

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, June 26, 2015

MEMBERS PRESENT:

Rep. Neal Kurk, Chairman
Rep. Ken Weyler
Rep. Lynne Ober
Rep. Mary Jane Wallner
Rep. Dan Eaton
Sen. Jeanie Forrester, Vice-Chair
Sen. President Chuck Morse
Sen. Jerry Little
Sen. Andy Sanborn
Sen. Dan Feltes (Alt.)

(Convened at 10:03 a.m.)

(1) Accept Minutes of the May 15, 2015 meeting

CHAIRMAN KURK: Good morning, everyone. I'd like to call the Fiscal Committee meeting of the 26th of June, 2015, to order. Would someone care to move acceptance of the minutes of the May 15th meeting?

****** SEN. SANBORN: So moved.

SEN. LITTLE: Second.

CHAIRMAN KURK: Senator Sanborn moves to accept the minutes of the May 15th meeting, seconded by Senator Little. Discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the minutes are accepted.

***** {MOTION ADOPTED}**

SEN. FELTES: Abstain.

CHAIRMAN KURK: Senator Feltes has abstained. At this time --

REP. WEYLER: And Representative Weyler.

CHAIRMAN KURK: And Representative Weyler has also abstained.

At this time, I'd like to make an announcement which I'll repeat at the end of the meeting. In order to facilitate agency action between now and the time we have a budget, that is to say, during the period of the Continuing Resolution, I'd like to announce in advance the dates the Fiscal Committee will be meeting; Wednesday, July 29th, Wednesday, August 26th, and Friday, September 25th. July 29th, August 26th, September 25th.

(2) Old Business:

CONSENT CALENDAR

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

CHAIRMAN KURK: There being no Old Business, we'll now proceed to New Business. And under the Consent Calendar I understand there are enough questions so that we'll consider each item separately. The first item is Fiscal 15- 095 from the State Treasury, a request to accept and expend \$700,000.

****** REP. WEYLER: I'll move the item.

REP. EATON: Second.

CHAIRMAN KURK: Representative Weyler moves the item, seconded by Representative Eaton.

SEN. SANBORN: I have questions, Mr. Chair.

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CHAIRMAN KURK: Senator Sanborn is recognized for a question. The Chair would first welcome the Treasurer, Mr. Dwyer. Good morning, sir.

WILLIAM DWYER, State Treasurer, Department of Treasury: Good morning. Thank you, Mr. Chair, and Members of the Committee. For the record, my name is Bill Dwyer, and I'm your State Treasurer.

SEN. SANBORN: Mr. Dwyer, thanks so much for coming in today. Great seeing you. As you know, the new program very important to me and I think it's a great program for our state. Although on Page 2 in the last sentence where it talked about the Trust would generate no more than \$200,000, earning no more than \$200,000 in Fiscal 2015. My understanding is I've heard from one of my contemporaries that that's just the interest portion and not the 75 basis points fee that we get. And I thought we only got a fee. I didn't realize we also participated in the revenues stream of income. Can you talk a little bit about how that sets itself up and is the 200,000 indicative of what we see year to year or is there an anomaly going on?

MR. DWYER: Thank you for the question, Senator Sanborn. The State has a contractual arrangement with Fidelity as the third-party program administrator for the college savings planning to share in the revenues, the investment management fee revenues that Fidelity charges to participants. So on a monthly basis the State receives roughly half of all the revenue and Fidelity keeps half.

Each month, pursuant to administrative rules, 80% of the revenue that comes in is paid out to New Hampshire colleges and universities that are participating in what's called the Unique Endowment Program. That's one of two scholarship programs that are funded through these revenues. And so with the endowment program, each of the universities receives in the aggregate 80% of their share of that 80% in the monthly revenue. And it's credited at each university to a restricted endowment and it's the purpose is to award scholarships to students pursuant to

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certain criteria. However, there's a certain amount of revenue, of course, left over if you only have to credit 80% to this endowment program. And so some of the revenue that's left over is used to pay the administrative expenses of the program, which include the annual audits. For example, of the two college savings plans. And so the remainder that accumulates on a monthly basis is placed into effectively an Endowment Trust Fund that the Treasury maintains and has custody of. That Trust Fund grows throughout the year as revenues continue to roll in throughout the Fiscal Year. And so when you're looking at that reference in the request letter to the \$200,000 of earnings, that \$200,000 of earnings is strictly the interest and dividends, et cetera, that are generated in that Endowment Trust Fund, which has approximately a \$3 million balance.

SEN. SANBORN: Thank you. Follow-up, if I may? Thank you very much. I appreciate the clarification. And the 200,000 would be received on roughly the 3 million a year and that's consistent rolling average and so we see about 200,000 a year coming from interest income on that portion of the fund?

MR. DWYER: Roughly from year to year. Again, it depends on the performance of the equity markets and that type of thing but approximately correct.

SEN. SANBORN: Thank you, sir. Thank you, Mr. Chair.

CHAIRMAN KURK: Further question? What happens and when is the Endowment Trust money, that \$3 million plus the 200,000 interest, when is that distributed? Annually?

MR. DWYER: I had -- thank you, Representative Kurk or Mr. Chair. I had -- I had spoken of the Endowment Scholarship Program as one of two that are funded through the revenues of this revenue-sharing arrangement with Fidelity. There's a separate scholarship program called the Unique Annual Award Program. And at the beginning of each Fiscal Year we distribute approximately a million dollars that's allocated, again, to all of the colleges. This program generates direct scholarship aid to students. So under the annual program the funds that the

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universities receive isn't going into a restricted endowment that they maintain and grow. It's going dollar for dollar to scholarships that immediately are credited to students' accounts that are eligible for these scholarships. So the -- there's initial allocation in July. And then by the end of the year, the universities in many cases have awarded additional scholarships in the annual program and the amount that they were originally allocated. So they come back and by a certain deadline they convey to us the amount of additional reimbursements they're requesting to cover these additional scholarships and those scholarships, in turn, are paid out of the Endowment Trust Fund balance.

CHAIRMAN KURK: So during the course of the year the full 3 million is paid out?

MR. DWYER: No. Actually, because again, a portion of the monthly revenue, approximately 20% of the revenue accumulates into this Endowment Trust Fund throughout the year before paying other administrative expenses. So the Endowment Trust Fund grows month by month, and then as we approach the end of the Fiscal Year a large lump sum distribution to the colleges is made to reimburse them for additional scholarships.

CHAIRMAN KURK: Let me try the question a different way.

MR. DWYER: Okay.

CHAIRMAN KURK: Is the average size of this fund increasing over time?

MR. DWYER: Since House Bill 2 in 2011 it hasn't grown. At that time you may recall the balance in this Trust Fund was about 16½ million. All but 3 million was liquidated and so since that time the fund has between the end of the year and the beginning of the year roughly held steady at 3 million. The reason it's not getting depleted lower than the 3 million is because of continuing revenues that come in from Fidelity. Am I getting close to answering your question?

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CHAIRMAN KURK: You're answering the question. I'm just concerned this money, which is supposed to go to scholarships, is staying in the Treasury rather than getting paid out as scholarships. Representative Weyler.

REP. WEYLER: Thank you, Mr. Chair. Thank you, Treasurer Dwyer. When we took the money away in 2011, we were told we were denying scholarships to students. Now I find, and it wasn't stated at the time, it's just going to endowment funds 80% of it. I don't think that's proper. Because we have no control once it goes to the endowment fund whether it goes out in scholarships or not. I don't think that's what the intent of this was. And do we need laws? Do we need a legal change to make sure that this money all does go to scholarships, rather than just fattening an endowment which we have no control over?

MR. DWYER: Thank you, Representative Weyler. The -- as I noted earlier, there are administrative rules that we are following at the time being and whether there is a need to create new statutes to amend those, that's a policy decision ultimately. But I should clarify and this will, hopefully, help address the Chairman's question as well.

In no instance is a request for scholarship money being denied. And so any -- any history that allows the Endowment Trust to remain at about 3 million or any activity that allows it to remain at that level isn't the result of withholding scholarships from the universities to immediately give that aid to their students. So it just happens to be that the run rate, if you will, of revenue coming in and annual award scholarships being paid out allows the fund to maintain what I would call an equilibrium.

In terms of the 80% that's going to the restricted endowments to the universities, that -- that also is used for scholarship funds but under different criteria. And generally those scholarships that are paid out of the endowment, the restricted endowments, are required to be at a minimum of a thousand dollars each. So they're larger than what we normally see in the Annual Awards Program.

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CHAIRMAN KURK: Follow-up.

REP. WEYLER: Follow-up. Is there any accountability given to you as the person disbursing these funds so you'd see where they're going and you see whether they're spending it all?

MR. DWYER: Yes, we do. We receive annually a report of activity from the universities from each of their restricted endowments, as well as information about the students who are receiving scholarships in both programs, both the Annual Awards Program and the Endowment Awards Program. So through the Department of Education, we receive all of that information to ensure that the funds are being distributed not only at the level that they ought to be, but also that the students receiving the aid qualify under the criteria that have been established.

REP. WEYLER: Thank you. I may ask to look at those at some point?

CHAIRMAN KURK: Thank you, Mr. Treasurer. I think you're the victim of the fact that this is a relatively light schedule, which encourages us to ask more questions than we might otherwise ask.

REP. OBER: Are you warning the rest of them, Neal, or is that the warning in the morning?

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Doing our business. Thank you, Mr. Chair. So, Mr. Treasurer, help me. If I remember correctly, but my numbers could be wrong so please correct me. Don't we gross about \$18 million a year out of the fund, which means we are pulling off 20%, about \$4 million going into the separate trust. You're pulling about 280,000, say \$300,000 a year through admin expenses. So we are spending about three and a half to 4 million

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dollars a year in the individual scholarship side. Are those numbers correct?

MR. DWYER: Thank you, Senator. Actually, the revenue that is generated through the revenue-sharing agreement with Fidelity in Fiscal 15 will only be about 12.7 million. And, actually, that represents the highest level of revenues that the plan has generated to date. So the 80% that's coming off to go towards those restricted endowments is 80% of about 12 and a half million give or take.

SEN. SANBORN: Thank you, sir.

CHAIRMAN KURK: Thank you, sir. The motion before us is to approve the item. Ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item's approved.

***** {MOTION ADOPTED}**

MR. DWYER: Thank you very much.

CHAIRMAN KURK: We now turn to Fiscal 15-106, a request from the Department of Health and Human Services to accept and expend \$540,302.

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

CHAIRMAN KURK: Representative Eaton moves.

REP. OBER: Second.

CHAIRMAN KURK: Seconded by Representative Ober. There are some questions. Is there somebody from the Department available? Good morning, Miss Rockburn. Good to see you.

SHERI ROCKBURN, Chief Financial Officer, Department of Health and Human Services: Good morning. It's been a few days. So, for the record, my name is Sheri Rockburn. I'm the Chief

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Financial Officer for the Department. Be happy to answer any questions that you have.

CHAIRMAN KURK: A general question. Would you compare the amount of money that's being returned through DSH Payments, et cetera, to both the critical access and the non-critical access hospitals, '14 versus '15? Because this deals with an increase in those numbers or the latter any way.

MS. ROCKBURN: I don't have the exact comparison of '14 to '15. But what I could share with you today is where this 500,000 had originated from. So the original budget was for 190 million of MET payments, 190.3 million of expected MET revenue to come in to then pay out for both critical, non-critical access hospitals. We came to Fiscal about a month ago in that the revenue that actually came in from the Department of Revenue was 15.9 million higher than expected. So we went to Fiscal a month ago to do an accept and expend to bring that 15.9 million into our accounts to then pay out in DSH.

After that Fiscal meeting there was an additional hospital that submitted MET revenue that came in late. So it was a little bit higher than we expected and that represents this 540,000. So we had an additional 540,000 that came in that we would now have to accept and expend in order to actually pay that out in a DSH payment. So this really ends up being a true up. If it had been paid and we had known about it back last month, this would have been part of the original accept and expend last month to pay out.

CHAIRMAN KURK: Thank you. But you can't refresh our memories as to what we paid out in '14 and '13 so we can see how large an increase the hospitals are receiving?

