

STATE OF NEW HAMPSHIRE

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NEW HAMPSHIRE 2017
JOINT LEGISLATIVE
FISCAL COMMITTEE
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JOINT LEGISLATIVE FISCAL COMMITTEE MEETING - 9/13/17

Appearances:

Neal Kurk - CHAIR
Frank Byron - House - Alt.
Lynne Ober - House
Marjorie Smith - House - Alt.
Daniel Eaton - House
Regina Birdsell - Senate
Chuck Morse - Senate President
Dan Feltes - Senate - Alt.
Jeb Bradley - Senate
Bob Guida - Senate

INDEX

1

2 TESTIMONY:

3 Commissioner Jeffrey Meyers, pages 4-11, 13-17, 27-
4 29, 46-60

5 Kathleen Talbot, pages 11-12

6 Brady Serafin, pages 17-22, 35-36, 43-45

7 Christine Tappan, 29-34, 36-37, 39-43

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1 CHAIR NEAL KURK: Good afternoon, everyone.
2 I'd like to open this Special Meeting of the Fiscal
3 Committee and make a few opening remarks. First of
4 all, welcome to Senators Birdsell and Guida who are
5 replacing Senators Daniels and Regan. The House side
6 seems to be full of its regulars, although
7 Representative Byron, an alternate, is replacing
8 Representative Weyler for this meeting.

9 The purpose of this meeting is to look at some of
10 the issues surrounding certain sections of House Bill
11 517, the budget which deal with the Sununu Center.
12 The issue before us is not whether those provisions
13 are desirable or not, that's settled law, and this
14 Committee has no jurisdiction over that. The issue
15 before us is whether or not that -- the provisions of
16 that law will be implemented in a timely manner.

17 The Commissioner's letter to me or to the
18 Committee which is required by statute of August 31st
19 raised some concerns and I wrote to the Commissioner
20 about those. And Commissioner, if the tone was not
21 suitable, I apologize for that. Some of us are tone
22 deaf.

23 The purpose of today's meeting is to deal with

1 these issues and come to some understanding, because
2 at the end of the day we all need to be on the same
3 page that the provisions of 517 will be implemented
4 on the time schedule set forth in that bill. And to
5 the extent that as a result of today's discussion, we
6 can be reassured that that is going to happen, then
7 this will be -- have been in my view a very
8 productive meeting.

9 Once again the issue is not whether this is good
10 policy, we are not revisiting the policy. That's a
11 legislative decision and that's a done deal. The
12 issue is whether or not or how we're going to make
13 sure that that policy does in fact get implemented.

14 So commissioner, I'd be very pleased if you could
15 address those issues.

16 COMMISSIONER JEFFERY MEYERS: Thank you.
17 Thank you for the opportunity to be here. I want to
18 first introduce my colleagues who are here with me
19 today, Christine Tappan was confirmed earlier today
20 by the Governor and Executive Council to be the
21 Associate Commissioner of the Department.

22 CHAIR NEAL KURK: Congratulations.

23 COMMISSIONER JEFFERY MEYERS: Yep. And part

1 of her responsibilities are to oversee DCYF,
2 including the Sununu Center. Brady Serafin who is a
3 Director of the Sununu Center is here, as well as
4 Kathleen Talbot who's part of the DCYF staff who's
5 been very involved in working with us to implement
6 this law.

7 I'd like to say just at the outset if I may that
8 since this law was enacted, the Department has worked
9 diligently and as quickly as we can to implement it.
10 We are not here to revisit the law, either. I can
11 assure each member of the Committee that. It's our
12 job to implement it. But we can't implement this by
13 ourselves. Ultimately, the Court has a role as you
14 know under several of the provisions of 517 in terms
15 of not committing or detaining youth at Sununu under
16 the standards that have now been established in the
17 bill. The residential provider community has to be
18 willing to step forward and to deliver the services
19 and the beds that the Legislature's anticipating that
20 they will deliver.

21 So the Department will do its part, is doing its
22 part and is committed to doing its part to see that
23 this law is implemented. We have to work with each

1 part of the system in order to do that. And I think
2 that's an important point that we shouldn't gloss
3 over.

4 Mr. Chairman, I, with your consent, I think that
5 one way to get into the issues would be to briefly
6 address the four or five points that were in the
7 letter. They were raised by you in your initial
8 email and I addressed them in a letter dated
9 yesterday. There's two documents, I should say to
10 the Committee at the outset, there's two documents
11 that you should have before you. One is a letter
12 from me dated September 12th, yesterday, that
13 addresses the points raised by Chairman Kurk's email.
14 The second document that's been distributed is
15 entitled DCYF Review of Existing Services.

16 And we'll get into more of what that document is
17 in a few minutes but it is a --

18 CHAIR NEAL KURK: Commissioner, is this the
19 document you're referring to?

20 COMMISSIONER JEFFERY MEYERS: Yes, it is,
21 Mr. Chairman, yes. And everyone should have that.
22 And we will post, the letter's already been posted
23 publicly I believe, but this other document will be

1 posted on the Department's website later today,
2 publicly so everyone has access to it.

3 There are four issues, Mr. Chairman, that you
4 raised in your email. The first which is addressed
5 on the front page of my letter has to do with the
6 purposes for which the appropriation in 517 of no
7 less than \$8.7 million is to be used for. And there
8 may be some misunderstanding about whether that money
9 is to pay for additional capacity, or existing
10 capacity and I just want to clarify our understanding
11 and I'm obviously happy to hear what you say. But
12 it's our view based on the language of Section 175 of
13 House Bill 517 that, and we've attached an excerpt of
14 that language that went with the letter to you, that
15 the statute states that that money is to be used to
16 fund rate increases and additional capacity for out-
17 of-home placements pursuant to the duties of the
18 Commissioner "in Section 165 of the Act". And when
19 you look at Section 165 of the Act, that section
20 refers to the alternative capacity for youth that
21 would have been committed to the Sununu Center or
22 detained at the Sununu Center but will be provided
23 services in the community.

1 So those are the 35 alternative placement beds
2 that are referenced in Section 175 and 165, and so we
3 believe that the no less than \$8.7 million is the
4 minimum threshold to pay for the capacity and the
5 services for those additional 35 beds over the course
6 of the biennium.

