. I have patrols to cover on duty 24-7. And I have to use that money to cover those patrols. I have an overtime budget for traffic and I have my traffic org code. I have the same for detectives. So there's no commingling. There's no -- I have no decision to make. These highway safety funds, quite frankly, are keeping us afloat. And I can only use them for specific missions at specific times and specific dates in accordance with the Highway Safety rules.

SEN. BRAGDON: Mr. Chairman, I'm very disappointed at the answers we are getting today. I support the grant. I support what they're doing, but the answers are very bad and I'll talk to people later on about it.

CHAIRMAN WEYLER: Is there a motion to accept Items 003 and 004?

\*\* SEN. BRAGDON: So move.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: All right. Senator Bragdon moves. Who seconded?

REP. MCGUIRE: I did.

CHAIRMAN WEYLER: Representative McGuire seconds to approve Items (3) and (4). Are there any further questions or discussions? Seeing none, are you ready for the question? All in favor say aye? Opposed no? The motions are adopted.

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\*\*\* [MOTION ADOPTED]

CHAIRMAN WEYLER: Moving on to next Item 16, Fish and Game. I see the Director. Director Normandeau, welcome.

GLENN NORMANDEAU, Executive Director, Department of Fish and Game: Good morning.

CHAIRMAN WEYLER: Good morning, sir.

MR. NORMANDEAU: Glenn Normandeau, Director of Fish and Game.

CHAIRMAN WEYLER: Representative McGuire recognized for a question.

REP. MCGUIRE: Thank you. Thank you for coming. Are these game species that are involved here or not?

MR. NORMANDEAU: The -- the species involved here, the New England Cottontail is -- it is currently listed as a State endangered species. So rabbits are game species, but this is non-game because it's protected.

REP. MCGUIRE: I see. All right. Thank you.

CHAIRMAN WEYLER: Could you use the money to put a bounty on coyotes?

MR. NORMANDEAU: Well, you know, I'll just -- I just want to say, and I know the last time I was here I was asked some questions I didn't have the answers to. And, you know, I've been beating the cottontail drum for sometime now. Just to make you aware, the New England Cottontail is one of some 460 or so species that is on the list to be listed by the U.S. Fish and Wildlife Service under the Endangered Species Act. Because of money, time, bureaucracy, those what are called candidate species have not been officially listed yet. As a result of that two groups, and I believe it's Defenders of the Earth and the

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Center for Bio-Diversity, sued the Fish and Wildlife Service in Federal Court. And as part of the court decree on that, a time line was given on when all of these species are going to get given their due. And so the way this is working is that in 2015 New England Cottontails will be up. And by being on the candidate list, that means that -- that the evidence is in that they are, in fact, or that they, in fact, should be listed. So in 2015 it will be a review and we are frantically trying to work to make sure that when that review happens they have reason to believe that there isn't the need to list those. And this money, along with a previous grant that we got a couple years ago for substantially more, is being used multi-state because these animals are in all of the New England states, except Vermont, as well as New York, and so it's a multi-state effort. We are actually contracted with or the group is contracted with a group in Rhode Island to raise these things. I mean, we are identifying habitat available to put those animals in the future. We are hoping we can, you know, just put rabbits together and let rabbits do what they do so that we can --

CHAIRMAN WEYLER: Easily adaptable to captive breeding.

MR. NORMANDEAU: Yeah, well, we hope so. So there's a serious effort because one of the problems with these rabbits is that they live in some of the more heavily developed areas of the state, notably down the Merrimack Valley. And Federal law, a take doesn't mean killing a rabbit. A take is affecting its habitat. And we were going to have serious economic problems around here and Fish and Wildlife Service recognizes that and has actually been very helpful in trying to direct money toward this problem and, hopefully, head off this listing. And that is what this whole thing is about.

REP. MCGUIRE: Further question.

CHAIRMAN WEYLER: Further question.

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REP. MCGUIRE: So what would be the negative consequences of letting this become listed on the endangered species?

MR. NORMANDEAU: There's very sophisticated mapping that's been done as to the existing habitats available to these animals. So let's say we want to widen 93 which is, you know, been on the boards, you know, whatever. I'm not familiar with it, but I know that's a big one. Well, that runs right down the middle of where these critters are or at least their historic range. So if you have an area that has got these in it, you aren't touching it. And, you know, this is sort of the Spotted Owl situation out in Oregon. But we are not talking about cutting trees down that are in the middle of nowhere. We are talking about, you know, a guy wants to put a barn up in his backyard on a patch of brush and, you know, this is -- I just can't emphasize enough how much we do not want to have these things listed, because it is going to be a huge problem, not just for us, Mass., Connecticut, Rhode Island, and the focus of this money is to not have that happen.

REP. MCGUIRE: Thank you, Director.

CHAIRMAN WEYLER: Is there a motion to approve Item 24?

\*\* REP. FOOSE: Move approval.

CHAIRMAN WEYLER: Excuse me, Item 16.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Representative Foose moves approval, seconded by Senator Bragdon. Any further questions? Seeing none, all in favor say aye? Opposed no?

MR. NORMANDEAU: Thank you.

REP. REAGAN: No.

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CHAIRMAN WEYLER: You wish to be recorded?

REP. REAGAN: Yes.

CHAIRMAN WEYLER: Okay. Item 16 is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to Item 24, motorcycle rider training program. And Mr. Colby is going to reply for that for Department of Safety.

MR. COLBY: Good morning, again.

CHAIRMAN WEYLER: Senator Letourneau.

MR. COLBY: I have with me former Senator Letourneau who is a part-time employee with the Department of Motor Vehicles in the motorcycle rider training area.

CHAIRMAN WEYLER: Recognize Representative McGuire for a question.

REP. MCGUIRE: Thank you, Mr. Chairman. Actually, I just sort of have a statement. I happen to be a co-sponsor of a Bill that would eliminate this program. And, therefore, I'm not going to vote to get more motorcycles, because I'm hoping that it will just simply be eliminated. But I don't really think this is the forum to talk about the Bill or why and all that sort of thing. So, you know, just that simple. I just want to vote against this item.

CHAIRMAN WEYLER: All right. Further from the Committee? Is there a motion to adopt --

\*\* SEN. LARSEN: Move approval.

CHAIRMAN WEYLER: -- Item 24. Senator Larsen moves.

REP. FOOSE: Second.

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CHAIRMAN WEYLER: Representative Foose seconds approval of Item 024. Further questions or discussions? Seeing none; all in favor say aye? Opposed no?

REP. MCGUIRE: No.

REP. REAGAN: No.

CHAIRMAN WEYLER: Two negative votes. The item is adopted. Thank you, gentlemen.

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

CHAIRMAN WEYLER: Moving on to Item 026.

REP. MCGUIRE: No, 035.

CHAIRMAN WEYLER: No, wait a minute, 035. 035 is the next one we took off. Item 035, Department of Safety again. Just keep you wearing a path between those two seats. Mr. Colby, again, for the Department. And he's going to be joined by Colonel Quinn. Representative McGuire is recognized for a question.

REP. MCGUIRE: Thank you. Hi, Mr. Colby. Can you describe number one? Is this like billboards with safety messages or something like that?

COLONEL QUINN: No, sir. It's -- what we are trying to do, we actually don't know where we are going with this completely. But it's a media campaign. And we are looking at television, radio, possibly more messaging. But what we are trying to do, sir, is we are trying to look at the data, have a data-driven approach to what's working with reducing these crashes and the fatalities. As you've seen recently, what we are trying to do is message the public more. What we know is we know that DUI, drugs and alcohol, are causing the majority of the fatal crashes, followed by speed and distractions. So what we are trying to do is trying to utilize these funds. We are going to need a consultant. I

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have got a team working at Department of Safety to try and kind of up our game and message the public better. Get the public as a partner in this to try and help us reduce crashes, reduce fatalities and make the highway safer. So that's -- that's kind of the global road map to where we want to go with this. But the details, I don't have the details yet because we haven't determined them. But it's more radio, sir, television, messaging, looking at a consultant.

REP. MCGUIRE: Follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: Do you have any evidence that such things do reduce DWI?

COLONEL QUINN: Well, you know, sir, that's a good question. We had a Highway Safety meeting yesterday. What we do know is 2011 had the lowest traffic fatalities ever in the state. We are one of the lowest states and I'm not taking any credit for this because, quite frankly, we don't know what works. Is it a combination of enforcement, education, messaging? But I think, clearly, what we need to do is we need to get the public to work better with us. I don't think anybody wants to leave their homes and travel to or from work or let their children go off and get in a crash. But these certain things that are causing the accidents, and we do have somebody at Department of Safety who -- who's an expert in the data studying it closely, working with Peter Thomson's crew at Highway Safety, to try and quantify what works and get the answers and then look at a data-driven approach.

For example, these funds we have, sir, once we accept them, if all the crashes are being caused at mile marker 8 on the Spaulding Turnpike at this particular time, and for following too close, we need to be there targeting following too close at that time. Where are the fatalities happening? We are looking. We have a plan. We have a road

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map for the entire year data driven. Cinco de Mayo, the week before Christmas, eve before Thanksgiving. So I think you'll see what we are trying to do is trying to move into new territory with an evidence-based approach. And with this, we want to spend the dollars where we're going to get the most reduction in crashes and fatalities.

REP. MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: But my understanding is this is a brand new program and so on. And you just said that we are the safest or among the safest. So, in some sense, maybe this is just gilding the lily or --

COLONEL QUINN: Well, what I will say is this, sir. Historically, what we have done is I think the day of the Colonel of State Police getting on the television saying, please, don't drink and drive during this holiday weekend, I don't think the amount of college students are reading the paper today. How we message, how we outreach in today's society is changing, social media. And I think we need to look at to make sure we're doing everything possible. And so I think together working with some experts in this field we'll get there. But I don't have all the answers, but I'm excited to look and to find out where we need to go with this.

REP. MCGUIRE: Okay.

CHAIRMAN WEYLER: Nothing further. I'll entertain a motion to adopt Item 12-035.

REP. MCGUIRE: Mr. Chairman, may I make a motion to adopt item -- the second part of this, because they are two separate things. Or maybe just divide the question. I don't know how this would be done. I would prefer to, if I could, to vote against number one and for number two.

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CHAIRMAN WEYLER: All right. I'll ask for divided question. I'll ask for a motion to adopt number one, item number one --

\*\* SEN. BRAGDON: So moved.

CHAIRMAN WEYLER: -- 12-035. Moved by Senator Bragdon, second by Senator Odell. Further discussion? Seeing none, all in favor say aye? Opposed no?

REP. MCGUIRE: No.

CHAIRMAN WEYLER: Motion is adopted.

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

CHAIRMAN WEYLER: Moving on to item two in 12-035. I'll entertain a motion to adopt.

\*\* SEN. BRAGDON: So move.

SEN. MORSE: Second.

CHAIRMAN WEYLER: Okay. Motion by Senator Bragdon, seconded by Senator Morse. Any further discussions? Seeing none; you ready for the question? All in favor say aye? Opposed no? The item adopted.

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

COLONEL QUINN: Thank you, sir.