MS. ROCKBURN: I don't have that with me today, but I can easily get that for you.

CHAIRMAN KURK: Thank you. Further questions? Is there a motion?

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REP. OBER: We have a motion.

CHAIRMAN KURK: Oh, sorry. Representative Eaton and Representative Ober. You ready for the question?

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: When you get those figures will you e-mail them to everybody on the Fiscal Committee so we all can see those?

CHAIRMAN KURK: Miss Rockburn, if you'll send those to Miss Clayburn -- Miss Clayman and she can send them out to all Fiscal Committee members.

MS. ROCKBURN: Will do.

CHAIRMAN KURK: Thank you. Are you ready for the question at this point? All those in favor of the motion? Opposed? The ayes have it and the item is adopted.

***** {MOTION ADOPTED}**

CHAIRMAN KURK: Thank you. We now turn to Fiscal 15-107, request from the Department of Safety for authorization to amend Fiscal 15-055 by reallocating \$2,400 in Federal funds through June 30th, 2015.

****** REP. EATON: Moved.

REP. OBER: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Representative Ober. Are there questions or discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

***** {MOTION ADOPTED}**

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(4) RSA 7:6-e Disposition of Funds Obtained by the Attorney General:

CHAIRMAN KURK: We turn now to item number (4) on the agenda, Fiscal 15-098, a request from the Department of Justice for authorization to budget and expend \$53,000.70 in settlement funds from multistate settlements and request to retain said funds for the support of the Department's Consumer Antitrust Bureau.

** REP. EATON: Move.

REP. OBER: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Representative Ober that the item be approved. Is there a discussion?

SEN. SANBORN: Questions.

CHAIRMAN KURK: Senator Sanborn has a question. Is there somebody from the Department? Good morning.

ANN RICE, ESQ., Deputy Attorney General, Department of Justice: Good morning, Mr. Chair, Members of the Committee. I'm Ann Rice, the Deputy Attorney General. And with me is Kathleen Carr, our Director of Administration. Happy to answer any questions.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: A couple if I may, Mr. Chair?

CHAIRMAN KURK: You may.

SEN. SANBORN: Thank you, sir. Ladies, thank you so much for coming in today, truly appreciate it.

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My first question actually seems to be more consumer advocate driven in the sense that I continue to sit in this Committee and see consumers injured, I guess, is the best word, and the State doing its part and the AG going and going to press action and winning lawsuits on behalf of consumers that have been injured in these cases. But I guess I've never seen the money go back to the consumer. So on one hand one might suggest that if the money goes back to the General Fund it's going back to the consumer or taxpayers. But what is our philosophy if the State of New Hampshire enters into a suit, either individually or part of a class action, to go after, you know, to represent injured group of people, the citizens of New Hampshire, why aren't we sending the money back to the citizens?

MS. RICE: In certain cases there are restitution payments that will go to the consumers. Oftentimes, when they're the multistate settlements, you don't even see that money coming into the state. There is -- there's a separate organization that provides restitution and payments out to consumers. So the money that comes in in multistate is really the money that is designated for the states, but there is additional money that's probably being paid out in other circumstances. So that's negotiated on a multistate level.

In terms of the in-state consumer settlements, those -- if there's a basis for restitution, we certainly do get that and pay those restitution amounts out. The consumer -- the escrow fund that we have, we have designated in there as funds that are paid out for restitution. So what you're seeing are the request for funds that go only to support the Consumer Protection Bureau itself.

SEN. SANBORN: Thank you. Follow-up, if I may? And the second part might be a little stickier being that, obviously, we are having this little challenge over the Governor vetoing the budget today and being a member of Fiscal how do I look down the road about how we are going to start addressing some of these issues, because as we all know, the Consumer Advocate Account is one of the issues within the budget that I think has a cap, if my memory serves, a cap of \$5 million. So anything above that

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would go back to the General Fund. So are you sitting on \$5 million now so, therefore, shouldn't this go to the General Fund?

MS. RICE: No. We -- we have, I believe, it's a balance of four -- 4,500,000. Of that, there is committed right now 3,148,000, and by committed it means funding the agency for -- the Bureau for the remainder of this Fiscal Year and the next biennium. So it's committed that way. That leaves a 1.16 in excess. Under House Bill 2, that money would have been swept. This money, this 53,000 was included in the figure for that sweep of 1.16.

SEN. SANBORN: Follow-up, if I may? So had HB2, having the Governor not vetoed, and the bill having become law, this 53,000 would be part of the 1.2 that was swept over to the General Fund?

MS. RICE: Yes.

SEN. SANBORN: But solely because the Governor vetoed the budget you're looking to retain the money. Well, that can't be because you're early.

MS. RICE: Well, we just actually received the money. But that was part of the 1.6. The understanding was that if we get that, it will go into the 1.16 sweep.

CHAIRMAN KURK: So let me follow-up. So whether -- if this item is approved, that money will still be available come September, or October, November, whenever we pass the budget, and House Bill 2 in this area remains the same. If we don't approve it, what's the consequence?

MS. RICE: If you don't approve the -- this?

CHAIRMAN KURK: Yes.

MS. RICE: Then there will be 53 million -- 53,000, excuse me, less that would be available for the -- for the General

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Fund. But the interesting thing is it's a court-ordered settlement. So the money has to be -- I mean, that we have \$53,000 that I don't know what happens to it.

CHAIRMAN KURK: But, technically, if this is not approved, this would be part of the Department of Justice's lapse. You would not spend this money at the end of the year but lapse to the General Fund or it would stay in the Consumer Advocate.

MS. RICE: It would stay in that account.

CHAIRMAN KURK: Regardless of whether it's approved or not.

MS. RICE: Right. Well -- it's -- the court order says that it is to go to the consumer protection escrow account. So we have an interesting issue there. Where we have a court order that says the money is to go to the consumer escrow account for consumer protection purposes. If this is not approved, I think then we have an issue that we are going to need to deal with. As I said, it's already been contemplated that it will be approved and will be swept as part of that 1.1 in House Bill 2.

CHAIRMAN KURK: Thank you.

SEN. SANBORN: Mr. Chair.

CHAIRMAN KURK: Senator Sanborn.

** SEN. SANBORN: I move we table.

CHAIRMAN KURK: Is there a second? The motion is to table. Is there a second to the motion?

REP. WEYLER: Second.

CHAIRMAN KURK: It's been seconded.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

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REP. OBER: I know this is not a debatable motion. I would like to understand the Senator's move to table, however, and I wonder if you might indulge us and ask him to explain.

CHAIRMAN KURK: I don't think we can do that. If you'd like to take a recess, I'd be pleased to do so you can speak with --

REP. EATON: Move recess.

REP. OBER: I agree.

CHAIRMAN KURK: Why don't we take a recess.

REP. OBER: Thank you.

CHAIRMAN KURK: Thank you.

(Recess taken at 10:26 a.m.)

(Reconvened at 10:30 a.m.)

CHAIRMAN KURK: Committee will come back out of recess. The motion before us is to table Item 15-098. Are you ready for the question? All those in favor, please indicate by saying aye?

SEN. SANBORN: Mr. Chair, if I may, I would like to withdraw my motion to table if it's not too late.

REP. WEYLER: I'll withdraw the second.

CHAIRMAN KURK: The motion having been withdrawn, we will not have to vote on that. The motion before us, the original motion, is to approve Item 15-098. Further discussion?

SEN. SANBORN: Yes. Mr. Chair, I just want to go on record saying the fact that although I recognize and respect what the counselors are saying, I think there's a conflict with the money, specifically as it works towards HB2 which, again, making it more complicated the fact we don't have a budget with the

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Governor's veto. But if HB2 specific where I think the number, the \$5 million come into the Office of Consumer Affairs, in addition to that, a \$1.7 million commitment to fund previous expenses that weren't there, then what the AG's talking about there's three and a half million in there and 1.6 sweep, those numbers don't add up. As a result of that, I will not be voting in favor of this.

CHAIRMAN KURK: Thank you, Senator. Further discussion? There being none, you ready for the question? If you're in favor of approving 15-098, please indicate now by saying aye? Opposed?

SEN. SANBORN: Opposed.

REP. WEYLER: Opposed.

CHAIRMAN KURK: The ayes have it and the motion is adopted.

*** {MOTION ADOPTED}

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

CHAIRMAN KURK: We turn now to item number (5) on the agenda, a request from the -- Fiscal 15-099, a request from the Department of Safety for authorization to budget and expend \$122,000 from the prior year carry forward balance of the Enhanced 911 System Fund through June 30th, 2015.

** REP. EATON: Moved, and I already told Elizabeth to come up.

REP. OBER: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Representative Ober. There are a few questions. Good morning.

ELIZABETH BIELECKI, Director of Administration, Department of Safety: Good morning, Mr. Chairman, Members of the Committee. For the record, Elizabeth Bielecki from Safety.

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CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chairman. Elizabeth, thanks for coming in. Great to see you. Appreciate you taking my question.

MS. BIELECKI: Thank you.

SEN. SANBORN: So this morning Senator Feltes, Senator Little, and I were talking about a presentation that was made in the Ways and Means Committee, and maybe even in the Finance Committee of which I'm not a member -- was a member of, which indicated that the 911 System was, I won't use the word broke, which is why there was a request to expand who you're assessing and the amount of money you're assessing. And I distinctly remember as part of that conversation in Ways where they talked about even if we increased the fee, and who we are charging the fee to, that the system would still need to increase the other assessments because it still didn't have enough money to operate. But I sit here today and I see you have extra money, and so I find that to be curious.

MS. BIELECKI: Thank you for the question, Senator. Excellent question, and thank you for your recollection. That's absolutely correct. When you say extra money, after we pay this item, which is an item for Administrative Services for the SWCAP charges, you'll see in that item that we will be left with approximately \$120,000. So that's how we will be ending Fiscal Year 15. And we've been on a downward trend with that fund. So if we are starting Fiscal Year 16 with \$120,000, without anything in place, we would absolutely end the Fiscal Year in a deficit. So you are right.

There have been a number of questions on prepaids, in particular, and there is a bill that has passed both the House and the Senate, was HB 391 that will be authorizing the Department to charge the prepay telephones on cellular telephones the 911 surcharge; but that's awaiting the Governor's signature at this point.

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SEN. SANBORN: Please.

CHAIRMAN KURK: Could you tell us how much revenue that bill is expected to bring in? I hope it's more than \$2.7 million.

MS. BIELECKI: It's a great question. In Fiscal Year 16, because that bill will go into effect in January of 2016, we are only projecting half of a full Fiscal year's revenues which would be \$880,000. In Fiscal Year 17, we are projecting about \$1.8 million. It's difficult to project it because we are -- we are basing our projections on the national averages for the market share of the prepaid companies or prepaid cellular phones for a total market. So at that point we were also saying that it will most likely be necessary to increase the surcharge amount in order for us to be able to continue with the 911 Fund operating in the positive.

CHAIRMAN KURK: So if I understand your numbers, you're going to be short \$1.8 million in Fiscal 16 and short \$900,000 in Fiscal 17.

MS. BIELECKI: If we don't do anything else. The 911 Commission has been discussing increasing the surcharge. Right now we are a little bit in a holding pattern; but at the last meeting on June 19th, I believe, they did authorize the Commission -- the Commissioners to increase the surcharge by 18-cents.

CHAIRMAN KURK: Has the Commissioner -- would the Commissioners ever consider revising how they do business to reduce the costs rather than increase the charge to the public?

MS. BIELECKI: There have been a number of conversations with the Commissioner's Office, as well as the 911 Commission itself, the infrastructure, they're all -- really all of the options have been on the table.

CHAIRMAN KURK: So you're -- so you're saying that one of the options, but not necessarily the one that ultimately will come to pass, is an increase to ratepayers.

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MS. BIELECKI: Yes, that is one of the options as well. That's the option that the Commission, the 911 Commission has recommended at this point. We are waiting to have HB 391 enacted. We are waiting to at least have a little bit of an indication of what we will be collecting as well. We are also looking to see how we will end Fiscal Year 15. Commissioner has implemented a number of expenditure freezes that have been in effect for Fiscal 15. We'll continue those in '16 as well to ensure that we can operate on a minimal cost basis as well.