7 CHAIR NEAL KURK: But if that's the
8 interpretation, the cost per day of those beds is
9 almost the same as the cost per day of a Sununu bed
10 and I can assure you, Commissioner, that the
11 Legislature was attempting to reduce the costs of
12 dealing, certainly to the general fund, of dealing
13 with these folks --

14 COMMISSIONER JEFFREY MEYERS: Right.

15 CHAIR NEAL KURK: -- rather than raising it.
16 So that interpretation, I think, is different from
17 mine. I thought the \$8.7 million was for both the
18 committed -- was for not just the 35 beds but for the
19 35 beds and for additional placements in the
20 community. If it's only for 35 additional beds, it's
21 very expensive.

22 COMMISSIONER JEFFREY MEYERS: May I ask you,
23 we may be talking about the same thing and I want to

1 try to flush it out. So we're agreed that it's to be
2 used for the 35 alternative placement beds in the
3 community.

4 CHAIR NEAL KURK: And --

5 COMMISSIONER JEFFREY MEYERS: And additional
6 services --

7 CHAIR NEAL KURK: For other --

8 COMMISSIONER JEFFREY MEYERS: -- supporting,
9 I thought supporting those beds. But you're saying
10 it's beyond that?

11 CHAIR NEAL KURK: Yes. And the 35
12 additional beds don't mean 35 beds that don't exist
13 in the system. It means an additional 35 beds to the
14 300 plus that are currently certified. They could be
15 part of, I think your number was 640 beds that are
16 licensed.

17 COMMISSIONER JEFFREY MEYERS: Roughly, yeah.

18 CHAIR NEAL KURK: And 35 could have come
19 from the difference between the licensed and the
20 certified.

21 COMMISSIONER JEFFREY MEYERS: Yeah.

22 CHAIR NEAL KURK: Or it could be new
23 capacity. But this does not require that it be new

1 physical, new physical capacity. It requires that
2 the beds be made available. To the extent that the
3 300 certified beds goes up to 335 without increasing
4 the total licensed --

5 COMMISSIONER JEFFREY MEYERS: Um-hum.

6 CHAIR NEAL KURK: -- that would cost us a
7 certain amount of money but there would be a lot of
8 money left over from the \$8.7 million to provide for
9 these children in beds that are already certified
10 among the 300. So the idea was not to increase the
11 capacity of the system, the idea was to increase the
12 capacity of the system that would serve the Sununu
13 population that was no longer going to be committed
14 but was going to -- in the facility but was going to
15 be served in the community. That's -- that was the
16 Legislative, I think, intent in drafting this
17 language.

18 COMMISSIONER JEFFREY MEYERS: The language
19 of 175 though does state it's to fund rate increases
20 and additional capacity for out-of-home placements
21 pursuant to the duties of the Commissioner in Section
22 165.

23 CHAIR NEAL KURK: And both your

1 interpretation and my interpretation I think are
2 consistent with those words.

3 COMMISSIONER JEFFREY MEYERS: Okay.

4 CHAIR NEAL KURK: But what I'm suggesting --

5 COMMISSIONER JEFFREY MEYERS: Yep. No, I
6 hear what you're saying. I'm sorry. Do you want to
7 add anything to that? Kathleen? Yep.

8 KATHLEEN TALBOT: Thank you. Hello, I'm
9 Kathleen Talbot. I certify the residential --

10 CHAIR NEAL KURK: Good afternoon.

11 KATHLEEN TALBOT: -- treatment programs for
12 DCYF, thank you. So in addition to adding additional
13 certified beds is possible. However, these youth in
14 particular are very, very costly because of the needs
15 that they have and taking them from a secure
16 residential treatment center like Sununu Youth
17 Services Center and putting them into the community,
18 it may potentially actually increase the cost per
19 child. So that is a concern of ours.

20 In addition, so we have the certified beds. We
21 have licensed beds within the system. Some of those
22 beds are used by other youth, whether it be
23 educationally placed through local school districts

1 that you're all from or private placement from parent
2 or out-of-state placement, there may be capacity
3 within that gap of certified to licensed but we may
4 additionally need to license additional beds because
5 those beds may already be spoken for, for current
6 children.

7 Plus the programs that are designed for those
8 children don't necessarily meet the needs of the
9 youth who are not going to be eligible for Sununu any
10 longer so we will need to develop new programs to
11 meet the extensive needs of some of these very
12 challenging youth.

13 CHAIR NEAL KURK: I understand that and I
14 agree, and I agree also that the cost per child may
15 go up, but remember 50 percent of that is going to be
16 Medicaid and 50 percent of that is general funds.
17 And so unless it doubles, the general fund has a cost
18 saving in that process. It's true that it's
19 conceivable that if none of the existing beds,
20 assuming 100 percent of the licensed beds are filled,
21 if none of those become available then we're talking
22 about additional capacity. But with the rates that
23 we're going to be paying because of the additional

1 money that's available, it may be that some of the
2 out-of-state placements are no longer accepted and
3 those beds become certified for this particular
4 population.

5 We don't know and that's one of the things the
6 Department is presumably trying to look at. The
7 point that I'm making is that the statute does not
8 require that there be 35 additional beds bringing up
9 the total of licensed beds from 640 to 675.

10 COMMISSIONER JEFFREY MEYERS: I don't want
11 to belabor it. The statute does state though that
12 the money is for -- the word additional is in the
13 statute.

14 CHAIR NEAL KURK: Yes.

15 COMMISSIONER JEFFREY MEYERS: That's what
16 I'm trying to convey and so that's --

17 CHAIR NEAL KURK: But additional --

18 COMMISSIONER JEFFREY MEYERS: -- that led us
19 to interpret that as an intent that, because it says
20 additional alternative capacity for out-of-home
21 placements. So that led us to conclude and maybe
22 this is just a misunderstanding, but the fact that
23 the word additional capacity is in the statute led us

1 to believe reasonably that the Legislature intended
2 that these new beds be additional to the existing
3 capacity in the system in the system.

4 CHAIR NEAL KURK: I appreciate that and I
5 understand that interpretation. I'm suggesting that
6 rather than going from 640 to 675, your
7 interpretation.

8 COMMISSIONER JEFFREY MEYERS: Yeah, I see.

9 CHAIR NEAL KURK: We go from 300 to 335.

10 COMMISSIONER JEFFREY MEYERS: And now, I
11 understand your point. And I --

12 CHAIR NEAL KURK: Senator Morse?

13 SENATOR MORSE: Well, I just want to make
14 clear that Senator Bradley is to sit in for Senator
15 Sanborn and I'll put a letter on file.