CHAIRMAN WEYLER: Thank you, gentlemen. Colonel, we are delighted you have such a program going.

COLONEL QUINN: Thank you.

CHAIRMAN WEYLER: Okay. We have finished the Item (5).

(17) **Chapter 224:219, Laws of 2011, Judicial Appointments;**

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**Number Limited; Vacancies.**

CHAIRMAN WEYLER: Members of the Committee, without objection, I have a request from the Chief Justice to take up Item (17) out of order. Is there any objection? Seeing none; we'll move on to Item 17, which is Office of the Courts and welcome the Chief Justice and Mr. Goodnow, the head of Administration.

HON. LINDA DALIANIS, Chief Justice, New Hampshire Supreme Court: Good morning --

CHAIRMAN WEYLER: Good morning.

JUDGE DALIANIS: -- Mr. Chairman, Members of the Committee. I'm Linda Dalianis, Chief Justice of the Supreme Court. And as you had noted, with me is Don Goodnow, the Director of our Administrative Office. We are here today to ask the Committee to approve the conversion of two -- about to be or already vacant marital master positions to Circuit Court judges. The first position we're asking about is one which is currently being filled by Master Alice Love who retired last year but who came back half time to help us and whose official term would not have been up until 2014.

The second is to replace Marital Master Leonard Green who will be retiring, I believe effective June 30th or July 1st. July 1. The reason we're asking for these conversions now, in spite of the fact that there will be some delay relative to Master Green, is that you have previously approved the conversion of the position vacated by Marital Master Deborah Rein and the Governor had put out a call for interested applicants for the circuit court. We have great need, as I'm sure you're aware, and the Governor has agreed to use the current pool of applicants to fill whatever positions you choose to convert. We hope it's all three because if we have to wait and go into another call for applicants it just completely strings out the process.

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Now, to be perfectly clear about this, Master Love came back to work for us with a contract that expired at the end of 2011. The subject of marital masters is politically sensitive and in an effort to avoid any controversy, I asked the Speaker -- Representative Weyler was supposed to be at that same meeting but he had time constraints that didn't allow him to stay -- if there would be any legislative objection, at least from the Speaker, to our retaining the services of Master Love at-will, month to month, until the slot is filled. The Speaker told me that he had no objection to that. He thought it was a pragmatic and sensible short-term solution to a difficult problem. And just so you'll know why we're asking, is she is assigned to the Nashua Family Division and she represents 45% of our judicial officer resource in that location. She and her replacement will hear roughly 855 cases during 2012 out of roughly 1900 filed.

During this month, and I have taken the liberty of having her continue to sit on the Speaker's assurance, she's scheduled to hear 43 cases involving 74 children in her eight days of sessions because she only sits two weeks out of every month. And if we had to cancel all of those sessions for want of a judicial officer to handle them, those hearings would be pushed out beyond July and I'm not sure just how far beyond July. So the need is extreme. I have more precise statistics if any of you is interested. And the -- the overall Fiscal request is really rather modest. It's about \$114,000 but just to be clear about that, we need an additional 60,000 and change to cover the FY13 portion of the previously converted master's position. We had the money in FY12, but we don't have it in FY13 and Don is here if have any more technical questions you'd like to ask.

CHAIRMAN WEYLER: Going into 2013, the recent figures we saw was the change to the employee health plan reflected two and a half million in your Branch. Has that money been spent already or can some of that be reserved for the request you're going to make in 2013?

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JUDGE DALIANIS: It has not been spent. We do not intend to spend it. We are hoping to use it as a credit, if you will, against the supplemental appropriation we are going to come back and ask about in April.

CHAIRMAN WEYLER: So that money could be used for this additional money --

JUDGE DALIANIS: Yeah.

CHAIRMAN WEYLER: -- going forward?

JUDGE DALIANIS: Depending upon how you keep the books, it certainly could.

CHAIRMAN WEYLER: Well, how Don keeps the books and what he's done with that new money, if you will. Is there any further questions?

REP. MCGUIRE: Yes.

CHAIRMAN WEYLER: Representative McGuire.

REP. MCGUIRE: Thank you. And thank you, Chief Justice, and Mr. Goodnow. Are you satisfied with the size and quality of the applicant pool that you could find three judges there rather than just one?

REP. DAVIS: We are absolutely ignorant of the size and/or quality of the applicant pool because that's in the Governor's realm. He has not shared any information with me. The only thing, I believe to be true, is that he intends to try to fill the Supreme Court vacancy first, then the Superior Court vacancy, and then as many as three Circuit Court vacancies. I have asked him to consider applicants with strong family law background. And he has said he will do that. I have every reason to believe that the applicant field will probably be wide and deep enough to accomplish that. And if it isn't, the Governor simply won't make a nomination.

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REP. MCGUIRE: Thank you. And follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: One other question. Do people who come with these divorce cases to marital masters pay some kind of fee to pay for those court costs or not?

JUDGE DALIANIS: Only the ordinary filing fee to start a case. They don't pay anything on account of seeing a master versus a judge or vice-versa. No.

REP. MCGUIRE: I see. All right. Thank you.

CHAIRMAN WEYLER: Senator Morse for a question.

SEN. MORSE: Chief Justice, when you said you're coming in April for a supplemental appropriation that is all planned. That was the appropriation that was in the budget that you basically have to come back once a plan that was put in place successful this year.

JUDGE DALIANIS: Yes, Senator.

SEN. MORSE: Okay. Just so everyone in the audience knows.

JUDGE DALIANIS: It's not more money.

SEN. MORSE: It's a supplemental appropriation. Okay.

CHAIRMAN WEYLER: Entertain a motion to adopt Item 015.

\*\* SEN. BRAGDON: So moved.

CHAIRMAN WEYLER: Senator Bragdon moves.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds to adopt

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Item 12-015. Further discussion? Seeing none. All in favor say aye? Opposed no? Motion is adopted. Thank you.

\*\*\* {MOTION ADOPTED}

JUDGE DALIANIS: And thank you, Mr. Chair, for your consideration in allowing me to go out of order.

CHAIRMAN WEYLER: And I hope the other Directors and Commissioners are not upset.

JUDGE DALIANIS: Sorry, folks.

**(6) RSA 7:12 Assistants:**

CHAIRMAN WEYLER: Okay. We'll now go back to tab number (6). And the first -- the only item is 12-042.

\*\* SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: Senator Bragdon moves approval on litigation expenses.

REP. MCGUIRE: Could I ask a question about this?

CHAIRMAN WEYLER: All right. Let me get a second.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Then be open for discussion.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds. There's a question. Is anyone here from the Department of Justice? Deputy Attorney General Rice, good morning.

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

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REP. MCGUIRE: Thank you. I notice that the largest item here is \$100,000 for the JUA case. I had thought that that case was over with. Is this -- is there something ongoing there or is this sort of left over bills?

MS. RICE: I believe you're referring to what we have already expended on JUA, the hundred thousand -- hundred and one thousand --

REP. MCGUIRE: Yes.

MS. RICE: -- seven ninety. So that is bills that we have paid during this year. It is -- the case is ongoing.

REP. MCGUIRE: Oh. Can you tell us more then about what's going on with the case?

MS. RICE: Well, there are a number of cases that have been filed related to JUA. One of them there's a class action -- well, it's not -- excuse me. It's a suit that's been filed to get the money and then there was an interpleader action at the request of the Legislature -- at the order of the Legislature last session. The status of the money that has been interpleaded into the court is a matter of litigation now. So that's ongoing as to how that money is going to be distributed.

CHAIRMAN WEYLER: Further question?

REP. MCGUIRE: I guess I don't understand what interpleader means. Sorry.

MS. RICE: Last year, the Legislature passed a bill that required that there be a hundred -- 110 million, I believe is the figure, that would be given to the court and then distributed to members of the Joint -- people who have paid into the JUA.

REP. MCGUIRE: Hm-hum.

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MS. RICE: That money is still sitting in the court and there is litigation ongoing in terms of how that is going to be distributed.

REP. MCGUIRE: Okay. Thank you.

CHAIRMAN WEYLER: Further discussion? Seeing none; we have a motion and a second to adopt Item 12-042. Any further discussion? You ready for the question? All in favor say aye? Opposed no? It is adopted. Thank you, ladies.

MS. RICE: Thank you.

\*\*\* {MOTION ADOPTED}

(7) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$50,000 from Any Non-State Source and RSA 124:15 Positions Restricted:

CHAIRMAN WEYLER: Moving on to Tab (7). First item 12-021.

\*\* REP. MCGUIRE: Move approval.

CHAIRMAN WEYLER: Department of Safety. Representative McGuire moves to approve.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Senator Bragdon seconds. Further discussion? Seeing none; all in favor say aye? Opposed no? The motion is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to number 043.

\*\* SEN. BRAGDON: Move approval.

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CHAIRMAN WEYLER: Senator Bragdon moves to approve.

REP. REAGAN: Second.

CHAIRMAN WEYLER: And Representative Reagan seconds. Further discussion? Seeing none, all in favor say aye? Opposed no?

REP. MCGUIRE: No.

CHAIRMAN WEYLER: One no. The motion is adopted.

\*\*\* {MOTION ADOPTED}

**(8) RSA 12-G:42, XI Pease Development Authority, Adoption Of Rules:**

CHAIRMAN WEYLER: Moving on to Tab (8).

\*\* SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: Item number 005, Senator Bragdon moves to approve.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds. Further discussion?

REP. MCGUIRE: Can we ask a question?

CHAIRMAN WEYLER: Question from Representative McGuire. Do we have someone from Pease?

GRANT NICHOLS, Deputy Chief Harbormaster, Division of Ports and Harbors, Pease Development Authority: Good morning. My name is Grant Nichols. I'm the Deputy Chief Harbormaster for the Division of Ports and Harbors.

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CHAIRMAN WEYLER: Representative McGuire is recognized for a question.

REP. MCGUIRE: Thank you. So what's going on here is you're adding \$50 to the application fee for these mooring permits?

MR. NICHOLS: For initial applications, sir. Quite a bit more expense for a initial application as opposed to a re-application, existing mooring, salary and fuel costs and such.

REP. MCGUIRE: Thank you. All right. Thank you.

CHAIRMAN WEYLER: Okay. Do you have a motion on this one?

REP. MCGUIRE: Yes.

REP. RODESCHIN: Yes. Bragdon and Foose.

CHAIRMAN WEYLER: We have a motion and second to adopt. Any further discussion or questions? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The motion is adopted. Thank you, sir.

MR. NICHOLS: Thank you.

\*\*\* {MOTION ADOPTED}

(9) RSA 21-I:8, II(a) Division of Accounting Services:

CHAIRMAN WEYLER: Tab (9).

\*\* SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: 12-051, Senator Bragdon moves approval.

REP. REAGAN: Second.

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CHAIRMAN WEYLER: Seconded by Representative Reagan. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The motion is adopted.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN WEYLER: Moving on to Tab (10), 12-028.

\*\* SEN. BRAGDON: Move approval.

REP. MCGUIRE: Well, we have special language.

CHAIRMAN WEYLER: Senator Bragdon moves approval, Representative McGuire seconds, and Representative McGuire was assigned as a subcommittee to give us a report on the development on this item. Representative McGuire is recognized.