CHAIRMAN KURK: I'm just writing something down about notes for the next budget.

MS. BIELECKI: Sure.

CHAIRMAN KURK: Thank you.

MS. BIELECKI: Thank you.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, Mr. Chair. Mr. Chair, you might want to be writing down these notes as well. Because if I remember also from the Ways and Means Committee, and part of the concern I had over all this is -- look, I believe in the 911 System. I think it's vitally important to our state; but I believe at some level there's a mismatch going on. Because we're not picking up money to pay the expenses it has today. We are expanding who we are charging. We are increasing the rate. And the part the Chair didn't hear was also part of the presentation you gave in Ways where, if I remember right, you're looking to spend millions of dollars to do another upgrade of the system. That will allow us to use 911 via text messages and video, I think. So as opposed to looking to savings, we are looking to spend even more money.

So I guess I just have these concerns about the fact that we are throwing money at a program that can't fund itself today. We are seeing into the next budget millions of dollars in more

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money to upgrade a system that doesn't pay for itself under the revenue stream today. And just for the record, I asked for a number of years' data to try to get our hands around this, which I never received from the Agency. So I have some real concerns about how we are funding this and operating it and growing it and expanding it when we're in the position we are in today.

CHAIRMAN KURK: Thank you, Senator. I don't think you need to respond to that.

REP. OBER: Mr. Chair.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Thank you, Mr. Chairman. Good morning.

MS. BIELECKI: Good morning.

SEN. LITTLE: Can you tell me what the variables are that have resulted in your increased SWCAP assessment?

MS. BIELECKI: The SWCAP is originally budgeted in the budget process. So would have been budgeted three years ago based on the numbers that we had received from the Department of Administrative Services. When the Actuals come in, the actual bill, sometimes results in a different Actual charge. I believe the Department of Administrative Services also revised the methodology for calculating the SWCAP and that's why we were faced with a larger actual bill. Perhaps the Department of Administrative Services could address that question better than I can.

CHAIRMAN KURK: Follow-up.

SEN. LITTLE: Thank you. So your opinion is that it's a change in their formula and not an increase in the shared expenses at the Department that resulted in the increase.

MS. BIELECKI: I believe, and our understanding of how Fiscal Year 15 SWCAP charges were calculated, that the

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Department did, in fact, make -- the Department of Administrative Services did, in fact, make some changes to the methodology on calculating the SWCAP.

SEN. LITTLE: Thank you.

CHAIRMAN KURK: Further questions.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Could we ask the Department of Administrative Services to respond to that? I see them in the audience.

CHAIRMAN KURK: Commissioner. Please feel free to bring up more chairs, if you wish.

VICKI QUIRAM, Commissioner, Department of Administrative Services: Good morning, Chair and Committee. Vicki Quiram, Department of Administrative Services, and I have my backup team here for this question.

GERARD MURPHY, Comptroller, Department of Administrative Services: Gerard Murphy, State Comptroller. Good morning, Members of the Committee. I do not have the specifics about the change in methodology with me here today, but I certainly could provide those to the Committee as early as today.

CHAIRMAN KURK: Could you do it prior to the time we are finished this morning?

MR. MURPHY: Let me run back to the office and I'll see what I can do.

CHAIRMAN KURK: Do either of your colleagues have anything to add?

JOSEPH BOUCHARD, Assistant Commissioner, Department of Administrative Services: Joe Bouchard from Administrative

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Services. I think the nature of the SWCAP change was moving to a budgetary basis versus an actual basis in the last biennium. The former comptroller initiated that change, and it did change the methodology of what Agencies were typically used to spending or used to budgeting. So that may be what Gerard's going to find when we do a little bit more digging.

CHAIRMAN KURK: So this would have been true for all agencies?

MR. BOUCHARD: It would have, yes.

CHAIRMAN KURK: If you folks would like, we can hold off on acting on this till we get a response.

** REP. EATON: Move to table.

CHAIRMAN KURK: We don't need to table. We'll just hold action on this. Thank you. Thank you. We'll take this up when we get the answer.

(6) **RSA 215-A:23, IX, and RSA 215-C:39, X, Registration Fees:**

CHAIRMAN KURK: Moving on then to item number (6) on the agenda, a request -- Fiscal 15-100, a request from the New Hampshire Fish and Game Department for authorization to transfer \$125,000 of unexpended funds from excess registration fees to the Fish and Game OHRV Fiscal Year 2015 Operating Budget.

** REP. EATON: Move.

CHAIRMAN KURK: Moved by Representative Eaton.

REP. OBER: Second.

CHAIRMAN KURK: Seconded by Representative Ober. Discussion? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

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*** {MOTION ADOPTED}

(7) RSA 622:28-a, V, Industries Inventory Account:

CHAIRMAN KURK: We turn now to item number (7) on the Agenda, Fiscal 15-101, a request from the Department of Corrections, which I understand has been withdrawn. So does everyone have a copy of that letter? So we need to take no further action on that.

(8) Chapter 3:7, II, Laws of 2014, Department of Health And Human Services; Contracting; Transfer Among Accounts and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source:

CHAIRMAN KURK: Moving on to item number (8), two items, Fiscal 15-096, a request from the Department of Health and Human Services for authorization to transfer \$140,467 in General Funds with no net change to Federal revenues through June 30th, 2015.

** REP. EATON: Move.

REP. OBER: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Representative Ober. Discussion or questions? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the motion is adopted.

*** {MOTION ADOPTED}

CHAIRMAN KURK: We turn now to Fiscal 15-097, another request from the Department of Health and Human Services for authorization to transfer \$532,643 in General Funds, increase related Federal revenues in the amount of \$2,502,642, and increase related other revenues in the amount of \$1,141 through June 30th, 2015.

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** REP. EATON: Moved.

REP. OBER: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Representative Ober. Discussion or questions? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item's approved.

*** {MOTION ADOPTED}

(9) Chapter 144:31, Laws of 2013, Department of Administrative Services; Transfer Among Accounts and Classes:

CHAIRMAN KURK: We turn now to item number (9), Fiscal 15-102, a request from the Department of Administrative Services for authorization to transfer \$72,658 in and among accounting units from June 30th, 2015.

** REP. EATON: Move.

REP. OBER: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Representative Ober that the item be approved. Discussion? Questions? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

*** {MOTION ADOPTED}

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

CHAIRMAN KURK: Item number (10) on the Agenda contains two items, Fiscal 15-103, a request from the Department of

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Transportation for authorization to transfer \$28,500 between various accounts and classes through June 30th, 2015.

** REP. EATON: Move.

CHAIRMAN KURK: Moved by Representative Eaton.

REP. OBER: Second.

CHAIRMAN KURK: Seconded by Representative Ober that the item be approved. Discussion? Questions? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is adopted.

*** {MOTION ADOPTED}

CHAIRMAN KURK: Fiscal 15-104 is another request from the Department of Transportation for authorization to transfer \$13,500 within Turnpike Fund accounting units and classes through June 30th, 2015.

** REP. EATON: Move.

CHAIRMAN KURK: Moved by Representative Eaton.

REP. OBER: Second.

CHAIRMAN KURK: Seconded by Representative Ober. Discussion or questions? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

*** {MOTION ADOPTED}

(11) Miscellaneous:

CHAIRMAN KURK: We now turn to a late item, Fiscal 15-109. This is a request from the Department of Fish and Game for authorization to accept and expend \$1,136,400 in Federal funds.

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** REP. EATON: Move.

REP. OBER: Second.

CHAIRMAN KURK: For the purpose of distributing Federal Fisheries Disaster Relief Funds to Northeast Multispecies Commercial Harvesters impacted by the Federal Fisheries Disaster declared by the Secretary of Commerce in 2012. The approval is through September 30th, 2015. Is there a motion?

** REP. EATON: Move.

REP. OBER: Second.

CHAIRMAN KURK: Moved by Representative Eaton, seconded by Representative Ober. I point out that under our rules we only approve items that affect the current biennium which ends June 30th, 2015, a few days from now. This goes beyond that. So if this is to go through, I want members to recognize that we are creating an exception. Is there discussion or questions about this item? There being none, are you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

*** {MOTION ADOPTED}

(12) **Informational Materials:**

CHAIRMAN KURK: We have a number of informational items. Are there questions that anyone wishes to ask about any of them?

SEN. SANBORN: Dash Board.

CHAIRMAN KURK: Senator Feltes.

SEN. FELTES: Thank you, Mr. Chairman. The Administrative Services Commissioner Quiram's letter.

CHAIRMAN KURK: Fiscal 15-103 is a report from the Department of Administrative Services regarding self-funded

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health benefits program. Is there somebody from the Department who could speak to those? And I see two people coming forward. Three people. Good morning to all of you.

VICKI QUIRAM, Commissioner, Department of Administrative Services: Good morning.

REP. OBER: Is that 105?

REP. EATON: Hm-hum.

CHAIRMAN KURK: I apologize. It is 105. 15-105. Senator Feltes.

SEN. FELTES: Thank you, Mr. Chairman. Thank you, Commissioner Quiram, and staff of the Department of Administrative Services. I have a question on this letter dated June 4th letter. And for my own edification and probably folks on the Fiscal Committee know it better than I do, but there's this discussion right now about cash versus accrual. It's an important discussion and will carry on throughout the course of the summer, I presume. But on Page 1 of your letter, you indicate a cash fund balance of May 31st of roughly 41 million. Page 2 of the letter there's a cumulative accrual fund balance of approximately 7 million. Can you explain the difference between cash and accrual and what that means in terms of budgets and carrying forward?

MS. QUIRAM: Yes, Senator Feltes. I will do my best to do so, and I would point you to the last page of the report. And if you look in the middle of the last page, it's my understanding that this is a change in our informational item as of this report where we have actually broken down exactly the difference between that cash basis and the accrual fund balance after that. And the bottom line is the IBNR, which is basically our costs that have been incurred, but we have not paid them yet that we have to reduce that cash basis number by. Then we have to account for our statutory reserves in three different areas which, again, that's money that we certainly need to keep there in reserve. And at that point we get a fund balance that's less

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the IBNR and the reserve, and then we have to add the receivables and the payables which are basically outstanding receivables and payables that we do know about and we may be estimating this a little bit at this point and that gets us to the accrual fund balance which is what we actually have -- expect to have in the account if we include all these other items.

SEN. FELTES: Okay.

CHAIRMAN KURK: Further questions?

SEN. FELTES: I'm good. Thank you, Mr. Chairman.

CHAIRMAN KURK: You're welcome. Are these General Funds or are these Other Funds?

MS. QUIRAM: This is all funds.

CATHERINE KEANE, Manager, Bureau of Risk and Benefits, Department of Administrative Services: It's -- it's Fund 60 funds.

SARAH TRASK, Administrator III, Bureau of Risk and Benefit, Department of Administrative Services: No, it's all funds so it includes General Funds. It includes all funding sources.

MS. KEANE: From all funding sources.

MS. TRASK: Right. We collect the premiums from all the different agencies.

CHAIRMAN KURK: Roughly what proportion of the various numbers would be General Funds?

MS. TRASK: I think it's 32%.

CHAIRMAN KURK: 32%.

MS. TRASK: Yes.

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CHAIRMAN KURK: Thank you. Further questions. Thank you very much.

MS. QUIRAM: Thank you.

CHAIRMAN KURK: The next item about which there are questions, I believe, are Fiscal 15-108, the Department of Health and Human Services Dash Board, and I think the questions relate to Table A. I'll start off, but I'm sure others will have questions.

As we look at this it would appear that you're not going to meet your \$23 million in lapses; is that correct?

MS. ROCKBURN: Actually, this -- that is not correct. The way that this reads we would hit the 23 million lapse and have potential of an additional 9.3 above that. But I want to clarify two pieces of information that I just learned yesterday that would update some of the numbers that are on the bottom half of this Dash Board of funds that we thought we could use to cover some of our shortfalls that we will not be realizing. So I want to at least just address that before I continue with your comment on that, Representative Kurk.