16 CHAIR NEAL KURK: Thank you. Welcome,
17 Senator Bradley.

18 COMMISSIONER JEFFREY MEYERS: Thank you. I
19 appreciate that. So the, so we've just addressed
20 really the second issue that whether or not these
21 beds, the first issue was whether the money was for
22 just the alternative capacity beds, the 35, we've
23 clarified that. And then we've just talked about the

1 issue of whether those beds are really added into the
2 system of whether they could come from the delta
3 between those beds that are licensed and those beds
4 that have been certified to date.

5 CHAIR NEAL KURK: You're correct.

6 COMMISSIONER JEFFREY MEYERS: And we'll talk
7 more about that. The next issue just to clarify, and
8 I think everybody now understands that, that my
9 initial letter just incorrectly stated, referred to
10 the amount of monies up to -- it's not, it was not
11 intended to say that. We understand the Legislative
12 direction that we have to spend at least \$8.7 million
13 with respect to this purpose, so there's no
14 disagreement there at all.

15 Before I get to the evaluation which I think is,
16 which would get us into the second document, I want
17 to just address the fourth issue of my letter which
18 is whether or not the additional capacity that's
19 required by Section 165 of 517 is with respect to
20 only committed youth or committed and detained. And
21 I've provided a fairly extensive summary of our
22 interpretation of existing law in the letter and the
23 statute refers to youth that are placed. Placed,

1 however, is not a defined term in the existing law.
2 There's a reference in Section 159 of the transfer of
3 committed youth by January 1, 2018. It doesn't say
4 committed and detained, it says committed. And that
5 we have to certify a second facility for these youth,
6 for committed youth by July 1, 2018.

7 So the references in the other portions that you
8 enacted in the same Legislation refer to committed,
9 not committed and detained. And so, and so I
10 understand that I think it was your view, Mr.
11 Chairman, and maybe others on the Committee, that
12 this -- this requirement for the additional capacity
13 was not just for committed but for committed and
14 detained despite those references, is that right?

15 CHAIR NEAL KURK: Yes.

16 COMMISSIONER JEFFREY MEYERS: So what I'd
17 like to ask Brady to do for a minute is to comment on
18 this because we're not -- we don't believe based on
19 the numbers we have and the numbers we project,
20 whether or not the 35 would be adequate for both
21 committed and detained. There -- and as Brady can
22 explain probably better than I can, there are times
23 when there are youth detained in the middle of the

1 night, at a moment's notice. You know, the
2 Manchester Police Department, I'll use as an example,
3 and this is a real example I think from not too many
4 months ago, broke up some sort of activity that was
5 going on in the city that involved youth and gangs
6 and I think there were close to a dozen if I'm
7 correct, correct me if I'm wrong, 11 youth that had
8 to be brought very late in the night to the facility.
9 So if, if what the Legislature is saying in the
10 statute is that we have to have that -- the
11 alternative capacity has to be sufficient for both
12 kids that would have been committed or kids that
13 would have been detained. I think we're talking
14 about significantly more than 35 beds in order to
15 have the ability to respond to a situation like we
16 did in Manchester not too many months ago when the
17 police department brought us 11 kids late one night
18 that we had a -- we had a house. Can you expand on
19 that a little bit?

20 BRADY SERAFIN: I think the Commissioner
21 stated it accurately. I mean that, the being able to
22 be fluid and fluctuate with ongoing issues for any
23 community is a critical need, so much like the issue

1 in Manchester, this actually happens on a regular
2 basis at the Sununu Center and we'll take in two,
3 three, four, five, up to 11 young people at any given
4 time. And having the capacity to do that is, is
5 critical to the success of any, any program and the
6 safety of any community.

7 CHAIR NEAL KURK: Without in any way
8 disagreeing, I'd point out that expectation of the
9 Legislature for this program is the number of
10 committed youth placed in the Sununu Center would be
11 dropping giving you excess capacity as it were to
12 deal with these kinds of situations. It's like an
13 accordion. If your population were down to 20 or 25
14 or 30, you would still have the capacity to deal with
15 the midnight group that might come in.

16 BRADY SERAFIN: Only if they qualify for
17 detention under the new statute, so if they don't
18 qualify for detention --

19 CHAIR NEAL KURK: Yes.

20 BRADY SERAFIN: -- under 517, they would
21 have to go to this alternative placement capacity.
22 This other program would have to be available to take
23 them so --

1 CHAIR NEAL KURK: At 11 o'clock at night?

2 BRADY SERAFIN: -- at 11, 1, 2, 3 in the
3 morning.

4 COMMISSIONER JEFFREY MEYERS: Yes, yeah,
5 right.

6 BRADY SERAFIN; We would have capacity at
7 the Sununu Center but our concern is based on our
8 understanding of the law that those youth couldn't go
9 to Sununu. We would have to have the capacity in the
10 community. And if that is, in fact, the right
11 interpretation of the statute, then 35 is understated
12 is all I'm saying. We're not saying I'm willing to
13 do it. We don't think 35 beds would be the number.

14 CHAIR NEAL KURK: Representative Wallner?

15 REPRESENTATIVE WALLNER: Thank you. I guess
16 I'm having a little trouble understanding how these
17 young people who were detained at YDC, at Youth
18 Development Center at 11 o'clock at night. Does that
19 mean that any police department in the State could
20 have young people detained there if they --

21 BRADY SERAFIN: Met the criteria, correct.
22 Absolutely. So if you're charged with a criminal
23 offense and as a young person that would be a

1 delinquency, and you cannot be safely maintained in
2 the community, you then, any police department, any
3 judge has the ability to order detention at the
4 Sununu Youth Services Center. Now, and that's
5 reserved for the population obviously that's unsafe.
6 And meaning unsafe to the community or themselves.

7 CHAIR NEAL KURK: Representative Wallner
8 again?

9 REPRESENTATIVE WALLNER: And in that
10 particular case, I didn't want to get into particular
11 cases, but in that particular case a judge --

12 BRADY SERAFIN: Ordered it.

13 REPRESENTATIVE WALLNER: -- ordered it?

14 BRADY SERAFIN: Correct.

15 REPRESENTATIVE WALLNER: Thank you.

16 CHAIR NEAL KURK: Representative Ober?

17 REPRESENTATIVE OBER: Commissioner, help me?

18 COMMISSIONER JEFFREY MEYERS: Yeah.

19 REPRESENTATIVE OBER: I think you just said
20 that, and I guess I'm not going to call this 11 young
21 men any specific term, but the 11 people who were
22 sent to Sununu --

23 BRADY SERAFIN: Right.

1 REPRESENTATIVE OBER: -- had been kind of an
2 ongoing policy that existed, had existed in law and
3 am I correct?

4 BRADY SERAFIN: Yes.

5 REPRESENTATIVE OBER: Without giving them a
6 detained or committee, because I'm not quite sure I'm
7 clear --

8 BRADY SERAFIN: Well, a judge has determined
9 that they need to be held. We're not just putting
10 people away.

11 REPRESENTATIVE OBER: Did we write something
12 in 517 that specifically overwrites your ability to
13 do that and if so, could you point that language out
14 to me --

15 CCOMMISSIONER JEFFREY MEYERS: Yep, yep.

16 BRADY SERAFIN: Correct.

17 REPRESENTATIVE OBER: -- in the section that
18 we have and I would appreciate that and thank you for
19 doing that for us.