REP. MCGUIRE: Yes, thank you. Yes, I met with the Department of Administrative Services and we went through in detail about half of these and I'm really very pleased with Commissioner Hodgdon's performance and methodology in making these decisions. But I understand we might have a question here because of one particular car that -- which is number LB3 because what's in our packet is 87 waivers and what we were suggested -- what we heard in our pre-Fiscal meeting is they might want 88 waivers.

CHAIRMAN WEYLER: Okay.

REP. MCGUIRE: We might want to ask a question about that particular.

CHAIRMAN WEYLER: Someone from -- I see the Commissioner is here.

REP. MCGUIRE: The Department of Cultural Resources.

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CHAIRMAN WEYLER: Thank you, Commissioner.

LINDA HODGDON, Commissioner, Department of Administrative Services: Thank you.

CHAIRMAN WEYLER: You've really taken this program and ran with it. We'll have to rewrite the law on this to enable that.

SEN. BRAGDON: Give her a car.

CHAIRMAN WEYLER: Representative McGuire is recognized for a question.

REP. MCGUIRE: So is there a question here on this particular car LB3?

MS. HODGDON: There actually is. And Kathy Stanick from Cultural Resources will speak to some additional information that came available to us a little bit later after the process.

KATHLEEN STANICK, Business Administrator II, Department of Cultural Resources: The vehicle that is in question only travelled about 4700 miles last year. Internally, we surplus an excess vehicle reducing our fleet and transferred that vehicle between divisions and already this year it has travelled more than that mileage. So we do expect it -- and it's an older vehicle, also. We had requested in budget process the last two bienniums to replace this vehicle. And as part of the -- we have given it up each year in budget cuts.

REP. MCGUIRE: All right. Thank you.

MS. STANICK: Okay.

REP. MCGUIRE: With Senator Bragdon's approval, maybe we can modify the motion to include 88 waivers rather than 87.

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SEN. BRAGDON: I would be happy to do that or amend it, whichever, I'll be happy to --

CHAIRMAN WEYLER: All right. We amend it as requested to approve 88 waivers. And we'll vote on the motion as amended. Everyone clear on the situation? All right. Any further discussion on Item 028? Seeing none, all in favor say aye? Opposed no? Thank you very much.

\*\*\* {MOTION ADOPTED}

MS. HODGDON: Thank you.

MS. STANICK: Thank you.

CHAIRMAN WEYLER: I have a question before you go. Since I was skimming in the light truck and it says information item. What I didn't see in there, maybe I missed it, was the mileage that we have chosen on light trucks. Is it different than what we have on the cars?

MS. HODGDON: I'm just going to ask Tara Merrifield to join me. She's our vehicle specialist.

CHAIRMAN WEYLER: All right. I just thought while you're up I'd get that answer.

TARA MERRIFIELD, Department of Administrative Services: The way the legislation is written the BM is calculated on the passenger autos and applied to the light duty trucks.

CHAIRMAN WEYLER: Same mileage, right, two hundred and something.

MS. MERRIFIELD: Yeah.

CHAIRMAN WEYLER: Thank you very much.

SEN. BRAGDON: Have follow-up to that?

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CHAIRMAN WEYLER: While you're here, Senator Bragdon.

SEN. BRAGDON: As I recall, this only applies to the ones that are owned by the State and not the vehicles that are leased. Is there some issue, a distinction between these vehicles versus vehicles that we actually own in terms of what has to be reported?

MS. MERRIFIELD: They report the same information, but the way the legislation is written it says State-owned. So the leased vehicles are technically exempt. At this point, all of the leases have expired and are being replaced with owned.

SEN. BRAGDON: Okay.

MS. MERRIFIELD: For future reference though we will be looking at leased options to see if it's more efficient.

SEN. BRAGDON: So if somebody had a bill on the fleet stuff in the Senate Finance Committee, perhaps they could change that to expand us to leased vehicles as well as other vehicles for reporting and accountability.

MS. HODGDON: Yes.

MS. MERRIFIELD: Yes.

SEN. BRAGDON: Thank you.

CHAIRMAN WEYLER: Thank you very much.

REP. MCGUIRE: Mr. Chairman, just to clarify our last vote. The number was 89, not 88. So this -- 88 was the original and 89 --

CHAIRMAN WEYLER: 88, so we've added one more. Thank you for the clarification. So 89 and that vehicle is exempted now, which it would have been anyway, it achieved the miles. All right.

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**(11) RSA 216-A:3-g, Fees for Park System:**

CHAIRMAN WEYLER: Moving on Tab (11), Item 12-029. Is there a motion?

\*\* SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: Senator Bragdon moves to approve.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Representative Reagan seconds. Any further discussion? Seeing none; you ready for the question? All in favor say aye? All opposed no? The item is adopted.

\*\*\* {MOTION ADOPTED}

**(12) Chapter 223:4, Laws of 2011, Lottery Commission, Authority Granted:**

CHAIRMAN WEYLER: Moving on to Tab (12).

\*\* SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: Lottery Commission, Item 12-052. Senator Bragdon moves approval.

SEN. LARSEN: Second.

CHAIRMAN WEYLER: Senator Larsen seconds. Further discussion?

REP. MCGUIRE: Question.

CHAIRMAN WEYLER: Question.

REP. MCGUIRE: We were wondering whether all the legal contracts and so on among the various states is in place here?

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CHAIRMAN WEYLER: All right. Good question. We'll ask Director McIntyre to come forward and Mr. Roy as well.

CHARLES MCINTYRE, Executive Director, Lottery Commission: Good morning, Mr. Chairman, Members of the Committee.

CHAIRMAN WEYLER: Good morning, gentlemen.

MR. MCINTYRE: They are not, sir. The agreement is still being hammered out amongst the 15 or 16 attorneys involved in the agreement itself. This game will operate just as any other game does with the attendant lottery integrity and rules which also were only hammered out as of Wednesday night. One of the difficulties is is to bring this to you folks at a time when it's actually going to be a cake versus when it's eggs and butter and flour. So I want to bring it well in advance of when we had hoped to begin the game. But prior to it dissolving and then having brought to something that was not done or would have likely been done. Now this is the first time, as I understand it, that a game like this has ever been brought to the Fiscal Committee for approval. So that's why it is where it is, sir.

REP. MCGUIRE: May I follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: My understanding is that our RSAs allow us to have tri-state games but not this particular collection of states. And so I'm wondering if we even have the authority without an RSA change to accept this?

MR. MCINTYRE: My understanding, sir, the RSA which involves tri-state was the first in history of the U.S. 1985 was the first multi-state game in the U.S. and the precursor for many others. There was a further RSA change to allow us to join the MUSL collaborative. And as I've been informed in 2005-2006 the RSA which is our general

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authorization was changed which is 284:21-h, authorization with regard to sale of tickets. The Lottery Commission is hereby authorized, and then there's subparagraphs, to participate in any international, national or multi-state pure lotteries. I know there was some issue with the international part. And I can tell you that as a lottery person we haven't figured out the currency problem because of the currency rates that fluctuate wildly. And so international one we'll have to wait. But certainly, this is the law which we rely on and sought counsel's approval from Attorney General's Office before going forward on this, sir.

REP. MCGUIRE: Okay. Thank you.

CHAIRMAN WEYLER: Is that letter of approval available?

MR. MCINTYRE: It was an e-mail, Mr. Chairman. Before he's even begin the conversations, it's an e-mail saying is this okay and e-mailing back saying yes. The AG has been involved in the discussions on all the various parts of this. And certainly to the extent we would -- you folks would want one, we'd be happy to have one proffered for, sir.

CHAIRMAN WEYLER: We thought by appointing you as Director we'd save money on legal counsel.

MR. MCINTYRE: Been trying to not practice law. That's why I'm selling tickets, sir.

CHAIRMAN WEYLER: Very good. Further questions? We did have a motion. Was there a second?

REP. RODESCHIN: Yes, Senator Larsen.

CHAIRMAN WEYLER: Motion and second to adopt Item 052. Further discussion? Seeing none; all in favor say aye? Opposed no? The motion is adopted. Thank you, gentlemen.

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MR. MCINTYRE: Thank you very much.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN WEYLER: Moving on to Tab (13), Item 017. Is there a motion to accept?

\*\* SEN. BRAGDON: So move.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Motion by Representative -- excuse me. Motion by Senator Bragdon, a second by Representative McGuire to approve item 017. Is there further discussion? Seeing none; all those in favor say aye? Opposed no? The motion is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Next item under that tab is 12-030.

\*\* SEN. BRAGDON: So move.

CHAIRMAN WEYLER: Is there a motion? Senator Bragdon moves.

SEN. LARSEN: Second.

CHAIRMAN WEYLER: Senator Larsen seconds to approve Item 12-030.

REP. MCGUIRE: May I ask a question?

CHAIRMAN WEYLER: Question from Representative McGuire. Is there someone here from Health and Human Services, Division of Community-Based Care. I see, again, Director

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Toumpas or Commissioner Toumpas. Excuse me.

MR. TOUMPAS: Good morning.

CHAIRMAN WEYLER: Representative McGuire.

REP. MCGUIRE: Thank you. And thank you, Commissioner. I just found this one very confusing so can you explain sort of how much is being spent on this area, what it does, and why we need extra?

MR. TOUMPAS: This is an appropriation of \$100,000, I believe, that is done each year to be able to go into this, to be able to use for this purpose which provides security to help low-income people be able to provide a security deposit. In the past there used to be grants on this, but now it is essentially like a revolving fund where we administer it through -- for state-wide administer it through the Belknap-Merrimack Community Action Program. Fundamentally, they will -- will work with -- somebody will apply, they will -- it's a preventative program essentially for homeless. And the Agency, CAP Agency, will provide guarantee to the landlord and then the client will pay back the amount of security deposit because ostensibly they don't have that. They will pay that back to the Agency. The Agency that's administering it, the CAP Agency.

REP. MCGUIRE: Okay. Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: Thank you. So inside here it says 73% have resulted in successful tenancy. Does that mean that when you -- 73% of the money has been paid back or is it -- do you have a sense of -- you said it's a revolving fund. How much is coming in versus going out?

MR. TOUMPAS: I don't have those numbers there, but --

REP. MCGUIRE: I see.

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MR. TOUMPAS: -- for a number of different reasons people will sign up in the program and then if they lose their job, if they lose the ability to be able to pay that back, then, yes, that -- so this is saying basically that 27% over this period from 1994 to 2011. What I don't have is a trend line to be able to show what has been done over the -- over the past couple years or over the past year.

REP. MCGUIRE: And one more follow-up.

CHAIRMAN WEYLER: One more question.

REP. MCGUIRE: So since this is an ongoing program, shouldn't this \$100,000 been in the regular budget because, obviously, you knew about it?

MR. TOUMPAS: I believe it is. But this is to accept and expend it. We needed to move it from the State Treasurer.

CHAIRMAN WEYLER: That would mean it was not in the budget?

MR. TOUMPAS: I'm going to ask Shanthi.