CHAIRMAN KURK: Sure.

MS. ROCKBURN: The first is on Line 39. Earlier in the year we expected to have a minimal lapse in our Bureau of Developmental Services. As the year progressed, we noticed that there was less spending that was occurring in that area and it started to show up in really the April-May time period that we would have a substantial lapse. And we talked a lot about that during some of the budget discussions as we went through, you know, the House through Committee of Conference phases.

As of the end of May, we are projecting a 13.9 million lapse from this area. Yesterday, the last financial cycle ran for this MMIS Medicaid payment and that number has dropped to a

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surplus -- to a deficit -- I'm sorry -- a lapse of 12.9 million. So we have a million less than we expected in that area.

What that means is instead of having an additional 9.3 that brings it down by \$1 million. In addition, there's another reduction that is occurring and that is on Line 44. This is in the Bureau of Elderly and Adult Services. We were projecting excess funds in our Choices for Independence, CFI, and nursing home lines.

During the last month, we had several discussions on Senate Bill 8, and then also as it left Committee of Conference, both in House Bill 1 footnote and House Bill 2, that the Choices for Independence and nursing home lines would not be allowed to be used for any back-of-the-budget requirements, and that was added -- new language that was added both to HB 1 and HB 2. Even though that has been vetoed as of today, we do not believe that we should be using that excess surplus to meet our back-of-the-budget requirement with that and, therefore, those funds would not be lapsed. That would bring that 9.3 down by 8 million. So the 8 million, plus the 1.3, brings a lapse estimate above our original lapse of only .3 or \$300,000. In other words, we expect to meet our lapse obligation of 23.7, but only to the good of maybe another 300,000. It won't be anything substantially higher than that.

CHAIRMAN KURK: Thank you. So the 23,000 on Line 7 -- 23 million on Line 7 is included in the total on Line 34 of 54 million?

MS. ROCKBURN: Let me think about -- let's see. I do not believe it is, but let me double-check that.

CHAIRMAN KURK: If that's not the case, then I don't understand how you meet your lapse.

MS. ROCKBURN: The way the Dash Board works, and I'm just trying to do the math real quick here. The way the Dash Board is set up, the total line of 34 -- of Line 34 of 54 million, that does not include the 23 million on Line 7. It is just the

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subtotaling of Lines 12 through Lines 33. So the purpose of the Dash Board was to say how are we going to meet our shortfalls outside of our lapse requirement.

So all the lines from Lines 36 through 65 are items that we are anticipating to be able to use to fund just the shortfall. The lapse would be requirements over and above the additional shortfalls that occurred. So the purpose of the Dash Board was just to identify areas just to meet the additional shortfalls that have come to the Department during the course of the year.

CHAIRMAN KURK: So you're going to meet the Sununu Center reductions?

MS. ROCKBURN: Correct.

CHAIRMAN KURK: You're going to meet the back-of-the-budget reduction, et cetera and, in addition, lapse \$23 million.

MS. ROCKBURN: That is what it looks like today, correct.

CHAIRMAN KURK: Thank you. Senator Feltes.

SEN. FELTES: Thank you, Mr. Chairman. And I'm just going to refer to Page 3 of the letter.

MS. ROCKBURN: Sure.

SEN. FELTES: Not the Dash Board, but it's reflected in the Dash Board, so. The middle of the page of Page 3 of the June 16th letter talks about funding issues. And the last sentence, do you see what I'm referring to?

MS. ROCKBURN: Hm-hum.

SEN. FELTES: Okay. The last sentence says during the past few months spending for services for developmentally disabled clients has been lower than budgeted and will result in a significant surplus. What's going on here? Is the money just not getting out the door to service providers?

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MS. ROCKBURN: Senator, that's a really good question, and we internally in the Department have been trying to work with our Area Agencies to really get to the root of that. What we -- what we can tell you is that all of the bills and invoices that have been submitted to the Department for payment have been paid. We have not seen any delays in those payments. We are trying to really work with them to find out why utilization is so much lower than expected. I don't have all the answers to that. What we do know is that in the 14-15 biennial budget a substantial amount of additional money was infused in that system, in the Developmental Disabilities System. And what we've seen to date is that that additional infusion of cash has not been spent.

A combination may be is that there's workforce issues out in the community where there's still a need for individuals to be served, but they're having a hard time just catching up with that demand. So although there was a significant budget that was infused into that system, not all of it was able to be spent and that's really where this lapse is coming from. We are trying to work with the Area Agencies to really determine why there's such a gap in that analysis. And we are working with getting reports from them to try to look by region to work through that.

CHAIRMAN KURK: Follow-up.

SEN. FELTES: Follow-up. Thank you, Mr. Chairman. So is part of that answer is a suggestion that the workforce hasn't been built up to meet the need? Is that --

MS. ROCKBURN: That's correct. And I want to say the workforce, I really only referring to is the providers. So the ones actually providing the services to the clients. And I think that there -- it's not for lack of recruitment efforts. I think there's just been a shortfall of resources for the agencies to be able to recruit and maintain or retain adequate staffing. So I think that they're well aware of it. They are trying to get there, but we haven't seen that ramp up as much.

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CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: Thank you, Mr. Chairman.

The -- unfortunately, during the Senate Budget phase that number went from 26 million that we had to add back to 13 million, to 26 million, to 23 million, and we did every one of these topics. My question's for LBA on the previous presentation on 15-105. How often do you collect this document from Admin Services?

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: The report is required by Chapter 319:32. Off the top of my head, I do not recall whether that is a monthly or quarterly report that's submitted.

MS. QUIRAM: Bi-monthly.

MR. PATTISON: Bi-monthly report that's submitted to the Fiscal Committee.

SEN. PRESIDENT MORSE: Mr. Chairman.

CHAIRMAN KURK: Senator Morse.

SEN. PRESIDENT MORSE: If you'd like to attend the Finance Committee on Tuesday, I request LBA make a presentation on the last six months of this report that has come up.

CHAIRMAN KURK: Are you referring to the Senate Finance Committee?

SEN. PRESIDENT MORSE: Yes. Because what I'm seriously concerned about right now, we are going over two documents that seriously change how Government's looked at reporting, and I have great difficulty with that. We just went through the budgeting process, and I think it shows total disrespect for the Legislature, quite honestly. So I have concerns. If you'd like to attend that meeting, I'd like a presentation from LBA.

REP. OBER: That's on Tuesday?

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CHAIRMAN KURK: Thank you, Senator. I do have a question, perhaps of Mr. Pattison, and this is something that will be developed on Tuesday. The fact that Administrative Services presented an accrual budget or an accrual number, as well as a cash number, if the accrual number is used would that affect the carry forward with respect to 2016 in House -- in the vetoed House Bill 1 and 2?

MR. PATTISON: Accrual definitely would have an issue or cause a different number to be rolled forward from '15 to '16.

CHAIRMAN KURK: So if, in fact, the Governor is instructing -- we don't know this -- but if the Governor were to instruct agencies to start using accrual accounting and switch from cash basis accounting on which we have traditionally budgeted that would have a negative impact on the carryover; is that correct?

MR. PATTISON: The State closes its books on an accrual basis. That is not something that's changed. What you're talking about here is interim reporting that is done to the Fiscal Committee. The Comptroller will be closing the books on the accrual basis as we always have done. And, again, I think this is a matter of a reporting that's done to the Fiscal Committee that now two different methods of summary are being reported to you, both a cash basis and an accrual basis; but, ultimately, at the end of the year, the State does close on an accrual basis.

CHAIRMAN KURK: I understand that, but we do budget on a cash basis.

MR. PATTISON: You do.

CHAIRMAN KURK: These reports will not affect that.

MR. PATTISON: I'm going to defer to the Comptroller to answer that, frankly. He's not here right now because he's back trying to find other information for you.

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CHAIRMAN KURK: Thank you. Further? Senator Sanborn and then Senator Little.

SEN. SANBORN: Thank you, Mr. Chair. Thank you for coming up again. Really appreciate it. Obviously, you see there's some angst in the Fiscal Committee about this whole discussion about are we talking about accrual, are we talking about cash basis? And I guess a big part of it is, you know, the frustration we're having is we've got, from what I hear, like this \$30 million difference between accrual and cash basis, and it seems like some people are using one side for one part of the discussion, and other people are using the other side for the other part of the discussion. And as we heard the Chair and Mr. Pattison saying, you know, we are a cash basis until the end of the year before we see adjustments. But I continue to hear there's this GAAP conversation going on and help us understand if it's that important and if it's that real that this accrual adjustment is a cash issue, then why is it on these reports?

MS. ROCKBURN: Thank you, Senator. So I can try to do my best in bridging that gap. The Department during -- as with most departments, operate during the year really looking at a cash basis, because our goal is to look at the appropriation that was granted to us and we are really looking at how are we covering the bill on a cash basis in relation to that budgeted appropriation. This Dash Board first came out a few years ago to address a need where the -- the budget was not going to meet the needs from a cash basis to cover bills that were coming up. And this has been going on for a few years that this Dash Board has been in place and really looking at ways to notify the Fiscal Committee of unexpected activities that have popped up outside of the budget process, increase in caseloads that were out of our control, possibly a lawsuit, you know, things of that nature.

And so what we realized was having a Dash Board to look at what are ways the Department can minimize those deficits? And what I mean by that, are there other areas in the Department in terms of accounts that we can go to to true up that difference, as opposed to going to a Fiscal Committee asking for additional

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General Funds to cover, for example, a Medicaid caseload increase. We were trying to say we have this issue, but we are trying to find it elsewhere in our budget to cover that. That was really sort of the start of this Dash Board process. We do look, and this has been reported on a cash basis, so we've always been focused on that.

When it comes to this GAAP basis, which is Generally Accepted Accounting Principles, which is where the auditors come in and audit financial statements against those rules, and those GAAP rules require any organization, whether it's a state or a private enterprise, to look at not just cash basis, but are there any other liabilities as of June 30th that the State has incurred but from a cash basis won't pay until July or August.

On the flip side, you might have additional receivables the State could book if there is money owed to the State that wasn't received on that date. Cash and GAAP will not change from year to year, if all circumstances are similar year to year. So if every year, for example, you would expect a payroll to have a two-week lag, employees worked in the month of June, they don't get paid till July, that's an additional liability, but a year ago you might have had a liability that offsets that. And so if things don't change year to year, that GAAP adjustment is minimal. And so I think that in certain times there wasn't much difference between a cash and a GAAP basis when methodology was the same, similar dollars were involved, that impact is very small.

What we've seen in the last -- this year and the year before is those GAAP adjustments have been larger than the ones in the previous year, and so we are now seeing this larger gap that's occurring.

One of the big things that have occurred in Health and Human Services was that traditionally our Medicaid payments had about a 30-day lag. So at the end of the year the State would book an adjustment saying all services that providers did in the month of June would not be paid till July, you know, so we'd have just a normal month lag. But every year we had the same

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month lag from June to July. Last year and this year when we went to a managed care environment that contract said we are going to delay payments for three months. So now services April, May and June are now paid in July, August, September. So when that happened, there was a very large shift in that payable on June 30th because as of June we now had three months of services that were not coming out of that current year budget and were going to get paid in the next year.

So when there's a methodology shift that really becomes a bigger discussion point between cash and that GAAP or accrual base accounting. So that was one of, I think, the big shifts that first came up last year. And if you -- I don't have the page in front of me, but if you went to the CAFR, the Comprehensive Annual Financial Report which is the audited financials, there was a footnote disclosure that said overall for the State there was about a 17 plus million additional GAAP adjustment that occurred as a result of Medicaid being one of the areas, but a few other areas that did that. So that was a big shift that happened last year.

This year we have been working with Admin Services and the Governor's Office to try to look through what is this liability going to look like this year for the Department, and is that going to impact our cash versus accrual basis? And we expect that we'll see another pick up this year compared to last year because although we've had a similar three-month lag year to year, we have had an increase in caseloads. So the dollars that we normally would have, you know, clients that would have served in April, May and June, are higher this year than last year. So that's going to make a bigger liability that we are going to have to account for.