20 BRADY SERAFIN: So 517 states that, if we're
21 talking about detention, I don't -- you have the --

22 COMMISSIONER JEFFREY MEYERS: I don't the
23 whole set she's talking about. We'll certainly

1 provide it but I know Brady's familiar with it.

2 BRADY SERAFIN: So if we're talking about
3 specifically detention, it says that young people can
4 no longer be detained for delinquencies that they
5 could not be committed for and they could only be
6 committed for a delinquency that would be a serious
7 violent offense. One of our 169-B:35 offenses,
8 homicide, arson, first degree assault, second degree
9 assault, any one of those real serious offenses. Or
10 if you have committed certain misdemeanors and on the
11 fourth occasion, been adjudicated three separate
12 occasions, on the fourth occasion you could then be
13 considered for commitment. So we then interpret that
14 to be the only ones that can be considered for
15 detention at that point in time.

16 So if I just talk about the young people that
17 were there, say they had no prior involvement with
18 the --

19 REPRESENTATIVE OBER: Well, can I just stop
20 you because I think you may be way beyond what I
21 needed because --

22 BRADY SERAFIN: Okay. Sorry.

23 REPRESENTATIVE OBER: -- I have a simple

1 mind sometimes. Mr. King and Mr. Ripple, did we
2 actually repeal some section that gave them the right
3 to do this? I made it to simple.

4 CHAIR NEAL KURK: It wasn't a repeal. It,
5 you did change the standard of who could be committed
6 and detained. That was done in the Legislation. It
7 wasn't a repeal per se but the standard was changed.

8 REPRESENTATIVE OBER: They're -- they're
9 looking for it.

10 UNIDENTIFIED SPEAKER: It was. Nothing was
11 repealed but the statute was amended to change the
12 standard.

13 REPRESENTATIVE OBER: Thank you. Thank you,
14 Mr. Chairman.

15 CHAIR NEAL KURK: Representative Byron?

16 REPRESENTATIVE BYRON: Thank you, Mr.
17 Chairman. Commissioner, I know you're concerned
18 about the 35 number.

19 COMMISSIONER JEFFREY MEYERS: Yeah.

20 REPRESENTATIVE BYRON: But that, according
21 to the final version of 517 that I have says no fewer
22 than 35. So if you need more than 35, develop 40,
23 develop 45, 50, whatever you need is really part and

1 parcel of the plan that you need to provide to
2 Fiscal.

3 COMMISSIONER JEFFERY MEYERS: Yes, you're
4 absolutely right. I'm just pointing that out that it
5 may be beyond 35 and the amount of funds necessary to
6 support that may be higher and we would report that
7 obviously to the Fiscal Committee.

8 CHAIR NEAL KURK: Follow up?

9 REPRESENTATIVE BYRON: And I think Fiscal is
10 open to that information and will consider that when
11 it comes through. But what we need is that plan to
12 be able to understand what you envision for a, I'll
13 call it max capacity number that you're going to
14 develop for --

15 COMMISSIONER JEFFREY MEYERS: Right.

16 REPRESENTATIVE BYRON: -- this program to
17 consider the things that you just talked about like
18 the 11 people coming into your facility.

19 COMMISSIONER JEFFREY MEYERS: Right. So
20 what we are doing is issuing a request for
21 applications. I'm -- that RFA is virtually complete
22 at this point. I'm in the process of reviewing it
23 this week. I'm going to be having the Attorney

1 General's Office look at that before it goes out to
2 make sure that we're all on the same page in terms of
3 whether he agrees that it complies with the statute.
4 And it will be issued soon, very soon. And then we
5 will see, we're going to have a fairly quick
6 turnaround on that. I believe it's --

7 UNIDENTIFIED SPEAKER: 30 days.

8 COMMISSIONER JEFFREY MEYERS: -- 30 days
9 we're asking for responses in 30 days and we'll see
10 what response we get from the community in terms of
11 their ability to open up those beds for these
12 purposes.

13 CHAIR NEAL KURK: Could you explain what a
14 request for applications is? That's something I
15 haven't heard before.

16 COMMISSIONER JEFFREY MEYERS: Yeah. So what
17 we're doing is essentially setting the criteria for
18 what we need, that is the services, the capacities if
19 you will, for this population. It differs, and then
20 we basically say to the provider community, you know,
21 for those who are interested and willing, submit a --
22 basically a proposal for how many beds, at what rate
23 in order to meet all of the criteria in the request

1 for applications. It differs from an RFP process, a
2 request for proposals in that we're not judge --
3 we're not -- we don't know that any one provider
4 would come forward and say we want to take 35 or 40
5 or whatever, however many beds. And so because of
6 that we want to be able to choose multiple providers.
7 So rather than have a RFP process where we're having
8 to basically score one against the other when neither
9 may actually submit for the requisite number of beds
10 that we need, we are basically offering an open-ended
11 kind of invitation if you will. If you meet the
12 criteria and the price is, you know, is appropriate
13 for the services and so forth, if it meets all the
14 criteria, then that's something that could be put
15 into a contract and brought to the Governor and
16 Council.

17 So we, we anticipate that we would contract with
18 more than one provider for this particular purpose.

19 CHAIR NEAL KURK: And so that would be the
20 first and only part of the bidding process?

21 COMMISSIONER JEFFREY MEYERS: Correct.

22 CHAIR NEAL KURK: There would not be an RFP
23 or --

1 COMMISSIONER JEFFREY MEYERS: No.

2 CHAIR NEAL KURK: -- anything like that?

3 COMMISSIONER JEFFREY MEYERS: No, no, no.

4 CHAIR NEAL KURK: Thank you.

5 COMMISSIONER JEFFREY MEYERS: No, no.

6 CHAIR NEAL KURK: It's been brought to my
7 attention that because Ceil (ph.) is not here and
8 because this is being recorded and perhaps broadcast
9 that I need to repeat the questions that you ask into
10 the microphone so that everybody can hear them. So
11 if I do that, please understand why. Commissioner,
12 proceed.