SHANTHI VENKATESAN, Department of Health and Human Services: Funding was in the budget. This is for additional request. Original contract with the Belknap County CAP was for \$442,000. Because of the increase in the number of requests for the program for the security deposit loan guaranty program, we are increasing \$100,000 to the contract. So this is the additional hundred thousand dollars that we are adding to the budget.

REP. MCGUIRE: One follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: Do you have a sense of how much of this

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hundred thousand will get paid back since this is a revolving fund?

MS. VENKATESAN: Unfortunately, I don't have the number. I did talk to the Program Administrator who is away out -- she's out of state so unable to be here. And she said that the program has been successful at a 73% rate.

REP. MCGUIRE: Okay. All right.

CHAIRMAN WEYLER: Would you identify yourself for the record.

MS. VANKATESAN: Yes. I'm Shanthi Venkatesan. I work for the Office of Commissioner, Department of Health and Human Services.

CHAIRMAN WEYLER: Thank you.

MR. TOUMPAS: If I may? I would like to be able to follow-up with a follow-up letter to the Chair.

REP. MCGUIRE: That be nice. Thank you.

MR. TOUMPAS: If I might. 'Cause the 73% is really from 1994 to 2000 -- 2011. I think it might be instructive to be able to take a look at that and see the trend line and see if that's trending downward, if that's trending upwards, and so forth. Because that's an aggregate number of 73%. So we can provide some additional information to be able to address the questions that you've raised here, Mr. Chair, and then be able to provide that as an information item back to the -- back to the Committee.

CHAIRMAN WEYLER: Thank you very much, Commissioner. Further discussion? Seeing none; you ready for the question? All in favor of adopting say aye? Opposed no? Item 030 is adopted.

\*\*\* {MOTION ADOPTED}

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

CHAIRMAN WEYLER: Moving on to Tab (14). Several items. The first one is 12-037.

\*\* SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: Moved approval by Senator Bragdon.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Second by Representative Foose. Any further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The motion is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Next item is 038.

\*\* SEN. BRAGDON: Move approval.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Senator Bragdon moves approval. Representative Reagan seconds. Further discussion? Seeing none; are ready for the question? All in favor say aye? Opposed no? The motion is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to Item 039.

\*\* SEN. BRAGDON: Move approval

CHAIRMAN WEYLER: Senator Bragdon moves approval.

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REP. REAGAN: Second.

CHAIRMAN WEYLER: Representative Reagan seconds. Are you ready for the question? All in favor say aye? Opposed no? The item 039 is adopted.

\*\*\* {MOTION ADOPTED}

(15) Chapter 224:203, Laws of 2011, Department Budgets; Transfer of Federal Funds:

CHAIRMAN WEYLER: Moving on to Tab (15) and item number 018, Department of Environmental Services. Is there a motion?

\*\* SEN. LARSEN: Move approval.

CHAIRMAN WEYLER: Senator Larsen moves approval.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Seconded by Representative McGuire. Is there further discussion? Seeing none; all in favor say aye? Opposed no? The motion is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to item number 022.

\*\* REP. MCGUIRE: Move approval.

CHAIRMAN WEYLER: Department of Safety. Representative McGuire moves to approve.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Second by Representative Reagan. Is there any further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The motion is adopted.

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\*\*\* {MOTION ADOPTED}

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

CHAIRMAN WEYLER: Moving on to Tab (16). First item is number 12-040.

\*\* SEN. BRAGDON: Move approval.

CHAIRMAN WEYLER: Senator Bragdon moves to approve.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Representative Reagan seconds. Is there any further discussion? Seeing none; all in favor say aye? Opposed no? The motion is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to Tab (17). We have taken care of Item (17) previously. We have a late item for Tab (18). It may or may not be on your list. It's number 12-053 from the Attorney General, Department of Justice. And is there someone here to explain? I see Attorney Brown and Commissioner Toumpas. Good morning, gentlemen.

MICHAEL BROWN, ESQ., Senior Assistant Attorney General, Department of Justice: Good morning, Mr. Chair. My name is Michael Brown. I'm a Senior Assistant Attorney General and along with me, of course, is Commissioner Toumpas. First, indulge me just for a minute to fall on my sword a little bit.

My original intent in submitting this was for informational purposes only. Sadly, through my own mislabeling, we ended up with a late item. So to the extent that that creates any inconvenience for the Committee, please accept my apologies.

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The reason for this item is a pretty simple one. As you know, Health and Human Services are in the process of managed care procurement. It's worth hundreds of millions of dollars in the Medicaid area. It is our opinion that we are seeking outside counsel, out-of-state counsel, who have the experience, knowledge, and understanding of what is a very complex system of laws involving Medicaid and managed care and so on. And, also, we are concerned, obviously, with the potential for conflict of interest with any of the in-state firms that we might be dealing with given the nature of their work. Anyone who has the kind of skill sets and legal knowledge that are out there are likely to have a conflict of interest with us. And so we are simply asking for authorization to reach out into other markets to try to find the best and the brightest to assist Health and Human Services with their rather important endeavor. Nick.

MR. TOUMPAS: Good morning. I made this request to the AG's Office about a week ago. As we were -- as I indicated, we are going through the procurement process and one of the -- one of the key components is to -- for us -- for the Department to have developed a contract that we would be using as a baseline to negotiate with the managed care organizations. We have developed that over a number of weeks and have a draft of that. And given the -- given the stakes that are involved for the State, given what it is that we have seen in other states, we wanted to make sure that we had effectively a fresh set, as well as a knowledgeable set of eyes, to be able to take a look at the contract. We have seen in other -- other states that have implemented this that if it's not a real right contract that, you know, you can have somebody that would go in and exploit it. We say we believe -- we don't believe you have met the requirement and if the contract language is not absolutely tight then we would -- we would not be able to enforce that. So consequently, it is a -- it is something that we -- we are not asking for the money here. We have -- we have dollars that we would -- the Legislature has appropriated some dollars for us for the managed care program. We would use those dollars. If we need additional

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dollars, then we will -- we will transfer dollars elsewhere within our budget in order to be able to cover this. I don't have an estimate in terms of what this would require.

CHAIRMAN WEYLER: Commissioner, I didn't learn how many bidders you had at the bidders' conference.

MR. TOUMPAS: Excuse me?

CHAIRMAN WEYLER: How many bidders on the managed care program? I never learned how many were interested.

MR. TOUMPAS: I'm not at -- I would not answer the question in terms of the number of bidders. As I indicated in the -- a number of letters of intent that we received, we received fifteen letters of intent from managed care organizations that attended both bidders' conferences that we had. We had one for technical and we had one for financial for the cost side of things. And then subsequent to that we received a number of proposals and that's the number that I -- I would not -- I would not do at this point given where we are in the procurement process.

CHAIRMAN WEYLER: Thank you. How would you determine what law firm was able to do this best?

MR. TOUMPAS: Excuse me?

CHAIRMAN WEYLER: How would you determine in hiring counsel, an RFP, would go to other states that have done this?

MR. TOUMPAS: We will reach out to a network of other states, colleagues. As the Committee is aware, we will sometimes come with requests for -- where we do dues to other national organizations, Medicaid organizations and so forth. So we will tap into those particular networks and ask colleagues from across the country. Again, as Michael has indicated, you know, we did not want to do anything that was related here because of the potential conflict of

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interest.

CHAIRMAN WEYLER: So basically you would be selecting it rather than the attorney. You would be selecting the --

MR. TOUMPAS: That is something we will work out. Obviously, I will look very closely to the AG's Office for their advice on this.

MR. BROWN: The Attorney General's Office would supervise this individual and work with Health and Human Services in order to perform the functions that need to be performed.

CHAIRMAN WEYLER: Thank you. Questions?

REP. RODESCHIN: How long have you been working on this managed care issue? Because I can remember several meetings in Division III and also in the Chairman's Office.

MR. TOUMPAS: Well, the -- the enabling legislation, Senate Bill 147, was signed into law by the Governor back in June. And the first -- there was a series of milestones beginning with business models and then the request for proposals and so forth and all that was laid out in the legislation. And so we've effectively been working this in earnest since July.

REP. RODESCHIN: Just last --

CHAIRMAN WEYLER: Follow-up.

REP. RODESCHIN: Just last July?

MR. TOUMPAS: Yes.

REP. RODESCHIN: Well, I hope you get results out of this.

CHAIRMAN WEYLER: We are all hoping. Further questions?

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Senator Bragdon.

SEN. BRAGDON: Just a comment. Mr. Chair, as always with late items I ask two questions. One, why is it late? And, two, why is it so pressing that we can't do it next time. I think both questions have been very adequately addressed.

CHAIRMAN WEYLER: Thank you. Thank you for making those points. We should always remember those.

SEN. BRAGDON: I wouldn't want anyone to forget.

CHAIRMAN WEYLER: Senator Larsen.

SEN. LARSEN: In this motion are you precluding the in-state law firms from replying to the RFP?

MR. BROWN: We are not planning to do an RFP, but we are going to reach out. And, no, we are not precluding anyone. I think the issue is going to be a conflict of interest.

CHAIRMAN WEYLER: Anything further from the Committee? Seeing none; do we have a motion on this?

REP. RODESCHIN: Not yet.

\*\* SEN. BRAGDON: So move.

CHAIRMAN WEYLER: All right. Senator Bragdon moves.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds Item 12-053. Are ready for the question? All those in favor say aye? Opposed no? The motion is adopted, late item number 12-053.

\*\*\* {MOTION ADOPTED}

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CHAIRMAN WEYLER: Okay. The rest are informational items. Excuse me.

REP. FOOSE: Mr. Chairman.

CHAIRMAN WEYLER: Representative Foose.

REP. FOOSE: Thank you, Mr. Chairman. One question on one informational item. It's 12-046 from Nina Gardner. If I read what she's sent to us, they have pretty well spent down all of the money that has been appropriated and I think what she is saying, if I understand this correctly, they are sitting on 350 invoices awaiting payment for \$190,000 for which payment cannot be made. And I wonder if next -- next meeting we might get an updated report. My history has been that she's a regular presenter here, usually keeping her budget sufficient enough to pay appropriate bills.

CHAIRMAN WEYLER: I'm surprised it was an informational item rather than a request.

REP. FOOSE: Yeah.

CHAIRMAN WEYLER: So we would probably anticipate that it be a request on our next agenda.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: Mr. Chairman.

CHAIRMAN WEYLER: We eliminated the program so these are old bills.

MR. PATTISON: There is no statutory authority for her to come to the Fiscal Committee to make a request for additional dollars. The request would be to possibly have the bill amended or amendment posted on a bill to clear up the remaining balances. So what she's done here is an attempt to advise members of the Fiscal Committee what the status of those two accounts are. But she does not have the

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option of coming to the Fiscal Committee to clear up those balances.

CHAIRMAN WEYLER: Because she lacks the statutory authority. Is everyone clear with Item 014 with the McAuliffe-Shepard Discovery Center? I sent the report around to all of you. It's a reorganization request. And because of that it needs to be reorganized under statutes. Today in the Executive Departments -- House Executive Departments and Administration Committee in Rooms 306 and 308 I will be presenting an Amendment to a Bill, House Bill 1274, which abolishes the Department of Cultural Affairs is the title of the Bill. I'm amending it to put the enabling legislation for reorganization of the McAuliffe-Shepard Discovery Center. So any of you that would like to support that I would appreciate it if you go and sign for House Bill 1274, as amended.