CHAIRMAN KURK: Could you give us a dollar amount?

MS. ROCKBURN: On that? You know, I don't have that in front of us, but I think it's in the range of -- I want to say it's around 15 million. I think last year was around 17. I think this year it's around 15, but I really want to get you that.

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CHAIRMAN KURK: An additional 15 beyond last year's 17?

MS. ROCKBURN: No, no, that would be the comparable number.

CHAIRMAN KURK: So they're about the same.

MS. ROCKBURN: Correct. The pickup is about the same, but I can definitely, you know, get back to you on what that would be. But what that would mean is that on a cash basis, although we've met this lapse, when there's an additional liability pick up, not this entire lapse is available as a surplus for future years because of that change. That's our biggest liability. Statewide, there may be other agencies that are also faced with that. And, like I said, if it's the same year to year, I think that's when the cash and accrual discussions don't really come into play because there's not a big difference between those two.

I think the insurance -- Admin Services just talked about that self-insurance fund, they started to report to you the difference in the cash and the accrual. You know, that's something that maybe we want to think about modifying this for future years. But until this year, there hasn't been a large difference which is why we haven't done two separate reporting for that.

SEN. SANBORN: Mr. Chair.

CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: Thank you, sir. Thank you, I appreciate it, although I guess I'm still confused at some level because if the Dash Board Table A is still operated on a cash basis and we have gone from net 30-day terms to net 90 days terms --

MS. ROCKBURN: Hm-hum.

SEN. SANBORN: -- we would be holding 90 days' worth of cash; right?

MS. ROCKBURN: Correct.

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SEN. SANBORN: But I don't see our cash balances going up in one of the most significant accounting -- GL accounts we have. So it would leave me to believe that either we have spent the money that we thought we were supposed to hold for Medicaid and, therefore, we actually do have a big problem.

MS. ROCKBURN: Right.

SEN. SANBORN: Or -- or I'm not quite sure. Because again, you know, it's cash in, cash out. All of a sudden we go from net 30 to net 90 there should be an accumulation of cash.

MS. ROCKBURN: Yes.

SEN. SANBORN: On the accrual basis should be the actual basis if that's how you're doing this, so.

MS. ROCKBURN: Senator, you're completely on track with this. You're not -- you're not off. So let me say you would expect that we would have, right, excess funds that are sitting there because of that. Because we've had a back-of-the-budget reduction that's a requirement, we had additional footnote requirements in terms of personnel reductions that happened outside of the budget, because of the increased caseloads in Medicaid, the Community Mental Health lawsuit that came to play, a lot of those weren't part of the original budget. So where there was excess funds we had, we've been trying to use to cover those anticipated shortfalls. If we didn't have any of those, then you're correct, we would have been able to have a much larger available cash for that period and not all of that is available in order to offset those things.

SEN. SANBORN: Follow-up.

CHAIRMAN KURK: Follow on.

SEN. SANBORN: Again, with all respect, I'm not sure I'm agreeing with your math because, again, if we go from net 30 to net 90, we have accumulation of cash of 60 days of extra cash on

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hundreds of millions of dollars of bills. And then the Governor comes in with two Executive Orders to cut expenses, not cut cash, so there should have been a higher accumulation of cash 'cause now we are spending less than we anticipated and still holding onto more. So the Executive Order to cut shouldn't be reducing our cash balances, they should be increasing our cash balances.

MS. ROCKBURN: And I think that we needed those cash balances to cover unexpected increases in other expenses, Medicaid caseloads being one of them. Those caseloads going up. Increase in rates to our Managed Care Organizations. That's a required amount that we now pay them on a per member/per month. So those additional expenses are going to offset those savings. So you have savings that you would anticipate, cash savings; but as our expenses are going up, we didn't have a budget for that. And we're going to use those cash savings to offset those additional expenses.

CHAIRMAN KURK: And, of course, the Legislature expected that you would not do that.

MS. ROCKBURN: Correct.

CHAIRMAN KURK: That you would reduce your expenses to take care of your additional obligations.

MS. ROCKBURN: Correct.

CHAIRMAN KURK: And, hence, the difference.

MS. ROCKBURN: Correct.

CHAIRMAN KURK: May I ask you --

MS. ROCKBURN: Sure.

CHAIRMAN KURK: -- a very basic question. In the past, the Department, among others, has pended bills, you know, putting bills under the blotter. Have you done any of that?

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MS. ROCKBURN: We have not.

CHAIRMAN KURK: So you're current on everything?

MS. ROCKBURN: We are.

CHAIRMAN KURK: There are bills that should have been paid that have been paid.

MS. ROCKBURN: Correct, no pending on anything.

CHAIRMAN KURK: With the exception of the change in 30 days to 90 days with the Managed Care Organizations --

MS. ROCKBURN: Correct.

CHAIRMAN KURK: -- you're running an operation which is not going to create problems for us in the future?

MS. ROCKBURN: No.

CHAIRMAN KURK: Thank you. Further discussion or questions? Senator Little.

SEN. LITTLE: I have a question but on a different issue so if there's further --

CHAIRMAN KURK: Senator Feltes.

SEN. LITTLE: -- on that issue, I'll defer to Senator Feltes.

SEN. FELTES: Thank you, Senator Little. Thank you, Mr. Chairman. You're just talking about cash and accrual. But just in plain English, at the end of Fiscal 15, how much money is, this isn't an accounting term, but left over or not left over in HHS?

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MS. ROCKBURN: I have to get back to you on that. I don't have that with me today. In terms of the exact when we apply that accrual number, I can go back and get more an exact figure for you.

CHAIRMAN KURK: If you met your lapses at 23 million, and you told us that the lag is going to cost 15 --

MS. ROCKBURN: Yes.

CHAIRMAN KURK: -- aren't we going to be short 15 in terms of meeting lapses?

MS. ROCKBURN: Yes, and that's where I want --

CHAIRMAN KURK: Based on your number?

MS. ROCKBURN: Correct. That was my estimate, but I would want to go back and confirm those numbers.

CHAIRMAN KURK: Senator Feltes.

SEN. FELTES: Thank you, Mr. Chairman. Just as a follow-up with Mr. Chairman. I have a question of Mr. Chairman. As a deficit of '15, is that what the Chairman just indicated?

CHAIRMAN KURK: I don't know if I characterized it as a deficit, but the Department certainly is not going to provide \$15 million -- \$23 million in lapses that they are required -- that they are expected to do as we budget and which they had planned to do. They have spent the money for other things, and they have not met their obligation. Senator Sanborn.

SEN. SANBORN: One more, Mr. Chair, and I promise I'll keep my mouth button.

CHAIRMAN KURK: Don't make promises you can't fulfill.

SEN. SANBORN: This one I might be. You mentioned a per member/per month.

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MS. ROCKBURN: Hm-hum.

SEN. SANBORN: Which is what the Managed Care Organization is, but we paying them on net 90 day terms or are there two different accounts; one we are paying net 90, one we're paying net 30?

MS. ROCKBURN: No, all of the Managed Care Organizations we pay --

SEN. SANBORN: Net 90?

MS. ROCKBURN: Correct.

SEN. SANBORN: Including per member/per month?

MS. ROCKBURN: Correct.

SEN. SANBORN: And any ancillary?

MS. ROCKBURN: Correct.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Thank you very much. I said I had a different issue, but I do want to just follow-up on this because of the last back and forth here. Because I believe that you told us that you do expect to end the year with the \$23.8 million, but not the additional 90 -- 9.3 we were thinking of. I think from what I just heard here you told us it would be less than the 23 we expected for lapse.

MS. ROCKBURN: So, and this is where I think I need a further discussion on with the Comptroller, with Gerard Murphy, would be helpful is that when we close our books at the agency level, our obligations are on this cash basis. All of those adjustments that happen in terms of those additional liabilities occur at the Admin Services level when they're producing their audited financials. So I think having a joint conversation might

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be more helpful, because we don't record any of those liabilities on our agency side. It's something that happens outside of the system. And I would want him to be able to be here to talk a little bit more on that. So on a cash basis, our books will show that. The adjustments that happened after it leaves our agency, I would want to have Gerard available to walk through some of that.

CHAIRMAN KURK: And since he is here, perhaps he'd like to join us on a subject different than the one that he was getting additional information. Senator Sanborn.

SEN. SANBORN: Sir.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: Well, I guess just to restate the question I just asked was that at the start of the presentation we were told that we would still be likely to see the \$23.7 million lapse from Health and Human Services. But instead of the additional funds that we were going to increase it by about \$9.3 million, it would be about \$300,000 additional over that lapse that we would recognize as not immaterial; and yet, following the long conversation here I think we just heard was that we would not meet the \$23.7 million lapse, and that it has something to do with closing the books at year end between the Department operating on a cash basis and the books closing on an accrual basis. Did I state that properly? And so the question is what are we expecting for a lapse?

MR. MURPHY: That is still -- until we actually make the entries, it is uncertain. The lapse as it's referred to is really it's largely a cash number. The lapse is the money that comes back -- the appropriation that is not needed so it reverts back to the General Fund. And that is known somewhat early on in the process. However, when we talk about booking the accruals, those bills come in over the first two months of the next Fiscal Year. And when we book payables to record those liabilities and those expenses, frankly, we -- hum -- when we book those liabilities, we're not adjusting the lapse technically. The

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lapse number is what it is on the Surplus Statement. What shows up in your GAAP adjustment number are additional expenditures made for Fiscal 15, paid in Fiscal 16. So until we know what those bills will be, we don't know what, obviously, what those GAAP adjustments will be.

However, in discussions that we've had with Sheri and her folks, we expect that a good likelihood exists for accounts payable due to MCO payments to be of a similar amount as last year. And if that is the case, the GAAP swing, the GAAP entry that will be booked at the end of Fiscal 15 could be a substantial number.

CHAIRMAN KURK: Substantial?

MR. MURPHY: Substantial.

CHAIRMAN KURK: Could you put a dollar amount to that? That \$15 million?

MR. MURPHY: I'd say at least. It could be 15. It could be higher, frankly.

CHAIRMAN KURK: So what I'm hearing is that we are running a cash budget that meets the lapse requirements at \$23 million. And that we will have an accrual adjustment when we close the books using account -- Generally Accepted Accounting Principles in September or at the end of the year that, as usual, will reflect an adjustment that is different from the amount in the cash budget. And the real question is whether the total number of those accrual adjustments will be so different increased above last year that we wind up with a deficit on a GAAP basis, even though we're running a surplus on a cash basis. Is that --

MR. MURPHY: Pretty -- pretty good.

CHAIRMAN KURK: Thank you. Further discussion or questions?

SEN. SANBORN: As you've asked my name, Mr. Chair, the only reason I'll speak again.

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CHAIRMAN KURK: Senator Sanborn.

SEN. SANBORN: So next time you recognize me. So, Gerard, we are talking about, what was it, a \$14 million GAAP adjustment at the end of '14. You're looking somewhere 15, 17, or the sky's the limit 'cause you won't say for '15. But our CAFRs are two-year synopsis as we're working on the budget or just one?

MR. MURPHY: One.

SEN. SANBORN: Will be just one. But if all things are equal, because I thought I heard you say that the adjustment is cumulative and, Sheri, you said the adjustment is cumulative that we have whatever the number was, 14 in '14 or 17 in '14 and that 15 or whatever in '15, and if it was accumulating basis it would mean you said it was the same, but now you're suggesting it's going to be in addition to and that being -- that being the case, what was our GAAP adjustment for the end of '13, and how dramatically different is that? If it's the same every year it shouldn't change, right, so I shouldn't be expecting a big change.

MR. MURPHY: That's right.

SEN. SANBORN: You just suggested to the Chair that we should buckle in. So where are we?

MR. MURPHY: So we'll go back to the end of '14.

SEN. SANBORN: How about the end of '13?

MR. MURPHY: The end of '13. Sure. The end of '13 and because this issue, I think, is largely centered around Medicaid, we'll just pick on that payable. The end of '13 there -- there was a State share payable, booked, on a GAAP basis for the Medicaid Program of about 25 million. Let's see, I think I have some information here.