13 COMMISSIONER JEFFREY MEYERS: Thank you. So
14 the last issue that's addressed in the letter and
15 we'll segway into the other document that was handed
16 out is the status of our evaluation of the system
17 requirements that is contained in I think it's
18 Section 165. So I'm going to ask Chris Tappan to
19 talk about that and for Chris and Brady to kind of
20 walk through the other handout. What we've brought
21 here today is a fairly detailed description of the
22 current state of the existing services for youth in
23 the community. And it documents the number of

1 licensed beds, the number of certified beds, the
2 number of beds that have closed over the last number
3 of years. The rates that we have paid for beds and
4 so forth, placement trends. It's a lot of
5 information.

6 We don't believe though that this reflects all of
7 what is required in the law that was passed for an
8 evaluation of the system and of the, of the needs of
9 the system in order to serve youth as -- under the
10 new policy that's been adopted. So we believe that
11 we have to take a step beyond this to have a
12 professional organization actually do an evaluation
13 of not only the existing capacity, we can document
14 the existing capacity in the system. It's really
15 what the needs will be under this law projecting into
16 the next, you know, number of years.

17 And so I want to stop at that point and ask Chris
18 and Brady if they would walk through that and then
19 talk about where we are --

20 CHRISTINE TAPPAN: Sure. I can --

21 COMMISSIONER JEFFREY MEYERS: -- where we
22 are in that process.

23 CHRISTINE TAPPAN: -- I can start a little

1 bit.

2 BRADY SERAFIN: Yep. Yep.

3 CHRISTINE TAPPAN: We may just --

4 CHAIR NEAL KURK: And could you repeat again
5 how this relates to the Department's responsibilities
6 under the statute to come up with the plan, to
7 implement the plan, to have the first additional beds
8 available on the 1st of January, 2018 and so forth.

9 COMMISSIONER JEFFREY MEYERS: That's
10 different. We can, we can certainly address that.
11 The plan for the beds is embedded in the RFA so we're
12 going forward and issuing a request for application
13 so that we can select providers and get the beds
14 stood up by January 1st. That's ongoing. That's,
15 that's well underway. The RFA will be issued I hope
16 by the very beginning of the week. That's different
17 from this system evaluation.

18 CHAIR NEAL KURK: And how does the system
19 evaluation relate to 517?

20 COMMISSIONER JEFFREY MEYERS: It's required.

21 CHAIR NEAL KURK: Your responsibilities --

22 COMMISSIONER JEFFREY MEYERS: It's required.

23 I'm sorry, go ahead. I apologize.

1 CHAIR NEAL KURK: Okay. And your
2 responsibilities to implement 515, 517? You're
3 saying it's required?

4 COMMISSIONER JEFFREY MEYERS: It's -- in
5 Section 175 we are required to undertake an
6 evaluation of the system.

7 CHAIR NEAL KURK: But isn't that supposed to
8 be part of the plan?

9 COMMISSIONER JEFFREY MEYERS: We saw it as
10 separate and maybe that's how -- you know again how
11 statutes are drafted lead reasonable people to
12 conclude different things and so, you know, so why
13 don't we -- if we could first address what we're
14 doing and what this is, then I think we might be able
15 to answer your questions.

16 CHRISTINE TAPPAN: And I might just sort of
17 clarify a little bit. I think we saw it in
18 conjunction with so we believed that we couldn't even
19 begin the development of our request for proposal or
20 a request for an application process without doing a
21 basic or foundational assessment of where we were.
22 And that is what this DCYF review of existing
23 services was. We literally, we actually began this

1 even before the legislation was, was final because we
2 had anticipated that this was going to be coming
3 forward. So we began to gather the data that we felt
4 was going to be most critical to help inform this
5 first phase really which is this request for
6 application.

7 I think it's how we interpreted and frankly what
8 we believe about the responsibility that we hold and
9 that the Legislature is asking us to maintain in
10 terms of the safety for youth and for the
11 communities. These youth are different and have
12 different needs. As many of the providers have
13 probably shared with you previously as well as they
14 continue to share with us in partnership, these are
15 youth that are at the Sununu Center because they have
16 passed through many of the providers already, some of
17 them multiple times. And so we believe that the
18 statute was asking us not only to understand our
19 foundational or basic capacity to prepare and
20 initiate a new program for these 35 youth. We really
21 interpreted this larger adequacy of the service
22 system as a responsibility to ensure that we really
23 had all -- the continuum of services that would be

1 needed to support these youth safely in the
2 community.

3 And so, and I will just share with the Committee,
4 I have previous experience working in the juvenile
5 justice system in the State of Florida and I shared
6 with, when we began this work I shared with the
7 members of the group, the work group that we pulled
8 together in the Department that we partnered at that
9 point we had much the same mandate from the Florida
10 Legislature and realized that as we were going to
11 shift youth out of that facility at that time, we had
12 a rich service -- array of service providers but the
13 youth that wind up typically in a high secured,
14 facility secured environment tend to have a higher or
15 different need than is oftentimes what providers are
16 prepared to take on. And so we believe that what you
17 were asking us to do was to ensure that the entire
18 service system was capable of bringing these youth
19 back successfully into the community, and having them
20 be successful there both within the program and then
21 when they hopefully transitioned back to their home
22 and their home community.

23 So what we've done is we've simultaneously, while

1 doing this foundational assessment, we've begun to,
2 we contacted many of our national partners and we can
3 share with you who those are. Folks that are steeped
4 in the juvenile justice arena but because we in New
5 Hampshire are a blended juvenile justice and child
6 protection system, we wanted an entity that had
7 experience with understanding the needs of both of
8 those youth because those youth are jointly in our
9 programs together. So we have to be cognizant that
10 we're serving children with different needs in our
11 facilities. So we have now conducted I believe five
12 interviews and again these are folks with a full
13 expanse of experience. We can share the names of
14 those entities with you.