SEN. BRAGDON: Mr. Chair, does your Amendment for curiosity here replace the entire bill or add on to the entire bill?

CHAIRMAN WEYLER: It adds on to the entire bill at this time. And I believe that this hearing has been rescheduled because so many people showed up in favor of keeping the Department of Cultural Affairs. So there is a possibility that the Bill might be rewritten to just the McAuliffe-Shepard Discovery Center.

SEN. BRAGDON: Thank you for the clarification.

CHAIRMAN WEYLER: That is a possibility that we might entertain. But at this point that was the quickest place I could put this -- this legislation at the request of Ms. Gerulskis who I think is here. Yes, she is. So all of you that are available after lunch will go and sign in and present this Amendment and leave it up to the Committee's discretion. If it comes over to the Senate, then it may emerge in some other form.

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SEN. BRAGDON: Based on earlier comments, Mr. Chair, may depend on what form the Committee takes and who signs up on it.

CHAIRMAN WEYLER: Very good. So anything further before we move to the many busy work of the Audit Committee? Anything further, Mr. Pattison.

MR. PATTISON: The only thing I would request is your authority for me to release the CAFR that you had previously given an extension for Commissioner Hodgdon, an extension for so when it becomes available I can release it to the public.

CHAIRMAN WEYLER: I will entertain a motion.

REP. REAGAN: So moved.

CHAIRMAN WEYLER: Since we have a given a new deadline of February 29th for the CAFR, I'll entertain a motion to have the CAFR released as soon as it is available prior to that date.

SEN. BRAGDON: So moved.

REP. REAGAN: I move to authorize.

CHAIRMAN WEYLER: That was moved by Representative Reagan, second by Senator Bragdon. Is there any further discussion? Seeing none; all those in favor say aye? Opposed no? That is approved.

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

CHAIRMAN WEYLER: All right. Before we move on to -- in case some people are leaving as we do the audits, any request for any specific date for the next meeting? Since it's going to fall, depending how many weeks out we go, it could fall on in five weeks, the day many people will be leaving for the mid-term break. If you wanted to go four

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weeks out, we would end up on the 17th of February, a Friday.

SEN. LARSEN: Hm.

REP. FOOSE: Great.

CHAIRMAN WEYLER: Good for everyone? The next meeting will be the 17th, 10 o'clock, 17th of February for Fiscal.

Audits:

CHAIRMAN WEYLER: All right. We are ready to move on to the fine work of the Audit Division. Thank you all for coming. A lot of audits were produced. And I believe we may take them a little bit out of order due to the fact that some are internal and some are external. So I would with the indulgence of the Committee, I would like to take up the Unique College Investment Plan and the Fidelity Advisor Plan first, which is three of them. I'll recognize Mr. Mahoney, Chief of Audit.

RICHARD MAHONEY, Director, Audit Division, Office of Legislative Budget Assistant: Thank you, Mr. Chairman. Good morning. Good morning, Committee Members. For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant. I'm joined this morning by Timothy O'Brien who's a manager with PricewaterhouseCoopers. Pricewaterhouse is under contract with our office to conduct the audit of the College Tuition Savings Plan reports. And joining him this morning, obviously, is the State Treasurer, Catherine Provencher. And with your permission, Mr. Chairman, State Treasurer would like to make a few comments about the College Tuition Savings Plans before Timothy gives a brief summary of our audit results.

CHAIRMAN WEYLER: We welcome her comments.

CATHERINE PROVENCHER, State Treasurer, Department of

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Treasury: Good morning, Mr. Chairman, and Members of the Committee. For the record, my name is Catherine Provencher. I'm your State Treasurer. The State Treasurer is the sole Trustee of the College Savings Plan. I just have some brief introductory background comments to make before turning it over to Mr. O'Brien.

The New Hampshire College Savings Plan is the third largest in the country. There's \$9.8 billion in assets under management at December 31st. The two top states, the account holders live in California and Texas. There are over 626,000 accounts that make up this \$9.8 billion in assets. The plan is managed by Fidelity. It has been since inception. And we have a contract, we just extended the contract with Governor and Council approval through 2018. The New Hampshire plan is actually Fidelity's national plan. So if you go to the Fidelity Website and want to open a College Savings Plan, the New Hampshire Plan is what comes up. So it's been a successful plan for New Hampshire and a good way for individuals to save for college.

You're also well aware that there's an endowment, if you will, associated with the College Savings Plan. The State and Fidelity share an administrative fee of ten bases points. That generates about \$10 million a year for the State. Up until this current biennium, those assets were set aside to pay for scholarships for needy New Hampshire students attending New Hampshire institutions. Those dollars for this biennium currently go to the University System and the Community College System. And there was a \$3 million holdback, if will, of that endowment plan for this biennium. So that endowment account has about \$3 million in it currently.

With that, I will turn the audit presentation over to Mr. O'Brien unless there are questions relative --

CHAIRMAN WEYLER: Question, Senator Larsen.

SEN. LARSEN: Of that \$3 million in the account, is

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that not an earmark fund for a specific purpose where previous scholarship was for?

MS. PROVENCHER: That \$3 million, Senator, it's -- there's an Advisory Commission that oversees and monitors Fidelity's administration of this plan and also oversees this endowment. Excuse me. The plan for that \$3 million is to keep it as a corpus, if you will, and continue to provide scholarships with the earnings, where earnings are available for, again, needy New Hampshire students attending New Hampshire institutions. For this biennium, the University System and the Community College System students are excluded from receiving scholarships out of that plan. So the plan, Senator, is that the \$3 million will stay intact and that the Advisory Commission will use the earnings on that \$3 million to provide scholarships.

SEN. LARSEN: For private.

MS. PROVENCHER: To private institutions, to students attending private institutions in the state.

TIMOTHY O'BRIEN, Manager, Pricewaterhouse-Cooper: Good morning, everyone. I'm just going to quickly review the audits we performed over both of the College Savings Plans. In planning and executing our audit approach, we are focused on a number of key areas as we go through the audit process. One of those areas is the valuation of the investments that are held in each portfolios of the plan. We are also paying particular attention to the management fees that are charged to each portfolio which are then subsequently paid to both Fidelity and the Trustee.

Another area that we are looking at focused on is the processing of the daily net asset value for each portfolio so ensuring that the values are correct so that when a participant's transactions are executed they are being done at the correct value. And one of the last areas we are focused on is management override of controls and this would entail manual journal entries that are made to the

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books and records of the portfolios, as well as any subsequent financial statement adjustments that we see to fully review those and ensure that they are reasonable.

Moving on to the results of the audit, we issued unqualified opinions on both the Advisor and Unique Plans in December and during that process we did receive very good cooperation from both Fidelity and the State. And just looking forward to the upcoming year, one area that we are paying particular attention to are the new set of portfolios that were launched in October which include underlying investment options in funds managed by advisors other than Fidelity. So that's going to be an area we are going to be paying particular attention to in this upcoming year's audit and that was all that I had on the audit process.

CHAIRMAN WEYLER: Very good. Any follow-up, Madam Treasurer?

MS. PROVENCHER: Well, just one follow-up, I guess, if I may. Last year the partner for Pricewaterhouse-Coopers noted that New Hampshire had really a best in class plan and process because of the governance surrounding the administration of monitoring of the plan. So I thought I'd put a plug in for New Hampshire while I'm sitting here.

CHAIRMAN WEYLER: Always happy to hear that. Questions or discussion from the Committee?

REP. MCGUIRE: Just one.

CHAIRMAN WEYLER: Representative McGuire.

REP. MCGUIRE: Thank you, Mr. Chair. I thought I heard you say the phrase manual adjustments to the books.

MR. O'BRIEN: Yes.

REP. MCGUIRE: Surely, this is so large that everything

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is by computers. I mean, there's nothing --

MR. O'BRIEN: There are certain adjustments that we do notice for whether it be to true-up certain items that are coming based on estimates that may be made at a particular time. But we review those to make sure that we fully recalculate them and the adjustments do make sense. And there also are adjustments that are made to the financial statements. One in particular is the reclassification of distributions that come into the plan. They are all initially recorded as dividend income but certain characters make them capital gain distributions and they are reclassified as realized gains in the financial statements. So we do review those in full to make sure those reclassifications are done appropriately.

REP. MCGUIRE: Thank you.

CHAIRMAN WEYLER: Further from the Committee? I'll recognize Representative Rodeschin for a motion.

\*\* REP. RODESCHIN: Which one is it?

CHAIRMAN WEYLER: Accept, place on file, and release it in the usual manner.

REP. RODESCHIN: Accept the report and place it on file in the usual manner.

CHAIRMAN WEYLER: Release it in the usual manner.

REP. RODESCHIN: Oh, release it.

CHAIRMAN WEYLER: All in favor say aye? Opposed no? The motion is adopted. Thank you very much.

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

CHAIRMAN WEYLER: In these times we are lucky anything is producing any revenue. All right. Back to Mr. Mahoney

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for the rest of the scheduled audits.

MR. MAHONEY: Thank you, Mr. Chairman. The next audit on the agenda is the Department of Transportation Turnpike System. Joining me this morning to present the report to the Committee will be Jean Mitchell. Jean is a Senior Audit Manager with our office who was responsible for conducting the audit at DOT on a daily basis. We are also joined by Patrick McKenna, Director of Finance from Department of Transportation, as well as Len Russell, Administrator of Financial Reporting for the Turnpike System and the Department.

CHAIRMAN WEYLER: Welcome.

JEAN MITCHELL, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Representative Weyler, Members of the Committee. My name is Jean Mitchell. I'm a Senior Audit Manager with the LBA Office. We're here today to present to you the Comprehensive Annual Financial Report for the Department of Transportation Turnpike System for the year ending June 30, 2011. The report, including the financial statements, is the responsibility of the Turnpike System management. The Auditor's responsibility is to express an opinion on the financial statements based on our audit. Our opinion can be found on Pages 14 and 15 of the report. And in paragraph four we issued an unqualified opinion. This is basically a clean opinion and the best that you can receive.

The financial statements can be found on Pages 22 through 24. The Auditor's opinion covers the financial statements and related notes. The other sections of the report receive limited review by us and are the responsibility of management.

In accordance with Government Auditing Standards, we have also issued a report on our consideration of the Turnpike System's internal control over financial reporting, compliance, and other matters. This report will

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be included in the management letter that will be presented to the Committee in the next few months.

Other required disclosures include the following: We are satisfied with the qualitative aspects of management accounting practices, including accounting policies and estimates, and financial statements disclosures. There were no difficulties encountered in dealing with management and there were no disagreements about matters significant to the financial statements and no material uncertainties were noted.

I'd like to now call your attention to two letters that are found in the back of the report. The first letter is a letter of corrected and uncorrected misstatements. This is a two-sided letter. This letter is required under Generally Accepted Auditing Standards. There were a few significant adjustments made by management as a result of our audit work. These are noted on Page 1. Should be noted they were offsetting in nature and it had no effect on the bottom line to the financial statements.