SEN. SANBORN: Accrued and not paid.

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MR. MURPHY: Yes. Right, 25 million was the GAAP liability booked at the end of Fiscal 13.

SEN. SANBORN: And back then we were still net 30-day terms.

MR. MURPHY: Yes.

SEN. SANBORN: Okay.

MR. MURPHY: So once that was booked, that's booking the current year liability. But the other side of that is the reversal of the prior year liability. So when we reverse out Fiscal 12, it was roughly equivalent. The Fiscal 12 and Fiscal 13 GAAP entries for Medicaid were roughly equivalent.

SEN. SANBORN: Okay.

MR. MURPHY: So no net impact to the surplus. Then '14 comes along and the State's share of the Medicaid liability increased to about 78 million.

SEN. SANBORN: MAGI, standing the program up, and the 5% that we have under Medicaid Expansion. Would you say that's where the 78 million's coming from?

MR. MURPHY: Yes.

MS. ROCKBURN: And the three month --

MR. MURPHY: And the three month -- and the timing lag. Yes, thank you, Sheri. And the timing lag. Because we didn't -- we're now paying three months after year end as opposed to only the one, obviously, the liability is going to increase substantially because of that.

SEN. SANBORN: But shouldn't there be a delay on the front end because you're not paying it upfront so that you're shifting on the accrual basis -- shifting the cash basis, recognizing on

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the accrual basis so you should have a pick up on the front side, shouldn't you?

MR. MURPHY: One might think.

CHAIRMAN KURK: Continue for '15.

MR. MURPHY: So back to '14 for the moment.

CHAIRMAN KURK: Oh.

MR. MURPHY: That increased to 78 million. That was partially offset by about 35 million, 34, 35 million of available balance, appropriation, that HHS carried forward into Fiscal 15 to offset some of that 78 million. So that brought the 78 down to about 42. So at the end of the day, the payable booked at the end of '14 for Medicaid was \$42 million. Backed out, reverse the prior year of 25, you get a net hit to the General Fund of 17, about 17 and a half million dollars at the end of Fiscal 14.

Now we go to close for '15. The -- talking to HHS it's looking like the total State share liability will be close to that 78, 80 million that it was last year. So we still have higher caseloads. We still have the three-month lag. So that amount, it may be a little bit lower. I'm not certain where it's going to end up, but it will be in that ballpark, I believe. So we'll have that 78 liability again. However, there is no appropriation carried forward, or we were predicting, talking to HHS, we don't think there's going to be appropriation to carry forward to cover those payments in the next year. So we go from 42 at the end of last year up to, if it's 77, then that's a lot bigger than 15. But if it's somewhat less than that, it's the increment over about 42 million which was last year's GAAP entry.

CHAIRMAN KURK: Less the 25 million carry forward?

MR. MURPHY: I don't believe there'll be any carry forward. Maybe there will be some. Actually, maybe there will be some

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carry forward; but whatever is carried forward will offset that final number.

CHAIRMAN KURK: For '14 you said that it was 78 million.

MR. MURPHY: Correct.

CHAIRMAN KURK: Less 31 carried over.

MR. MURPHY: 35 I think it was.

CHAIRMAN KURK: Or 35. Less 25 --

MR. MURPHY: From the reversal of the prior year.

CHAIRMAN KURK: Won't there be a reversal --

MR. MURPHY: Right. The reversal is the 42.

CHAIRMAN KURK: The reversal is the 42?

MR. MURPHY: Right, you always reverse the prior year's entry, and prior year entry was 42.

CHAIRMAN KURK: So 78 minus 42.

MR. MURPHY: Minus any fund balance that HHS is able to carry forward. I think that's some of the -- maybe the 10 million that was talked about.

SEN. SANBORN: The 8.3, right? The 78, minus 42, minus 8.3.

CHAIRMAN KURK: Which is now 300,000?

SEN. FORRESTER: Yes.

CHAIRMAN KURK: It was 9.3.

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MR. MURPHY: Well, I think it was moved down to 300,000 with the anticipation that a substantial portion of it is carried forward so it wouldn't lapse.

SEN. SANBORN: I thought we moved from 9.3 to 8.3?

CHAIRMAN KURK: We went from 9.3, minus 1 million, and then minus another 8 million because of the CFI surplus on Line 44.

MR. MURPHY: Then don't listen to me. I'm mistaken then. I wasn't here for that portion of it.

CHAIRMAN KURK: So, Miss Rockburn, how did the Department carry over \$31 million from '14 to '15, and why isn't that happening from '15 to '16?

MS. ROCKBURN: Excuse me. That's part of what we are researching right now. One of the things that happens with that is during the first year of a biennium, we have several accounts in our Medicaid that are non-lapsing. So the first year of the biennium they're non-lapsing, second year they're lapsing. So we are trying to look at by account what generated some of that additional balance forward from '14 that we're not seeing. I know that's one of the areas that we need to look at. It's some of those accounts right there that traditionally at the end of a biennium they might lapse so we're looking at that.

The other thing that happened which was out of the ordinary, and I apologize, this is probably a little bit more in the weeds so if it is we can pass. But when we converted in our MMIS system a year and a half ago, we made contingency payments. And those were payments that were upfront because we knew that we had a delay in our conversion of our MMIS system. So we front-loaded payments in '13 because of that. When those payments, you know, we needed to recoup those payments, the recoupment came in in '14. So from a strictly cash perspective, we had revenue that came back to the State in '14 from those recoupments, and I think that also contributed to having excess funds in '14, you know, to help offset the liability and things like that that were occurring in '14. So those were two major

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issues that are just unique to '14 that we are not going to see in '15. We are not going to have recoupments that come in. We are not going to have funds that carry forward year to year at the end of the biennium. So those are two that make that up. We're trying to look, and that's what Gerard said, we are trying to look to see where are things that are similar that we can carry forward to help offset that and that's the process we're still working on.

CHAIRMAN KURK: May I request, Mr. Murphy, that you send a letter to Fiscal Committee outlining the statement you just made? If we could get that, hopefully, by Monday.

MR. MURPHY: The changes?

CHAIRMAN KURK: Explain the GAAP, cash from '13 going forward as you just did. And, Miss Rockburn, if you could say something about the possibilities for seeing some carry forward based on what you've just discussed. If we got that on Monday that would be helpful, I think, to the Senate for their hearing on Tuesday. Senator Little.

SEN. LITTLE: Thank you. Miss Rockburn, earlier on in your comments I believe you mentioned to us that the \$8 million at Line 44 regarding the surplus was backed out on the assumption of language that is in House Bill 1 and House Bill 2 that were vetoed. So I'm curious about that. How did you make a decision to move forward on language that doesn't exist?

MS. ROCKBURN: That's something that we're working with -- we'll probably also probably get Department of Justice, our AG's Office involved with. The language in HB 1 and HB 2 the way it existed said that the CFI providers were receiving 900,000 payout or 1.8 million total funds. And then the rest of that money would lapse and that is not, as a result of the veto, that's not in place. So we know that we shouldn't lapse that funding, because that law is not in place. The current law on the books says that any money needs to be carried forward for CFI. And so what we are looking at is if the current law says any balance must be carried forward, we're not looking to sort

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of contribute that to our lapse or anything like that. So we are actually going back to the way it sits on the books today which says that any of the CFI or nursing home lines must roll forward. It doesn't allow us to lapse anything in the current law. The veto would have required us to pay out a certain portion and a certain portion would have lapse, in which case we could have used that to help offset.

SEN. LITTLE: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. LITTLE: So aren't these the same funds that necessitated SB 8 because instead of lapsing them they were being repurposed?

MS. ROCKBURN: There was a combination of things in SB 8 and SB 8 has also been -- hasn't moved forward. So what we are looking at is trying to say, you know, what is the right action on those funds knowing that all the discussions that happened with SB, even though that's not moving forward, and knowing that HB 1 and 2 right now is not moving forward, we are really trying to do a holding pattern right now and we don't want to touch those funds until we have some more information. I would hate to pay out or use any of those funds and then when the continued resolution finishes and we have a budget, we don't want to have to go back and fix something if we made an error on that. So we've been trying to keep that status quo for right now.

CHAIRMAN KURK: Are we finished with questions?

SEN. LITTLE: I have one more.

CHAIRMAN KURK: Senator Little.

SEN. LITTLE: I guess it's semi-related, if I might?

CHAIRMAN KURK: On Health and Human Services on this item?

SEN. LITTLE: Yes.

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CHAIRMAN KURK: Sure.

SEN. LITTLE: And that has to do with the question of the shrinking caseloads and the CFI. This is not the first time we've asked the question why. It's not the second. And we talked about it a lot in the process of Finance. And I think what you inferred today was that the Agencies don't have the staff to put the money out; and yet, when we ask the Agencies they tell us it's entirely different than that. So I'm curious as to why you still have shrinking caseloads with CFI and when we'll have the answer, definitive answer as to why?

MS. ROCKBURN: If you -- actually, when I was referring to workload and resources it was just for the DD, the disability population, not the CFI. CFI is a different discussion. And on Table H in the Dash Board, the CFI population hasn't shrunk. It has been almost the exact same caseload from July 12th through May 15th. July the CFI caseload was 2400. Today, it's 2,431 clients. So the caseloads have not changed at all in our CFI.

SEN. LITTLE: Follow-up.

CHAIRMAN KURK: Follow-up.

SEN. LITTLE: Money is not going out.

MS. ROCKBURN: We are current on all our bills for CFI providers. I think that the reason that there's a surplus is there was an additional amount of budgeted funds in those lines in anticipation that caseloads would increase and utilization would go up, but we haven't seen that and that's what's really creating that surplus.

SEN. LITTLE: Okay. Thank you.

SEN. FORRESTER: I have one.

CHAIRMAN KURK: Senator Forrester.

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SEN. FORRESTER: Thank you, Sheri, for coming in. I just want to go back to the -- the eight. So I think what I just heard is you're not making the payments to the CFI. You're holding that money aside until you figure out what happens with HB 1 and 2. We did make out an additional payment though to the nursing homes so they're whole; is that correct? You're not holding anything.

MS. ROCKBURN: That is correct.

SEN. FORRESTER: Okay.

CHAIRMAN KURK: Further questions from the Committee? Thank you both for your responses. We appreciate it.

REP. EATON: You're going to keep Gerard, aren't you?

CHAIRMAN KURK: Yes. Good idea. At this time let's go back to agenda item number (5), Fiscal 15-099 from the Department of Safety, to expend \$122,000 from the prior year carry forward balance for E-911.

MR. MURPHY: So I didn't have much time to really look into it. I apologize to the Committee for that. My -- my administrator for indirect costs now lives in Colorado and the staff person is on maternity leave. So it was me back there scouring through some indirect cost plans. I did get some high level information that showed to me that the indirect cost from '14 to '15 did go up for emergency communications by about \$60,000, from about 140,000 to about 200,000. And I also did some reading on our -- the cost plans that we submit to the Federal Government and are approved by the Federal Government. So there has been some recent changes in our allocation methodology for several of the cost drivers. In a couple of the areas where I think Safety saw increases we changed the -- while the overall cost of the service didn't necessarily change, how it was allocated among agencies did change. For instance, in the realm of purchase and property, the allocation driver was formerly a -- every single line on a PO was counted as part of that tally. And so each area's portion -- each area's portion of

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each individual driver was what drove what they were charged. And so I think what we are looking at is somewhat of a rejiggering of the portions each entity is charged. And with your permission, I'd like to go back and do a little bit more investigation of what exactly Safety is seeing for the increase.

CHAIRMAN KURK: What would the consequence be of tabling this then, not acting on it until next time in July, our next meeting, and being approved at that time? Is that a problem?

REP. EATON: Why don't we ask the Department.

MR. MURPHY: It's the way that that indirect cost revenue comes into our office is in the form of other revenue. So if Department of Safety weren't able to pay its bill, then other revenue would be decreased by that amount, which in this case I think is \$122,000.

CHAIRMAN KURK: Why is it 122 when you said their liability only went up by 60 from 140 to 200?