15 We believe that by this Friday we have targeted
16 the ability to have enough information to move
17 towards a conversation of working with one of those,
18 selecting one of those entities to do this, this work
19 with us. We've actually --

20 CHAIR NEAL KURK: Excuse me, Representative
21 Byron has a question.

22 REPRESENTATIVE BYRON: Yes, thank you, Mr.
23 Chairman. I'm confused a little bit here because

1 House Bill 517 refers in Section 165 to furtherance
2 of your duties as part of RSA 170-G:4. And 170-G:4
3 talks about the duties and powers of the Department
4 and what it will do in order to ensure that services
5 to children are provided that are adequate and
6 sufficient to handle the workloads. So what I'm
7 confused about is why don't we already have that
8 information and why do we have to go out and contract
9 with people to determine that information if under
10 existing State law you're already supposed to have
11 that?

12 CHRISTINE TAPPAN: I would respond to that
13 by we, we currently don't. The youth that we're
14 talking about are youth that are secured currently in
15 a -- by a facility, with a facility structure and we
16 don't currently have that capacity or do that work in
17 any other part of our service system. I don't know
18 if Brady -- I mean that's, that's essentially what it
19 is. We, we actually don't do this currently and we
20 want to be sure that we do it right. We want to be
21 sure that we do it in a way that ensures the safety,
22 primarily of course of a youth but also of staff who
23 work in our provider organizations and in the

1 communities. We're talking about youth that
2 typically have the higher end, more significant
3 behaviors that would often necessitate a higher
4 intensity of ratio with staff in these programs in
5 order to essentially simulate what they would get in
6 a secured environment, secured by a facility.

7 CHAIR NEAL KURK: Follow up?

8 REPRESENTATIVE BYRON: Thank you, Mr.
9 Chairman. Part of 170-G:4 already states that to
10 prepare and -- excuse me, to certify already licensed
11 facilities for the purpose of receiving minors who
12 must be detained -- detained, excuse me, or
13 committed. So I'm seeing this really as already
14 something that we should have available to us.

15 BRADY SERAFIN: Again, I think what I would
16 try to say in response is that the current law
17 applied to youth detained and committed at a
18 facility, meaning the Sununu Center, you -- the
19 Legislature now has made a decision that they want a
20 subgroup of the youth that would have been detained
21 or committed to be in the community. So you added a
22 requirement to evaluate the adequacy of the service
23 system to ensure that this new capacity in the

1 community would be able to attend to these youth.
2 And that was done in Section 165 of 517.

3 CHAIR NEAL KURK: Representative Wallner?

4 REPRESENTATIVE WALLNER: But you wouldn't
5 accept that every provider, wouldn't some providers
6 be specialized? That there would be --

7 BRADY SERAFIN: Sure.

8 REPRESENTATIVE WALLNER: -- some types of
9 behaviors they would deal with? So every provider
10 would not be able to meet the needs of every child?

11 CHAIR NEAL KURK: The question is --

12 BRADY SERAFIN: Sure. Yeah.

13 CHAIR NEAL KURK: -- wouldn't you expect the
14 providers to be specialized so that not every
15 provider would meet the needs of every child?

16 CHRISTINE TAPPAN: So I can speak to that.
17 We have a diverse provider pool which provides for
18 our current youth in a really, really therapeutic and
19 safe way. However, these are -- are youth who as
20 we've shared, have a different -- who have been
21 through multiple of those programs before, have been
22 asked to be discharged from those programs because of
23 their behaviors related to assaulting peers,

1 assaulting staff, or doing other very dangerous
2 things that didn't warrant charges. So this -- we
3 have a provider pool that can serve a variety of
4 youth and do it very, very well, and we work in
5 partnership with them. However, this is a different
6 population with more intensive needs that our
7 existing provider pool may not be able to serve and
8 they can speak to that better than I could.

9 CHAIR NEAL KURK: Follow up?

10 REPRESENTATIVE WALLNER: So I think I heard
11 you say a little while ago that -- I want to say this
12 exactly, I think I heard you say that there were
13 providers, that providers have cared for many of the
14 children who are in the Sununu Center now?

15 CHRISTINE TAPPAN: Yes.

16 REPRESENTATIVE WALLNER: Do you keep records
17 on that? Do we have a record of how many children
18 that are the Sununu Center have been through other
19 places?

20 COMMISSIONER JEFFREY MEYERS: Yes, and Brady
21 can speak to that but I think that --

22 CHAIR NEAL KURK: Excuse me. The question
23 was, do we have information or records about

1 providers who have cared for children who are already
2 in the Sununu Center?

3 COMMISSIONER JEFFREY MEYERS: Yeah, the
4 answer is yes, we do. And I -- and Brady can correct
5 me if I'm wrong but I think that at least kind of
6 currently that the average kid who is at the Sununu
7 Center has had an average of what, six -- six prior
8 placements in the community.

9 CHAIR NEAL KURK: But Commissioner, those
10 six prior placements may not have been in the
11 community facilities that were prepared to provide
12 the necessary level of services because of low
13 reimbursement rates. So if we're changing the system
14 as this bill provides, we are going to be giving
15 increases to many providers and significant increases
16 to provide these kinds of services. So I'm not sure
17 that the past results should be considered as, as
18 precursors to future results?

19 COMMISSIONER JEFFREY MEYERS: I agree that
20 that is certainly possible, yes.

21 CHAIR NEAL KURK: Please, please continue.

22 COMMISSIONER JEFFREY MEYERS: I -- we
23 responded to a question. I think, I don't know if

1 there's a follow-up from, yeah, okay. So we're going
2 through the, yeah.

3 CHAIR NEAL KURK: Remember the purpose of
4 today's meeting is to make sure that the provisions
5 of 517 are being implemented as provided there so
6 only if this information really addresses that is it
7 necessary. If this is part of what is our could have
8 been the plan then we can receive that in a different
9 format.

10 REPRESENTATIVE WALLNER: Okay.

11 CHRISTINE TAPPAN: So what I would just
12 share with you then is the DCYF review of existing
13 services. I'm just going to hit the highlights and
14 ask my colleagues to assist me in doing that and
15 certainly responding to any questions that might
16 arise.

17 As the Commissioner mentioned, we did this in
18 sort of with an intentional scan of the system to see
19 that we had the foundational pieces in place and what
20 we need to understand prior to the development or in
21 addition to the development of our request for
22 applications. So as has already been discussed here
23 today, we looked across our currently certified

1 programs. We explored the differences of course
2 between the licensed and certified beds and you can
3 see those numbers there on page 1. We then also felt
4 like it was important to really look across the
5 entirety of our system in terms of for us the, I
6 think the question in terms of whether programs can
7 serve these youth is, is one, one aspect of what we
8 wanted to consider versus additionally we think that
9 there is also the, you know, wanting to serve these
10 types of youth. And it's -- there is a rate issue
11 and there is workforce issues that, that many of our
12 providers are facing at this point.