On Page 2 of the letter are two corrections of errors that the Turnpike management chose not to make. The net effect is a decrease of approximately \$300,000 to the change in assets for the period. The final letter is a debt compliance letter. This letter is issued to you for the Trustees to demonstrate the State's compliance with accounts and covenants of the Turnpike System's general bond resolution. For Fiscal Year 2011, the State complied with all of the covenant requirements. There were two non-compliance issues related to the account and these are listed in the middle of the letter.

This concludes my presentation. I'd like to thank the Turnpike System management and staff for all their help and cooperation during the audit. And I'd like to turn the presentation over to Patrick and Len who will speak to the report.

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CHAIRMAN WEYLER: Thank you. Mr. McKenna.

PATRICK MCKENNA, Director of Finance, Department of Transportation: Thank you, Mr. Chairman, Members of the Committee. My name is Patrick McKenna, Director of Finance for the Department of Transportation. I'd like to thank the Legislative Budget Assistant Audit Division, Mr. Mahoney and staff, for their introduction and their testimony which has provided some important context regarding the financial statement adjustments and for their diligent review resulting in the unqualified opinion.

With me today are some members of the Department. Mr. Michael Pillsbury. He's Deputy Commissioner. Dave Smith is the Assistant Turnpike Administrator. Also here beside me is Mr. Len Russell. He's the Financial Reporting Administrator. Ms. Mary Ellen Emmerling, she's a Financial Analyst with the Department; and Ms. Margaret Blacker, she's the Turnpike Business Administrator. These last three individuals that I mentioned are most responsible for the hard work and effort associated with not only building these financial statements and the relevant disclosures, but also for the overview, review, and transactional activity during the year which makes the financial summary possible. I can't say enough about each of their dedication and work ethic throughout the year. I'm pleased to be associated with such fine public servants.

We are pleased to submit the Comprehensive Annual Financial Report of the New Hampshire Department of Transportation Turnpike System for the Fiscal Year ended June 30, 2011. I will provide a brief highlight of some recent developments with the Turnpike System and then turn over to Len Russell for a brief summary of the contents of the document.

Toll revenue for the Turnpike System in Fiscal Year 2011 was just over \$119 million total revenue. Specifically was \$118 million. Toll transactions continue to rebound slowly and increased just under one-half of 1% over the

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preceding year.

The Turnpike System opened on June 17th, 2010, the Hampton Open Road Toll. In Fiscal Year 2011 was its first full year of operations. That continues to be well-received by the public as a more efficient means of passing through the toll plaza in Hampton. And we have seen not only from that but as a result overall of the E-ZPass utilization program, it continues to grow, rising to a total of 64% of the total toll transactions this year which is 4% increase over 2010.

Aggressive scheduling and progression of high priority construction projects on the Turnpike System continues with the widening of Spalding Turnpike in Rochester, and the construction of the new Little Baby Bridge and Spalding Turnpike improvements in Newington and Dover. The ten-year construction contracts with a total of approximately \$188 million were under construction during the Fiscal Year. The State's Treasurer, Miss Provencher, her office secured over \$150 million in new turnpike revenue bonds and refunded \$67.2 million in old turnpike bonds in November of 2009 at extremely favorable rates. A hundred fifty million, essentially we had just under 4% in all and true interest for the \$150 million in American Recovery and Reinvestment Act Build America Bonds.

As of June 30th, a total of 127 million had been expended on Turnpike Capital Projects with 13.4 million of bond proceeds available for projects. All remaining bond proceeds for construction have been fully expended. Also working with the State Treasurer, we have completed a refunding of 2002 series debt recently. That will save the system \$5.4 million in interest. We are actively reviewing additional potential re-fundings to take advantage of current market conditions. And in the aggregate, the State has authorized a total of \$766 million in bonds and to date \$545 million have been issued. There are plans in the coming year in the fall of 2010 to go to market with approximately \$120 million of bonds to fund additional work

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in the system itself. With that, I'll turn over to Mr. Russell.

LEONARD RUSSELL, Financial Analyst, Department of Transportation: Good morning. For the record, I'm Len Russell, DOT Finance Administrator. What I'd like to do is just kind of walk you through briefly and hit some of the highlights of the Annual Report. And with that, I'd like to start you folks on Page 16. On Pages 16 through 20 is what they call the MD&A or the Management's Discussion and Analysis. And what this will do is provide you with the highlights of the financial statements that are contained within the report itself; specifically, the balance sheet and income statement which you'll find on Pages 22, 23. But sticking with Page 16, just to go over a couple of the financial highlights, broken out with the operating revenues and expenses, you'll see that the operating revenues toll, transponders, miscellaneous revenue remains stable for the year. Basically flat FY11 over FY10. It's approximately 118.7 million for the current year versus 118.4 in the prior year. Expenditures decreased over the prior year period. And if you turn to Page 44, you'll see a three-year comparative of both revenue and operating expenses. That will give you more detail as to what surmised and compromised some of these changes over the prior year. This is something we have been adding over the past couple years to help give you some more information and knowledge relative to the changes that occur in the financials.

Again, on Page 16 and 17, you'll see that there's Romans I, II and III. Romans I and II are summaries of the balance sheet. You can tie these out line by line. Current assets, for example, at 149 million, you'll see the detail within the financials on Page 22.

On Page 17, there's a Roman III, that's the income statement summary. And again, as a comparative of 2011 over 2010, and again, you'll see further detail breakout on Page 44 and 45.

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If I could move you to Pages 22 and 23. This represents the audited balance sheet income statement. And again, you'll see some of the details here that were behind the summaries in the prior pages. Specifically, beginning with cash and cash equivalents. Usually those are treated as, I believe, 90 day or less, as far as being cash designated. And just below it are the restricted amounts that are required by covenant. And I can show you a schedule later on in the report here as we get to it. So between the two, you've got 82 million and 61; and again, if you go to Page 29, you'll see the detail on the restricted piece. And this restricted piece of \$61 million, it's required by bond covenant, is in addition, and I'll get to it in a second here, of general reserve account balance which is available for projects and other expenses. So between the two you have over a hundred and twenty some odd million dollars.

On Page 23 of the income statement, you'll see that the first two largest items on the revenue side are, obviously, toll revenue related. Cash would be the first line item at 44.8. E-ZPass, which everyone's now becoming accustomed to represents 71.7. Between the two, E-ZPass represents 62% and the balance 38% on cash. And each year as we get more familiar and comfortable with E-ZPass those percentages increase accordingly. And again, you'll see in a comparative at the back of the report how that compares to prior years.

Operating income for the year, which is in the middle at 41 million versus 54.5 of the prior year. So that's down a bit. But again, if you look at some of the details you'll see that the expenditures for this FY11 are actually down in the prior year by mix and match and combination thereof. Overall revenues, operating revenues, are down by about \$8 million. \$13 million, I'm sorry.

On Page 24 is the third and final audited financial statement. That represents the cash flows. And in the middle you'll see where the cash -- cash equivalents fund

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balance at July 1 read 186 versus the end of the year at 143. That represents a \$43 million drop in cash. And again, it's cash recognition of the entire year's financial operations. But a lot of the cash drop is applicable to one, flat revenues. Another thing is the increase in construction project costs. In other words, they're out there doing major construction out on the Seacoast area.

On Pages 26 through 37 are the notes to the financials. And these notes to the financials represent the major ins and outs, I guess. The financial statements we are trying to disclose to you folks, the reader, as to what are some of the major items that make up the dollars within those financials. And on Page 27 -- I'll just make mention of a few of these. You can read them later, I guess. All the other ones are kind of normal pass-through stuff. But on Page 27 down towards the bottom, item 1(m) is the -- is reclassification of a bridge for \$17 million and there was some discussion on that earlier within the letter, if you read through some of the adjustments, and we make mention in the footnote that that did occur and we reclassified a bridge.

On Page 29, again, are the restricted amounts required by covenant that makeup cash of Turnpike System at 61.3 million. And again, those are restricted amounts versus a unrestricted amount of general reserve account balance of 61.9 million.

On Page 31, Patrick alluded to some of the ins and outs on the authorized bond. I guess I can tell you the difference between what was legislatively approved and what was spent. We now have \$221 million remaining to be authorized and issued.

On Page 32 on the top of are the assigned bond ratings of the various financial institutions, Fitch, Moody's and Standards, and we tell you that they're all positive and they are still on good record. And we're back and forth with Treasury all the time on this type of stuff.

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On Page 33 on the bottom is the I-95 bridge which everyone is, I think, familiar with by now. Was legislatively approved about two years ago in the last budget process. The grid will show you all the way to the right for FY12 and '13 we have budgeted \$26 million in payments for that bridge. Once this biennium ends and those payments are made, there's \$31.4 million remaining in debt service on that bridge.

Patrick mentioned on the top of Page 34 the revenue bond refunding. There's a footnote relative to specifics on that. I've mentioned Pages 43 and 44, a three-year comparative. On Page 45 is a five-year schedule on capital assets and that would be the largest portion on the balance sheet. That's your land and buildings and infrastructure and the various years' totals are outlined on that schedule.

One important schedule that we include for the Annual Report which is also included for disclosure when we go out for bond issues on the official statements is on Page 46. This always gets interest. It's always been well-regarded as far as the printing of the numbers to this. And in this case on the very top line on 2011, if you look right dead center in the middle you'll see a 2.28 ratio. That's -- that's a number that's calculated through a process that we do. And the ideal number is anything greater than 1.2 and we for the year have 2.28. And that would be revenue to debt service coverage. If look all the way over to the right another ratio that's included in this formula is 1.74. And anything that's over 1.0 is good. So at 1.74 we are still in positive territory on that. And just to the right on Page 47 we just kind of graph out those numbers for you.

On Page 48, there's a summary schedule of the annual toll transactions and the annual toll revenues. This is presented on an annual basis, but we do have the detail behind it by day, if that's so desired, which we take a lot of effort to maintain the details on those types of

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numbers.

That pretty much concludes my remarks. I, too, would also like to add my thanks to LBA Audit and certainly Jean and her staff. I've known them for a few years, but an audit is an audit. I can almost say it was almost pleasant. But certainly the personalities, I very much enjoyed them. So thank you.

CHAIRMAN WEYLER: Very good. Questions from the Committee?

REP. MCGUIRE: Yes.

CHAIRMAN WEYLER: Representative McGuire.

REP. MCGUIRE: Thank you. Thank you, gentlemen. Nice to see you again.

MR. RUSSELL: Thank you.

REP. MCGUIRE: I wanted to ask about I guess on Page 46, which is you're saying we are well-covered with revenue for our debts. Does that mean that potentially we could lower our total rates and give a little tax relief to drivers?