MR. MURPHY: Correct. I believe -- well, I'm not certain. It may be a portion -- that may be the bulk of their bill. I'm not -- you would have to ask Elizabeth that question. And when I said other revenue, the Department of Administrative Services records it as other revenue. That is a -- just to point out, that is a General Fund revenue, the category of other.

CHAIRMAN KURK: Thank you. Senator Feltes.

SEN. FELTES: Thank you, Mr. Chairman. I was wondering if we could ask the Department the same question that the Chair asked Mr. Murphy.

MS. BIELECKI: Thank you. Again, for the record, Elizabeth Bielecki, Department of Safety. It would be problematic for us to close our books for Fiscal 15 without paying this bill to Administrative Services. So it would cause some logistical issues for us.

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As far as the question about the budget, I would have to go back and look for the documentation supporting our '14 and '15 budget as to why we had budgeted \$80,000 and now the bill is \$200,000. That is the difference of the 122 between what was in the appropriations versus what the actual bill is for Fiscal 15.

CHAIRMAN KURK: Thank you. But I thought Mr. Murphy said it was a \$60,000 increase?

MR. MURPHY: That's billings. We bill 140 in Fiscal 14 and about 200 in Fiscal 15.

CHAIRMAN KURK: I see, and they booked 80 rather than the 200.

MS. BIELECKI: And I do have to tell you that in Fiscal 14 we did come in with a similar item to the Fiscal Committee to also ask for an increase to pay the '14 bill. So that would explain why there was a \$60,000 difference 'cause we are talking about different numbers.

MR. MURPHY: Right.

CHAIRMAN KURK: Thank you. Further questions?

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: I guess that begs the question why don't you just budget this line item correctly to avoid this?

MS. BIELECKI: We budget based on the estimates that we receive from the Department of Administrative Services at the budget time. So we would have budgeted based on the guidance and numbers that we received back in 2013.

MR. MURPHY: And I think that goes towards the changing methodology in the past couple years. When the budget was put together, I'm assuming the old methodology was in place. And now

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that this changed methodology is in place, I think that's what's leading to this issue.

REP. OBER: So this will go away -- if I might? This will away now that the new methodology is in place?

MR. MURPHY: That's correct.

REP. OBER: Thank you, Gerard.

CHAIRMAN KURK: Further questions? There being none, thank you both or all three of you.

The motion before us is to approve Fiscal 15-099. Further discussion or questions? There being none, you ready for the question? All those in favor, please indicate by saying aye? Opposed? The ayes have it and the item is approved.

***** {MOTION ADOPTED}**

CHAIRMAN KURK: I believe this completes our business. Is there anything else that --

REP. OBER: We have an audit.

CHAIRMAN KURK: Oh, the audit. Yes. Thank you.

REP. EATON: Want to take a break?

CHAIRMAN KURK: No.

REP. EATON: Okay.

AUDITS:

CHAIRMAN KURK: At this time we have a Financial Audit Report on DRED's Division of Parks and Recreation, Cannon Mountain.

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman,
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Members of the Committee. For the record, I'm Steven Smith, the Director of Audits for the Office of Legislative Budget Assistant. And with me this morning to present the audit from our office is Jim Lariviere who was the Manager on this job.

Also joining us from the Department of Resources and Economic Development is Commissioner Rose and Chris Marino, the Business Administrator.

Now I'd like to turnover to Jim to present this report.

CHAIRMAN KURK: Thank you. Good morning to all of you.

JAMES LARIVIERE, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Chairman, and Members of the Committee. Again, for the record, my name is Jim Lariviere. We are here to present our report on the financial audit of Cannon Mountain for the Fiscal Year ended June 30th, 2014.

As identified in the Table of Contents, this report includes 26 audit findings, none of which are considered material weaknesses. The Department, including Cannon Mountain, concurred fully with 24 of the findings and concurred, in part, with two of the findings. Observations number 25 and 26 may require legislative action.

Pages 1 and 2 of the report describe the organization of Cannon Mountain and its responsibilities, and on Page 2 there is a summary of Cannon Mountain's financial activity for the audit period.

Cannon Mountain's Financial Activity is primarily accounted for in the State's General Fund, which includes Cannon Mountain Ski Area Account and Cannon Mountain's Capital Improvement Fund. Mount Sunapee lease revenue is deposited into the Cannon Mountain Capital Improvement Fund and is used to pay the debt service for capital improvements at Cannon Mountain.

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The expenditures reported in the Capital Projects Fund reflects the expenditures for capital improvement; that is, the purchase and construction of capital assets at Cannon Mountain during Fiscal Year 2014. The Observations and Recommendations begin on Page 6.

In Observation No. 1, we recommend Cannon Mountain and the Department establish a formal risk assessment process --

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Excuse me for a second. Representative Ober.

REP. OBER: Could I ask a question on Page 2 before we go on?

MR. LARIVIERE: Sure. Thank you, Representative.

CHAIRMAN KURK: Would you prefer to take questions after you were finished or is it okay to take them --

MR. LARIVIERE: Either way.

CHAIRMAN KURK: Fine. Representative Ober has a question.

REP. OBER: Thank you, and thank you for taking a question. In the paragraph second one from the top, second line from the bottom, it says for the Ski Area and related State Park Facilities at Cannon Mountain. How much did that cover that related to Park Facilities; Echo Beach, the Flume? I couldn't figure out where it stopped,

MR. LARIVIERE: Yes, it included Echo Lake Beach because Echo Lake Beach was located at Cannon Mountain. It did not include the Flume.

REP. OBER: Thank you.

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MR. LARIVIERE: You're welcome. Observations begin on Page 6. In Observation No. 1 we had recommended Cannon Mountain establish a formal risk assessment process and the Department perform a risk assessment as outlined in its policy. And in Observation No. 2 beginning on Page 7, we recommend Cannon Mountain and the Department establish policies and procedures to support its employees performing significant financial accounting and reporting activities. The need for policies and procedures is also more specifically addressed in the comments in the report.

Observations No. 3 through 5 beginning on Page 8, each recommends reconciliations be performed to improve controls over certain accounts.

Observation No. 3 recommends Cannon Mountain a prepare reconciliation of the financial information recorded in its three primary accounting systems.

Observation No. 4, on Page 9, recommends reconciliations be performed for the activity in Cannon Mountain's Internet Payment Processing Account.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: You don't have to be a really bright accountant to see that \$3,000 wasn't accounted for when you did this. You said approximately 800,000, 780,000 was transferred, which would leave 20,000, but only 17,000 was spent on services. What happened to the other three?

MR. LARIVIERE: We actually -- I'm sorry. We used -- we had rounded the numbers just for reporting purposes. However, 3,000 -- the revenues of approximately 800,000, may have been a thousand or two less. While the 780,000 may have been a thousand or two less as well. It's just a matter of using rounded numbers.

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REP. OBER: Thank you.

MR. LARIVIERE: Thank you, Representative.

Continuing on with Observation No. 4. We had recommended that they reconcile the Internet Payment Processing Account and that separate user names, passwords, and access authorities be established for the account.

And in Observation No. 5 on Page 10, we recommend the Department reconcile its credit card clearing account, including credit card revenues and fees. In each of these three comments, improved policies and procedures would help ensure reconciliations are in place for an effective control.

Observation No. 6, Page 11, again, discusses the need for policies and procedures for financial transactions intended to correct and adjust financial accounts.

Observation No. 7 recommends Cannon Mountain and the Department monitor employee access to information systems to ensure they remain appropriate for the jobs defined and that all changes are documented, including system access and authorization of the changes.

Observation No. 8, Page 14, reports how ineffective communication between Cannon Mountain and the Department's business office contributed to a situation where approximately \$27,000 of credit card sales went unprocessed. Cannon Mountain and the Department should improve controls to ensure there is a system for, and expectation of, effective communication of financial information.

Observation No. 9 on Page 15 points out where Cannon Mountain did not consistently take advantage of available purchase discounts.

Observation No. 10 on Page 16, we recommend Cannon Mountain and the Department consider the appropriateness of the current accounting and financial reporting, including tax reporting procedures for external partner and sponsor marketing

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relationships which result in certain Cannon Mountain financial activity being off the books.

Observations No. 11 through 13, beginning on Page 17, relate to payroll issues.

Observation No. 11 recommends Cannon Mountain establish controls to mitigate risks in its payroll process, including improving controls for a supervisory review of employees' hours worked, broad access provided to Cannon Mountain payroll officer to make changes to payroll without any review and approval, and providing payroll information reports to Cannon Mountain that could be used to review payroll charged to its accounts.

Observation No. 12, we recommend Cannon Mountain and the Department work with the Department of Administrative Services to mitigate a weakness in the State's payroll process and better control agency payroll changes.

Observation No. 13, we noted certain Department's seasonal employees may not have been granted benefits they were eligible for. We recommend the Department work with the State's Division of Personnel to determine the appropriate criteria for identifying when seasonal employees become eligible for benefits and determine the appropriate process for notifying employees, if and when they become eligible.

We also recommend the Department establish policies and procedures to manage its seasonal employees' work hours to lessen the risk employees become eligible for benefits as a result of management oversight. And the Department consult with the appropriate parties to determine whether any liabilities exist for past benefit determinations.

Observations No. 14, 15, and 16, beginning on Page 22, recommend improving accountability and transparency over no-cost passes and discounting season passes, including determining whether there are any Federal tax reporting implications for free and discontinued passes provided to employees, volunteers, and affiliates.

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Observation No. 17 on Page 25, recommends the increased use of vouchers to support complimentary tickets.

Observation No. 18 on Page 26, addresses improving controls over Cannon Mountain's retail operations. Cannon Mountain operates three retail shops. And with -- Cannon Mountain with the assistance of the Department should implement appropriate control activities for the retail operations, including review and approval and segregation of duty controls.

Observation No. 19, recommends Cannon Mountain and the Department include monitoring of its food concession contract. Information received from its contractor should be reviewed for accuracy and compliance and instances of non-compliance should be pursued and resolved.

Observations number 20 and 21 recommend Cannon Mountain and the Department improve its controls for safeguarding and reporting State assets. It was unclear whether all Cannon Mountain's departments performed physical equipment inventory, and Cannon Mountain did not report its real property additions and improvements to the Department during Fiscal Year 2014.

Observation No. 22 on Page 31 discusses the untimely and non-filing of statement of financial interest. We recommend the Department monitor the filing status of individuals associated with the Department to promote compliance with the mandatory filing requirements in statute.

On Page 32, Observation No. 23 addresses the Cannon Mountain Mittersill Project and recommends the establishment of policies and procedures for monitoring the project.

Pursuant to a February 6th, 2013, Governor and Council authorized agreement, the Franconia Ski Club will finance through a capital campaign three and a half million dollars of improvements to the Mittersill area of Cannon Mountain. We recommend Cannon Mountain and the Department increase their formal monitoring of the project, including reviewing financial

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information, determining Cannon Mountain's appropriate accounting and reporting of the Mittersill Project, and maintaining oversight for all construction activity, including properly accounting and reporting those improvements.

Observation No. 24 on Page 34 discusses the exclusion of ski school and concession operations from the State's budget process.

Observations No. 25 and 26 are compliance comments and speak to the Department of Cannon Mountain's compliance with statutory requirements, including the submission of quarterly reports on season passes sold at reduced rates.

On Page 40 is the opinion of the -- on the financial statement, followed by the financial statement and note disclosures. On the last few pages of the report, immediately behind the tabs we have included a summary of the current status of audit observations contained in the financial audit report of Cannon Mountain for the ten months' ended April 30th, 2001, and in Appendix B contains a letter from the Commissioner to you, the members of the Fiscal Committee.

That concludes my presentation. I would like to thank the Department, including Cannon Mountain, for their cooperation and assistance during the audit. And with your permission, I'd like to turn the presentation over to Commissioner Rose for his comments.

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Before that's done, I find the material in Appendix A to be woefully lacking because there's never a statement from the auditing group about why things weren't started or more than partially resolved. And while it says here, you know, you can see 42 wasn't even started. See current Observation 14. Current Observation 14 does not address why an audit from 2001 wasn't started. And I think Audit should have

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that statement. It's nice that you give us this, but I could look that up -- some of this up myself and compare. I would like to know a little more. I mean, there had to have been conversation. I hope in future audits we would see that kind of report. It doesn't have to be lengthy, but a page or two on just the ones that are partial or not started would be very helpful.