13 So we also actually felt it was important to
14 capture and understand how many programs have closed
15 in New Hampshire. And over the -- we looked over
16 the, the course of the last decade and we have those
17 listed for you. We also again just wanting to be
18 cognizant of the dynamics in any kind of a broad
19 service system. You want to look at as my colleague
20 Kathleen mentioned, you want to look at different
21 types of needs that youth may have, whether they're
22 there in terms of a specialty need of education,
23 behavior, types of trauma they've experienced.

1 Obviously there's gender related issues. And so we
2 looked at the differences between males and females.
3 And we looked at the differences between the levels
4 of programs and then on page 2 we also felt that we
5 needed to do a scan of what our current rate variance
6 was across those types of programs and we pulled that
7 together.

8 Moving into pages 4 and 5, I'll just share and
9 again I'll look towards either of my colleagues to
10 kind of help to clarify any of these here. We felt
11 like it was very important to, to look at this
12 information in terms of trends because part of what,
13 and, and I would say this again is an area where if,
14 if we had the opportunity to engage with a national
15 entity that's doing this in other jurisdictions,
16 particularly those that are looking to do what I
17 think is the intention of this law which is to, to
18 strive to move youth out of secured facilities or out
19 of more restrictive environments into less
20 restrictive environments.

21 Part of what we need to really look at is our
22 placement trends, not as a retrospective but
23 hopefully look forward in terms of what we'd like to

1 be happening. And therein lies one of the things
2 that I think that we have a challenge around, there
3 is a lot of best practices that we don't have at our
4 fingertips. There are a lot of best practices that
5 other states have been trying and testing and
6 learning about staff ratios in particular because
7 again we're talking about moving youth from a
8 facility secured to a staff secured environment and
9 we've heard as much as the need for three-on-one
10 staffing, so three staff to work with one individual
11 youth who may be escalating for a variety of reasons
12 and so to keep that youth safe, we've heard that
13 there may need to be as much as three-to-one ratio
14 but we're not certain about that. So that's again
15 where that opportunity for a national entity to come
16 in helps us.

17 We also looked at the issue of out-of-state
18 placement so one of the areas that is, I'm sure has
19 been brought to this Committee and other legislative
20 bodies looking at the issue is, you know, in New
21 Hampshire currently we don't have the capacity that
22 we would desire to have to meet the varying needs of
23 youth. So we have had an increase in youth going out

1 of state. We wanted to be able to be sure that that
2 was on our radar as well and in terms of being able
3 to track that. You know, our desire would be to
4 bring these youth back home again and so as we look
5 at alternative or additional capacity, a concern that
6 we had was if we take up current capacity for these
7 youth, our opportunity to bring youth from out of
8 state home which is often at a higher rate could be
9 impacted. So we wanted to see what those trends were
10 and have that foundational information in front of
11 us.

12 And then I just -- I think I would probably turn
13 to the Sununu Youth Services information for Brady to
14 review with us unless, Kathleen, was there anything
15 else you might --

16 BRADY SERAFIN: So again in terms of doing
17 our internal evaluation of what we have available, I
18 mean one of the things we had to look at was how many
19 youth we're serving, how many -- what the trend has
20 been over the last couple of years and what the
21 offense history of youth have been. And are the
22 current placement providers willing and are capable
23 of meeting the needs, even if young people have not

1 been adjudicated on every single offense. As we
2 know, oftentimes many of these are pled out and as
3 part of plea agreements, young people will plead out
4 to many fewer charges than what they're actually
5 charged with.

6 If you look at the trend at Sununu Center since
7 2015 there's certainly been an increase in
8 population. I think everybody knows in 2015 we, the
9 law was changed in New Hampshire to change the age of
10 majority from 17 back to 18 for criminal behavior
11 which I think everybody can agree was a good thing.
12 So we started to serve an increased population and we
13 saw that directly relate to the population inside the
14 facility. Our population numbers went up by about 30
15 percent, almost -- almost instantly. But so did the
16 significance of the charges and the offense history
17 went up significantly.

18 And we just put a couple of charts out here just
19 for informational purposes we're addressing or
20 evaluating our own service array in, in the State.
21 We had -- at this point in time we had 51 young
22 people in the facility. Collectively they had 465
23 charges. We kind of categorized those charges to

1 give the, to give the Committee a broad look at what
2 the young people that were inside the facility, as
3 you can imagine, 51 kids and 465 charges, all of them
4 had more than one charges for the most part. I mean
5 there was one or two that had one charge but that was
6 of significance. That was a murder or something
7 along those lines.

8 So we need to make sure and part of the broader
9 adequacy assessment is to make sure that these needs
10 are being met, even if they had not been adjudicated
11 on every single separate offense, that these needs
12 are being met because they're in their history.
13 Their behaviors most likely that these young people
14 have participated in, and placed themselves and/or
15 the community at significant risk. So we just put
16 that there for your information. I think -- I've
17 been before the Committee before and talked about
18 this information. I think it's, I think it's helpful
19 when we're looking at and evaluating our own service
20 array to ensure that we are meeting the needs, and
21 not only the youth but the community as well.

22 And as you can see just from the charges that,
23 that are before you several of these raise

1 significant concerns about community safety. And,
2 you know, we want to make sure that we stand up
3 programming going forward that meets those needs if
4 those young people no longer qualify for the Sununu
5 Center.

6 CHAIR NEAL KURK: Thank you. Commissioner,
7 is it the case that regardless of what this external
8 reporting evaluating agency comes up with, the
9 Department still will be able to meet the provisions
10 of 517?

11 COMMISSIONER JEFFREY MEYERS: Yeah, we're
12 going forward, you know, separate from the
13 evaluation. The evaluation is something -- we're
14 going to bring back to the Legislature and to the
15 Governor, because it will be I think an important
16 point of information about how it informs policy
17 going forward. But we're going forward with, as we
18 have been directed by the legislation. That's not
19 stopping at all.

20 CHAIR NEAL KURK: Okay. And it's your
21 interpretation of a particular section that suggests
22 that you need to have this evaluation that is either
23 part of a plan or independent? In other words, this

1 -- this is not something that's unrelated to 517 as
2 you view it. It's a mandatory part of 517?

3 COMMISSIONER JEFFREY MEYERS: It's a
4 mandatory part of 517. It's not going to stop us
5 from going forward and procuring the additional
6 capacity that we've been directed to procure. But
7 when we get this evaluation done I think it will
8 inform how we proceed in the next phase of this.