MR. MCKENNA: This is really the debt coverage ratios are and covenant requirements are essentially established in the -- as covenant requirements in the bond documents. The fact that we're beyond the minimums, those numbers that Len had mentioned, those minimum items would be of concern if we were getting near those because that would be tripping up on bond covenants. So we'd end up with downgrades in the ratings themselves if we were to allow those to get -- to get too low. That said, I mean, these are healthy and they provide for us and, in fact, the amount of interest that we end up paying because of those ratings saves the taxpayers considerable money on the interest. And we are, as I mentioned, we are taking

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advantage of refunding of this -- of existing debt service that was put in place in times of higher interest. We received \$5.4 million on approximately \$42 million refunding earlier this year. We are looking at the 2003 series bonds right now and we're seeing estimates of potentially over \$7 million to refund those. So that activity and that work that essentially provides more funding to be able to continue the capital programs that are in place and have those done.

REP. MCGUIRE: All right. Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: I wasn't thinking about a large decrease but a 10% or maybe 20%. Looks to me like you made quite a bit of money, you know, overall this year.

MR. MCKENNA: Well, the cash position of the Turnpike System, again, is used primarily for the capital program and for the operating expenses of the system. In fact, to ensure in the future if we are to expand that program also, I don't know that we would recommend a reduction in the rates at this time.

REP. MCGUIRE: All right. May I follow-up? One other question. I wanted to ask about this letter about the material -- the misstatements and I guess I don't quite understand what happened and why and, you know, what caused these misstatements and why won't they happen in the future?

MR. MCKENNA: Well, thank you for the question, Representative. The -- there are several adjustments that were made. These are -- these are -- I would characterize most of these as formatting in the financial statements themselves, not to minimize the items individually. Some of them are judgments related to how this information will be presented. Each of these items is -- is -- literally it's either essentially grossing up or netting down. And

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it's a judgment that the auditors look at in terms of the presentation.

We certainly made several of these recommended changes. For instance, the first one, the 3.1 million as reported miscellaneous income and interest related to the Build America Bonds. We essentially received subsidy based on those bonds. That was reported and presented as essentially a net interest expense. That's essentially the format and method starting in 2010 that was used and passed through the financial statements in that format. This is, I think, in the Auditor's opinion a better way of presenting that information. And we concurred with that and made the change.

As related to the statements of cash flows, the \$7 million reported cash inflows and outflows from the investment activities related to the Turnpike sale and purchase of investments, that's essentially Trustee activity that occurs under contract with the State Treasurer's Office. It's merely a matter of reflecting some of those changes. As you may note, there's essentially at beginning of the year and end of the year, there's actually zero investments on the balance sheet. So this is just movement of those funds on the balance sheet itself. It's a reflection of investments purchased and investments sold reflected initially as \$132 million, picking up some of these Trustee transactions reflected both the increase and decrease netting to zero of \$139 million dollars.

The entry on the statement of cash flows to reduce by 17.2 million the cash inflows and outflows from capital and related financing activities, that's in reference to the reclassification of the -- of Turnpike asset bridge over Exit 13 in Concord. That was a result of work that the Turnpike's and staff at DOT had done a further analysis. We went back ten years and looked at the classification of assets. Was actually a 2001 transaction misclassification. So the -- the actions taken in 2011 to correct that categorization between Highway and Turnpike essentially

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resulted in some accounting treatments that didn't quite fit in a couple areas. We certainly -- we certainly recognized that that was not a cash transaction and should not have been reflected on the cash flow statement.

The additional items that were in that that, in fact, we did not make changes on, it was further investigation to look at infrastructure assets; and essentially, we're looking at since inception the Turnpike System has had a policy where they've retained -- retained the historic cost of all infrastructure assets by going forward. The -- the LBA had requested that we go back and take a further look to see if any of those infrastructure assets should, in fact, be removed from service. In the case where, say, a bridge replacement project replaces an old bridge. We certainly agree with the accounting treatment. That's a policy that should be in place. The -- the -- the research that we did in the Department showed that to be immaterial to the financial statements and the items are almost fully depreciated in all cases. We do, and we plan on, and we are under way with further refinement of that process in looking at a fixed asset system to help us track and retain that. And we -- we will actually be making these adjustments in 2012. At the time it was late December, and we felt that we might well risk the timing of the CAFR itself and its release so we chose not to make these final adjustments.

REP. MCGUIRE: All right. Thank you.

CHAIRMAN WEYLER: Further discussion? Seeing none; I'll recognize Representative Rodeschin for a motion.

\*\* REP. RODESCHIN: I move to accept the report, place it on file, and release in the usual manner.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Is there a second? Second by Representative McGuire. Further discussion? Seeing none;

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are you ready for the question? All in favor say aye?  
Report is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Which one would you like to do next?

MR. MAHONEY: The Lottery Commission, Mr. Chairman. Joining me to present this report is William Mitchell. William is a Audit Supervisor responsible for our financial audit teams at the LBA Office. The manager who was responsible for the day to day work or most of the day to day work there left our office in the past couple of months for other employment. Joining us also is Executive Director Charles McIntyre and George Roy from the Lottery Commission.

CHAIRMAN WEYLER: I scratched all these in the front and never found a winner. All right. Welcome, gentlemen.

WILLIAM MITCHELL, Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman and Members of the Committee. Again, for the record, my name is William Mitchell; and I'm joined at the table with the Executive Director, Charles McIntyre, and George Roy, Administrator of the Lottery system. And we are here to present the Fiscal Year 2011 Comprehensive Annual Financial Report of the Lottery Commission.

The report, including the financial statements, is the responsibility of the Lottery Commission management. The Auditor's responsibility is to express an opinion on the financial statements contained in the report. As noted, in the Auditor's report beginning on Page 13, we have issued an unqualified opinion commonly referred to as a clean opinion on those financial statements. The financial statements and related notes can be found on Pages 26 through 39 of the report. I should note the information in the introductory section, statistical section of the report, was not subjected to audit procedures and we

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expressed no opinion on that information. Limited procedures were applied to the information in the Management's Discussion and Analysis. However, again, we did not audit that information and we expressed no opinion on it.

In accordance with Government Auditing Standards there are a number of disclosures that we need to make, which includes notifying the Committee that we were satisfied with the qualitative aspects of management's accounting practices, including accounting policies and estimates and financial statement disclosures. There were no difficulties encountered in dealing with management. We received the full cooperation of the Lottery management staffing and for that we are thankful.

There were no material misstatements brought to the attention of the management as a result of our audit. There were no disagreements about matters significant to the financial statements and no material uncertainties were noted. And as far as we are aware, there were no consultations made by management with other independent accountants.

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

At this point, with your permission, I would turn the presentation over to the Lottery's Executive Director who will speak about further information in the report.

CHAIRMAN WEYLER: Thank you. Director.

CHARLES MCINTYRE, Executive Director, Lottery Commission: Good afternoon, again, Mr. Chairman, Members of the Committee. I am Charlie McIntyre, joined by the

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Lottery's Chief Financial Officer, George Roy, and I'd like to personally recognize Chief Financial Officer Roy and Chief Accountant Kassie Strong who produced this document for you. I can only suggest to you another Lottery similar to the size of us bid out this exact function and it cost \$60,000 for a firm to do it privately, and it's done within our own shop by our own staff. This will be the 14th year that we submit this CAFR for review --

CHAIRMAN WEYLER: Where does the time go?

MR. MCINTYRE: -- for acceptance with the general financial offices -- Government Financial Offices Association for their certification. That is a prestigious event, a prestigious honor.

Certainly, for us, 2011 Fiscal Year was a transition year. We transitioned to a new gaming system which is a very difficult process. It is the equivalent of changing 1200 computers at once at the very same time. It was a very difficult adoption. It has been working. We have noticed a rebound in sales, the winter of last year into this year, and then for this year going forward we expect to return more, hopefully much more, net revenues than we have prior year and that is the first time we can make that assertion in five years. So we expect that 2011 should be the watermark upon which we grow revenues going forward. And certainly, as a functional matter, I'd like to thank the folks from the Audit Division of the LBA. I spent many months with them during the year and I enjoyed their company, oddly enough. Takes a lawyer to befriend an auditor, I suppose. But certainly I thank them.

I view the Audit Division as sort of the dentist. They do the cleaning so we don't have to do a root canal. In that -- with that, I would submit for your approval and answer any questions you folks may have.

CHAIRMAN WEYLER: Very picturesque.

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MR. MCINTYRE: Pardon?

CHAIRMAN WEYLER: Very picturesque. Thank you.

MR. MCINTYRE: Thank you.

CHAIRMAN WEYLER: George.

GEORGE ROY, Chief Financial Officer, Lottery Commission: No, I'm all set. He did such a good job.

CHAIRMAN WEYLER: He gave you all the kudos. So you just want to sit there and enjoy them.

MR. ROY: Exactly.

CHAIRMAN WEYLER: Anything further?.

MR. MITCHELL: All set, sir.

CHAIRMAN WEYLER: Questions from the Committee? We are looking forward to that rebound. Maybe if we have some huge Powerballs, we'll get a lot more ticket buying.

MR. MCINTYRE: We had a tremendous -- we reconfigured our Powerball game last Sunday and we have had a tremendous impact just in the last five days. We expect it to continue.

CHAIRMAN WEYLER: We hope the gambling bill will move forward so we won't lose too much in the lottery. All right. You're just in time, Representative Rodeschin, to make a motion.

\*\* REP. RODESCHIN: Got to make sure I read it correctly.

CHAIRMAN WEYLER: All right.

REP. RODESCHIN: Move to accept the report, place it on file, and release in the usual manner.

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REP. REAGAN: Second.

CHAIRMAN WEYLER: Second by Representative Reagan. Further discussion? Seeing none; you ready for the question? All in favor say aye? Opposed no? The report is adopted.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Thank you very much.

MR. MCINTYRE: Thank you, Mr. Chairman, Members of the Committee.

CHAIRMAN WEYLER: Okay. The remaining report is the Guardian Ad Litem Performance Audit.

MR. MAHONEY: Thank you, Mr. Chairman.

CHAIRMAN WEYLER: Thank you.

MR. MAHONEY: Joining me this afternoon is Jay Henry. Jay was the auditor in charge of the audit on a daily basis for the Guardian Ad Litem Board. We'll also be joined by Board member Susan Duncan, who is representing the Board at today's meeting.

CHAIRMAN WEYLER: Welcome to the Fiscal Committee.

SUSAN DUNCAN, Guardian Ad Litem Board: Thank you.

JAY HENRY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good afternoon. For the record, my name is Jay Henry, and I'm a Senior Audit Manager with the LBA Audit Division. I'm presenting our performance audit on the Guardian Ad Litem Board which covers State Fiscal Years 2010 and 2011. The purpose of our audit was to determine if the Board's fulfilling its responsibilities to oversee Board certified Guardian ad

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Lititems known as GALs and court-appointed special advocates known as CASAs. Page 1 contains our Executive Summary.

We identified weaknesses in the Board structure, administration, and operations which resulted in its inability to operate efficiently and effectively. A lack of consistent administrative support and knowledge of basic State requirements contributed to many of the Board's problems. We identified a number of problems with how the Board handled complaints against GALs and found the Board took over two years to reach decisions in some cases. It's important to note that not all GALs are accountable to the Board. The Board has some oversight of Board certified GALs and certain aspects of CASAs but it has no oversight responsibility over non-certified GALs that are appointed by the courts. Because there are no national standards or best practices for regulating GALs, we compared the Board with other New Hampshire regulatory agencies.