MR. SMITH: Representative, I will certainly discuss that and take that under consideration.

REP. OBER: Thank you,

MR. SMITH: Yes.

CHAIRMAN KURK: Commissioner.

MR. ROSE: Thank you, Mr. Chairman. For the record, Jeff Rose, Commissioner of the Department of Resources and Economic Development. And I'm joined by Chris Marino who's our Business Administrator for the agency. And I'd just like to start out and really thank the LBA for their work on this audit, Steve, Jim and Bill. We really appreciate it and it's been obvious to me and our team that they have been working to help us improve in how we provide our services to the people of New Hampshire and our patrons.

I've been focused on this right from the very beginning about results and getting results and implementing the recommendations of this audit. And one of the things that I really appreciate about the approach that the LBA took with us we were able to have a dialogue while they were conducting this. And while this was for 2014, we were able to get -- consult with them in order so we could make some of the improvements and changes necessary for our operations in 2015. And I'm pleased to say that we've been able to get a good start on helping address a lot of these Observations that have been identified in this audit.

You know, I know we've made strides, but we have a lot more work ahead of us. And I want the Committee to know how serious

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I take this and look forward to being able to provide updates on the status of our compliance with this audit report. You know, I do believe strongly in trying to have a culture of continuous improvement, not just at Cannon but throughout the entire agency.

I'm really proud of the accomplishments that we have made at Cannon Mountain in recent years. We've really focused on customer service and improving the conditions at the ski area. As a result of these efforts, we've made significant strides in our financial numbers. We've produced net operating revenue in seven of the last eight years. We have increased our revenues by 33% over the last six years and provided direct contributions of \$1.77 million in net operating revenues from Cannon Mountain to our Parks System -- to our Parks Fund and fully eliminated our operational deficit. And, moreover, we have been honored to be able to operate one of the premier ski areas, not just in New Hampshire, but in the Northeast and have been recognized by several outfits for the quality of the operations and the satisfaction of our patrons by MUR Viewer Choice Award and by *Skier Magazine* readers.

While we achieved our goal of improving our financial position at Cannon, we -- and the experience that we offer our visitors, we need to do the same now in improving our business and our financial operations and reducing the risks to our business.

The improvements at Cannon operations and marketing, capital equipment, and now these financial practices, I'm confident that we'll further position Cannon as New Hampshire's premier ski mountain. And, again, I really do appreciate the work of the LBA team and really look forward to implementing these changes with my team at Cannon Mountain.

CHAIRMAN KURK: Thank you, Commissioner. So would you mind giving us a report and update by Friday, September 18th, as to the status of each one of the items in Appendix A and with respect to each one of the items in this audit?

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MR. ROSE: I would be happy to.

CHAIRMAN KURK: And that will be included in our packet as an information item.

MR. ROSE: And just -- September 18th?

CHAIRMAN KURK: Isn't that a Friday?

MR. ROSE: I don't have a calendar. I just referenced -- I thought I wrote down 25th.

CHAIRMAN KURK: The 25th is the date of the meeting but we'd like the information a week before.

MR. ROSE: Got it.

CHAIRMAN KURK: So we can have it in time to digest for the meeting.

MR. ROSE: Understood.

CHAIRMAN KURK: I have a couple of very basic questions. It's nice that Cannon Mountain is contributing \$1.7 million to the Park Fund. The question is, is that the right amount? So does Cannon Mountain either have a statutory or managerial objective to maximize profits?

MR. ROSE: We do have in statute that we are supposed to be charging industry rates for our services that we provide. We do go before the Fiscal Committee each year with our fee package. We don't necessarily -- we strive to run a very efficient and effective operation in managing our revenues and our outlays accordingly, and we have been able to make some significant adjustments and improvements in the operational fund at Cannon, as well as in the Parks, but it's not a statutory requirement to maximize profit.

CHAIRMAN KURK: Second question. When you provide us information, can you give us some sort of a comparison between

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your profitability and the profitability of the ski areas with which you compete so that we have a sense of whether that 1.7 is a really nice number or needs improvement?

REP. OBER: I gather they get that at the ski areas.

REP. WEYLER: Ski areas may not want to share that.

CHAIRMAN KURK: I thought there was statistical averages, not by ski area, that were available so you compare yourself to what the industry is doing? If you can't do it, I understand. If you can do it, it would be nice to see that to give us a sense of how well you're doing.

REP. OBER: Neal, ski areas typically because, you know, I ski, average number of skiers a day whether they went up or down, average number of snowfall, awards that they get for grooming in the middle of the night and the other things that we have got in Cannon. But most of them are privately held. You can't get much data from them financially.

CHAIRMAN KURK: I appreciate what you're saying. I'll provide you with some data that you might be able to use.

Second question. Do you maintain the same balance of full-time versus part-time employees that other ski areas do or you more heavily using part-time or full-time?

MR. ROSE: We rely heavily on part-time employees. I believe in the audit is listed as 29 full-time.

CHAIRMAN KURK: That's not the question.

MR. ROSE: I'm sorry.

CHAIRMAN KURK: The question is compared to other areas or don't you know?

MR. ROSE: I would have to look. If you don't mind, maybe I'll ask John DeVivo who's our General Manager at Cannon who has

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experience at other mountains as well if he might have a thought or comment to that particular question, Mr. Chair.

CHAIRMAN KURK: Sure.

JOHN DEVIVO, General Manager, Cannon Mountain Aerial Tramway and Ski Area and Franconia Notch State Park, Department of Resources and Economic Development: Thank you, Mr. Chair, and Committee Members. For the record, my name is John DeVivo. I'm the General Manager at Cannon Mountain Aerial Tramway and Ski Area and Franconia Notch State Park. If I understand the question correctly, you're asking about essentially the ratio of part-timers to full-timers.

CHAIRMAN KURK: And compared to competitors.

MR. DEVIVO: As compared to other ski areas and ski resorts. During the wintertime we utilize roughly 375 paid team members of which 29 are full-time year-round, Class 10 or Class 59. My guess would be that that ratio would essentially run with the industry average. Certainly check through Ski New Hampshire, get that answer for you.

CHAIRMAN KURK: Sure.

MR. DEVIVO: We average about 525 overall team members when you take into account affiliated partners and volunteers as well.

CHAIRMAN KURK: And can you produce something about profitability, comparability?

MR. DEVIVO: I can check through NSA, National Ski Area Association what they will give but Representative Ober is not far off the mark. There's not a lot of sharing when it comes to shared profitability.

CHAIRMAN KURK: Even through a trade association?

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MR. DEVIVO: I will check through NSA and see what they will cough up.

CHAIRMAN KURK: Thank you.

REP. OBER: Mr. Chairman, can I ask a question on that?

CHAIRMAN KURK: Sure.

REP. OBER: John, most of the ski areas in New Hampshire use one or two or three part-time paid ski patrollers and then certified volunteer ski patrollers for the rest of the force. Is that the same you do at Cannon?

MR. DEVIVO: Well, I think you see more than one or two or three paid. It depends on which time of the week per se. Cannon runs with ten full-time 40-hour patrollers. And then we will typically operate with 30 to 40 volunteer patrollers on weekends and holidays.

REP. OBER: Thank you.

MR. DEVIVO: Thanks.

CHAIRMAN KURK: Just one general comment from my personal point of view. I was very concerned about the fact that you didn't present numbers as discounted, free ski passes. This is a very sensitive issue for a State Agency and I hope that those numbers can be forthcoming and somebody looks in to see who's getting it so that there is no question that this is not leading to nepotism or any other kind of untoward decision-making. Because there were three or four issues or items, Observations that dealt with those. It's not the kind of thing that I want to see on the front page of the local newspaper.

MR. ROSE: Understood.

CHAIRMAN KURK: Thank you. Further questions?
Representative Weyler is recognized for a motion.

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

REP. OBER: Second.

CHAIRMAN KURK: Moved by Representative Weyler, seconded by Representative Ober that the item be approved and released as stated. Discussion? Questions? There being none, you ready for the question? All those in favor please indicate by saying aye? Opposed? The ayes have it and the item is approved. Thank you all for your work and your information.

*** {MOTION ADOPTED}

REP. OBER: Mr. Chairman.

CHAIRMAN KURK: Representative Ober.

REP. OBER: Thank you, Mr. Chairman. I do have a question for the LBA about an e-mail that you and I received. May I ask it?

CHAIRMAN KURK: Please. Mr. Pattison, question from Representative Ober.

REP. OBER: The e-mail says after each meeting Joe Kenney sends out what the Council approved at their meeting. I find it interesting that they have approved brand new contracts, as well as contracts that extend past 31 December, which is all the money that has been allocated. Not sure what may need to be done or maybe nothing, but I think we cannot obligate the State when funding is not available. So you can be sure that this came out almost as soon as the Governor vetoed the budget to us.

What's the status of that or should somebody be discussing that with them? We have funded through December 31st. And I know my Councilor does the same thing and I haven't read that yet. So one of my constituents and from -- well, constituent from another area, read that and zipped out an e-mail immediately.

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MR. PATTISON: Joe is still with us right now. I know the Department --

REP. OBER: Joe wishes he went home.

MR. PATTISON: Administrative Services is working with the State Agencies and will be providing guidance to the Agencies early next week. I think at this point I'll just let Joe comment on that.

REP. OBER: Sorry you didn't leave with the Commissioner, Joe?

MR. BOUCHARD: I'm never sorry. For the record, Joe Bouchard from Administrative Services. To your question, Representative Ober, my group is a group that puts together the agenda for the Council and approves all the contracts performed subsequent to be presented for Council agenda through the Secretary of State. Each Council item that relates to obligation to State funds has a clarifying statement in it that says funding -- funds are available in such and such an account to support this contract based on the availability of as presented in the future operating budget. So there's a disclaimer for all contractors and for the public to see. The amount of monies that we hope to obligate against the contract is still predicated on the final approval of the 16-17 budget.

Also, in every State boiler plate contract, the P 37 which all State Agencies sign and vendors sign and the Attorney General sign, in the boiler plate there is a specific section that relates to Section 106 where an accounting unit is inserted to show where a contract is to be obligated. And in the boiler plate it basically says if funds are not available in this accounting unit to support this contract, the State is not obligated to continue with the contract and/or the amount that is not obligated to find it from another source. So there's two safeguards, if you will, one of which is public, the other is more contractual, that saves us in regard to a situation where we would go into and deal with millions of dollars of contracts that are going to be obligated next month.

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Now what we will be doing with Agencies is put together guidance for them as far as managing a lesser budget than they had expected. And to give them guidance basically on how to obligate portions of the contracts so that they can start the contracts up with available funding, but we're not obligated past 6/12^{ths} of the Fiscal Year or the scope of work that's envisioned in any contract.

REP. OBER: Thank you. I will get back to the person that wrote to both of us in writing. Mr. Chairman.

CHAIRMAN KURK: Yes.

REP. OBER: Would it be appropriate when those documents are ready for those to be included as informational items in one of our next Fiscal meetings, the guidance that is being given to Agencies on contracts and budgets?

MR. BOUCHARD: We certainly can do that. If we'll -- we are putting together information, a letter, from Department of Administrative Services providing guidance on contracting, not only through Governor and Council contracts, but also through our purchase and property management contract, which deals with contract unit which deals with all the major commodities on appropriate way to help Agencies see their way through the next six months. So we'll be happy to provide that to Fiscal.

CHAIRMAN KURK: Thank you.

MR. BOUCHARD: I can provide it to Jeff.

REP. OBER: That will be good.

MR. BOUCHARD: Certainly.

CHAIRMAN KURK: I'd like to remind folks once again that our next meeting will be on July 29th, followed by August 26th, and September 25th. Anything else to come before us?

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REP. OBER: No, sir.

CHAIRMAN KURK: If not we, stand adjourned.

(Adjourned at 12:15 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.

Cecelia A. Trask
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