The Board consists of 19 unpaid members and a part-time secretary and was uniquely structured and insufficiently supported when compared to other similar boards that regulate professions, occupations, and trades. The statutory make-up of the Board is also not typical compared to other agencies. Appendices B and C contains the results of our surveys with judges, marital masters, and GALs. Judges and Masters generally reported the creation of the Board has improved GAL services; yet, the GALs themselves were less certain of the benefits of the Board.

As shown in our Recommendation Summary on Pages 3 and 4, the report contains 18 Observations. The Board fully concurs with 14, partially concurs with two, but does not concur with our first two recommendations. Five recommendations would require legislative action.

Starting on Page 5, we present some background information on the use of GALs and CASAs by the Courts and the role of the Judicial Council. In court, GALs may represent the interests of children, incapacitated adults

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and even property. Federal law requires appointment of a GAL in cases of abuse and neglect resulting in a hearing in order to be eligible for certain Federal funding. The Judicial Council is responsible for our contract with CASA of New Hampshire which provides volunteers to serve as GALs for abuse and neglect cases. CASA of New Hampshire trains and supervises the work of its volunteer CASAs; but neither the Court nor the Board has similar supervisory structure in place to oversee and evaluate Board certified and non-certified GALs. As of June 2011, there were 156 certified GALs and 386 active CASAs.

Tables 1 and 2 starting on Page 6 provides statistics on the appointment of certified GALs, CASAs and non-certified GALs during our two-year audit period. Table 3 on Page 8 shows it cost \$48,000 to run the Board for two years with consultants and a part-time secretary.

Starting on Page 11, in the first of our Observations dealing with the Board's administration and structure, we took into consideration many of the problems we found and offered a practical solution. Given its lack of adequate management controls, and limited administrative support, we recommend the Legislature consider placing the GAL Board within the Joint Board of Licensure and Certification which handles administrative duties for 12 other agencies that regulate professions, occupations, and trades.

In Observation No. 2 on Page 13, we recommend the Board consider increasing its revenue and thereby decreasing its need for general funds by hosting its own training instead of letting NHTI-Concord Community College keep all the revenue it generates from hosting Board trainings. According to NHTI, it collected over \$47,000 in tuition revenue during our two-year audit period and paid out \$6,600 to instructors. We also recommend the Legislature consider requiring the Board to become self-sufficient by making it collect 125% of its direct cost like 40 out of 41 similar regulatory agencies in the state.

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On Page 16 in be Observation No. 3, we compare the composition of the Board with similar agencies and recommend the Legislature consider a number of changes to Board membership and to follow common practices.

In Observation No. 4 on Page 19, we recommend the Board improve its oversight of CASAs and adopt rules to replace the Memorandum of Understanding between the Board and CASA of New Hampshire.

The Board concurs with the remaining eight Observations in this section dealing with its administration and structure, including the need to follow state procurement laws for personal service contracts, implement various office policies and procedures, ensure Board members file their statements of financial interest, comply with right-to-know requirements, and establish subcommittees in their rules.

Starting on Page 31, we present five recommendations for improving the Board operations which the Board also fully concurs with. The first two Observations deal with weaknesses the Board has in handling complaints made against GALs.

Observation 13 documents inconsistencies in how the Board has processed complaints. We reviewed all 37 complaints accepted by the Board since its creation and found the Board did not always follow laws, rules, Attorney General's advice, and past practice. We also recommend the Board should continue developing a database to improve its handling of complaints.

In Observation 14 on Page 33, we recommend the Board do a better job in processing allegations of misconduct and complaints. Of the 61 allegations submitted to the Board, 26 did not meet the 60-day time line to notify complainants whether their allegation was complete. Of the 22 completed allegations not accepted as complaints, seven exceeded the 120-day time line to decide to investigate or dismiss.

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Ambiguities in the rules may also have allowed for varying interpretations of these time lines for the complaint process. We found 20 written communications from the Board to complainants apologizing for the length of time the Board took in addressing their concerns.

In Observation No. 15 on Page 34, we recommend the Board re-evaluate whether it should charge a fee to file a complaint. It is the only agency out of 41 similar regulatory agencies that charges such a fee. It also has the authority to waive the fee but has not been consistent in doing so.

In the remaining three Observations starting on Page 35, we recommend the Board consider disciplining GALs for late court reports, ensure applications to process properly, and review and simplify the renewal and recertification process.

Lastly, we'd like to thank the Board for its cooperation during the audit and be happy to answer any questions you have at this time.

CHAIRMAN WEYLER: Good job. Questions from the Committee? Representative McGuire.

REP. MCGUIRE: Thank you. Thank you, gentlemen. I'm not clear as to the difference between a GAL and a CASA and when one is used in a case and when another is. Can explain in more detail?

MR. HENRY: A GAL is certified by the Board. CASA is not certified by the Board, but they are volunteers that are run by CASA of New Hampshire. And they're trained and CASA is like a national model. You'll see them in all the states and you may have seen commercials on television for them. They are trained really to handle just abuse and neglect cases because of the special nature of those cases. But there is -- in the statute there's a requirement that the Board also have some oversight of CASAs.

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REP. MCGUIRE: All right. Thank you.

CHAIRMAN WEYLER: Anything further?

SEN. BRAGDON: Yes, Mr. Chair.

CHAIRMAN WEYLER: Senator Bragdon.

SEN. BRAGDON: Two things. I know we usually allow the Board or Department to respond. I don't know if there's a response. I know Susan is sitting very patiently and pleasantly. I wouldn't want to miss the opportunity to let her respond if she wants to.

CHAIRMAN WEYLER: Thank you very much. Ms. Duncan.

MS. DUNCAN: That's very gracious. I think a little bit of history would be in order. When Senator Gordon was here, he did a study committee, one of the famous study committees, because as a practicing attorney he had had a very unpleasant experience with Guardian ad Litem. When he looked into it, he found that in some cases the Court had done one training and then other people were just being said, oh, you're a Guardian ad Litem now. There seemed to be incredible inconsistencies. There was no oversight. The people could not get the Courts to respond to complaints and that's sort of the genesis for how the study committee came about. It was determined that there did need to be oversight. The Board was established.

The Board is not perfect. We live in a very odd world. We were created by legislation. We are attempting to help regulate people who operate in the Judicial Branch; and yet, we live in the Executive Branch. So there are all sorts of endemic complications. I think, for the most part, the audit, while painful to look at your foibles and frailties, I think the audit has been helpful in us understanding some of the things that we did not do according to even the rules we established. And we do agree with the things.

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For instance, we knew the first time a Guardian ad Litem filed an application for re-certification that what we ended up with paper having gone through the rulemaking process was not at all what we envisioned. We did not need all that crap. Basically, we wanted to know has this Guardian ad Litem had complaints? Is the Court happy with his or her performance? Are there issues? Did they do their continuing education? Were they convicted of a crime? Okay. Then let's keep going.

The complicated process of that with this Board, and I'm not making excuses because every one of us on the Board does have a full-time job and we do have this rather miniscule budget and a part-time person, and I think we have had five different part-time persons and we have just lost a wonderful staff person who had to find full-time employment. So now we have no staff person. So I'm not making excuses. There are always things we could have done better. We have learned a lot. We will do better, we hope; but we are at a crossroads. And I think that there will be time for the Legislature to weigh in and say, okay, what are we doing? We are losing our chairperson. Jack Lightfoot has retired from Child and Family Services so his position is open. We will have no Chair. We have no staff member. And we have more scrutiny as to how we should and could do things better. It's difficult, and we do have a miniscule budget. We're a good bargain. But how much can we do and should we do? The Board doesn't want to be the late report police.

The difficulty with that is when we get a complaint that someone filed a late report -- to us when Representative Cady came in and filed her bill and you adopted it, and you empowered and said to the Judges and the Masters when the Guardian ad Litem comes in with a late report, fine him or her or warn them that if they do it again they're going to get fined. Not the Board come in five months later and try to go back and figure out what happened and what were the circumstances and did you call and say there was a death in the family and your report was

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going to be late. But that's a different interpretation. There's legislation pending. If you pass it, then we'll have to figure out how do we do that.

I think there's things that CASA does well that we could learn from. But we don't have -- they have paid supervisors who are working in the field in the courtroom immediately observing what the CASA Guardians ad Litem are doing. They have the ability with their agreements with their CASA volunteers that if anything goes wrong and they have a question as to their performance they are immediately yanked. No questions. We do not have that hands-on ability either see or do. There are things we can learn from CASA. We are renegotiating our Memorandum of Understanding. Obviously, we need to go back to the rule making process.

We obviously will be looking to you for guidance as to how we address these things. What is the future? Is there a future? Do want to say to the Courts -- can you say to the Courts you're appointing them, You supervise them and take care of them. I don't know. I'm not -- I don't have answers to those. That's in your ball -- that's in your ballfield.

CHAIRMAN WEYLER: Thank you very much. I see we have a recommendation for legislation. And I know you know people who could take care of it and probably help them write it.

MS. DUNCAN: And you have a number of bills already in the House you could amend.

CHAIRMAN WEYLER: Going to be doing that shortly.

MS. DUNCAN: Good.

CHAIRMAN WEYLER: On another item we took up today. Representative Bragdon -- Senator Bragdon.

SEN. BRAGDON: Thank you, Mr. Chair. Pretty quickly. I

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noticed -- this is to the LBA -- I noticed on your recommendation three there was a response regarding certifications. They ended the response on certification indicated there was some question as to whether the data that you relied on may be accurate but potentially mixing appointments of regular guardians with Guardian ad Litem. And I didn't see the joinder on that. I guess I'd like to know if there was some comment on that.

MR. MAHONEY: Senator, we did discuss that internally, and we don't feel there's any confusion on our part in terms of what those numbers are.

SEN. BRAGDON: Great. Thank you.

MS. DUNCAN: They did use the Court Odyssey system which we have to assume the Court knows whether they appointed a guardian or a Guardian ad Litem. We hope they did and they counted and we trust that they counted correctly.

SEN. BRAGDON: Okay.

MS. DUNCAN: But it seemed high to us based on what we had been told.

SEN. BRAGDON: Very good. Thank you.

CHAIRMAN WEYLER: Anything further from the Committee? Thank you very much. I recognize Representative Rodeschin for a motion.

\*\* REP. RODESCHIN: I move to accept the report, place it on file, and release in the usual manner.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Second by Representative Reagan. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? Report is

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adopted.

MS. DUNCAN: Thank you, Mr. Chair.

\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: Thank you very much. We look forward to seeing that legislation or Amendment. All right. Anything further to come before the Board or the Committee?

REP. RODESCHIN: Next meeting.

CHAIRMAN WEYLER: We discussed the next date which was -- we decided was the 17th.

MR. PATTISON: Yes.

CHAIRMAN WEYLER: At ten o'clock. And if there is nothing further, we are adjourned.


(Adjourned at 12:33 p.m.)

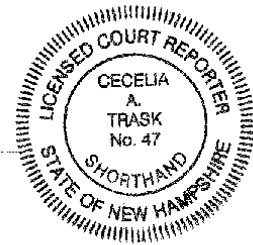
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## CERTIFICATION

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

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



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