9 CHAIR NEAL KURK: Senator Morse?

10 SENATOR MORSE: The evaluation, do we have a
11 cost on it? I mean you've interviewed five
12 companies?

13 COMMISSIONER JEFFREY MEYERS: Well, the --

14 CHAIR NEAL KURK: The question was do we
15 have a cost on the evaluation?

16 COMMISSIONER JEFFREY MEYERS: There's no
17 hard cost yet. We've been talking to several
18 organizations. The prices range anywhere from 100 to
19 \$500,000. I don't think -- those are very
20 preliminary numbers based on very preliminary or
21 preliminary conversations. I think at the end of the
22 day we'll be somewhere between 100 and \$200,000 and
23 I'm hoping that I can get some of this matched by the

1 federal government so the general fund expense is not
2 going to be nearly as, but I don't know precisely yet
3 how much I could get matched.

4 CHAIR NEAL KURK: Does this amount, whatever
5 it might be, come out of the \$8.7 million?

6 COMMISSIONER JEFFREY MEYERS: I don't
7 believe I have authority to take it out of the 8.7.
8 The 8.7, the section that governs the 8.7 which is
9 Section 175 says it shall be used for rate increases
10 and additional capacity and for no other purpose.

11 CHAIR NEAL KURK: Thank you. Senator Morse?

12 SENATOR MORSE: Before we go on, I just want
13 to make it clear, I think everyone up here --

14 CHAIR NEAL KURK: Senator, I think everyone
15 up here agrees with the safety issue and the -- I
16 think we don't need to go there. We certainly met
17 with police chiefs during this whole process to make
18 sure we gave --

19 COMMISSIONER JEFFREY MEYERS: Yep.

20 CHAIR NEAL KURK: -- the Governor an
21 additional \$5 million if he needed it from a
22 different bucket.

23 COMMISSIONER JEFFREY MEYERS: Yep.

1 CHAIR NEAL KURK: So I just, I don't think
2 that's what we're trying to get to and I do believe
3 I'm here today because when I read the letter I had,
4 I didn't understand what was happening. And one of
5 the things I'd like to understand right now is we're
6 asking providers under some process, not RFP --

7 COMMISSIONER JEFFREY MEYERS: It's an RFA
8 process.

9 CHAIR NEAL KURK: Okay, yeah. What do we
10 know today that the providers are going to do in
11 response? Is it -- are we giving them enough money?
12 Is anybody going to respond? Are they going to put
13 limits on the person that goes into their
14 institution? What do we know today?

15 COMMISSIONER JEFFREY MEYERS: So I have to --
16 so I want to respond to your question but I have to
17 be careful because we're about to initiate a
18 procurement process. So, so I have to be careful
19 with the conversations I have with the providers
20 given the procurement process is about to begin. But
21 the answer to your question is yes, I believe there
22 will be some responses. I can't sit here today and
23 tell you how many there'll be. But I believe

1 there'll be more than one provider that will have
2 some proposal that will be submitted. But at what
3 rate they'll be at, and whether that aligns with what
4 the expectations of the Legislature are or not, I
5 don't know yet. I mean so I've met with -- we've met
6 with the providers. We had a very good meeting last
7 week for at least a couple of hours I think it went,
8 talking about this. I think that there are some that
9 are willing to take this on. I think there are some
10 others that have a lot of concerns about it.

11 But ultimately I can't speak for them. They have
12 to speak for themselves. But we are putting out what
13 we believe is the appropriate criteria for this
14 program, for these services and beds and, and I have,
15 I have asked the providers who are willing to do so
16 to respond to it and if, even if they think that the
17 rates, so they've got their calculator out. They've
18 taken the 8.7 just as a starting point and they've
19 run a bed rate at that, or a daily rate at that over
20 the 18 months. So they've already got, they've
21 already taken that number and figured out, well,
22 here's what we think the rate might end up being but
23 what I've told them is don't just divide out that

1 number by 18 months over so many beds and so many
2 services. Come back with what you think it's going
3 to take to actually stand up to services in
4 accordance with the criteria that we're putting out
5 there. And if that exceeds that amount I need to
6 know that and you need to know that so that we can
7 then have a conversation about how we proceed.

8 But so I haven't given them a number saying you
9 have to hit a number. I have said to them here is
10 the services you need to provide to keep everybody
11 safe and for this program to work, tell us what you
12 think the rate is. What you would be willing to do
13 it at. And as soon as that process is done, that
14 information will become public. I mean if we select
15 somebody obviously that goes to the council. It has
16 to be a contract with a council. And that will all
17 be public.

18 CHAIR NEAL KURK: Two things, Commissioner.

19 COMMISSIONER JEFFREY MEYERS: Yeah.

20 CHAIR NEAL KURK: Could you make sure that
21 we have copies of the RFA?

22 COMMISSIONER JEFFREY MEYERS: When it's
23 published.

1 CHAIR NEAL KURK: Yes.

2 COMMISSIONER JEFFREY MEYERS: Yeah.

3 CHAIR NEAL KURK: And this may be repetitive
4 but the \$8.7 million is not simply for those 35 beds?

5 COMMISSIONER JEFFREY MEYERS: I, I --

6 CHAIR NEAL KURK: Okay.

7 COMMISSIONER JEFFREY MEYERS: -- I
8 understand and I wasn't trying to suggest it was.
9 But it's for, it's not just for those beds but it's
10 for services at large.

11 CHAIR NEAL KURK: Right. And --

12 COMMISSIONER JEFFREY MEYERS: I understand
13 that.

14 CHAIR NEAL KURK: -- and there could be
15 nobody using those particular beds. There could be
16 other -- depending on the mix of, of --

17 COMMISSIONER JEFFREY MEYERS: Yeah.

18 CHAIR NEAL KURK: -- individuals there could
19 be other kind of community service beds that they're
20 using. Representative Ober?

21 REPRESENTATIVE OBER: Commissioner, we heard
22 from your new, new Associate Commissioner that there
23 are children placed out of state that you need to

1 bring back. I think we also heard when
2 Representative Byron asked about RSA 170-G:4.IV,
3 about the -- having the data for the placement and
4 all the plans that the reason you didn't have the
5 data was because we only had Sununu Center but now I
6 think we've heard we have Sununu Center and children
7 out of state who need to be brought back. So I'm a
8 little concerned that we don't have that data at this
9 point and I'm also concerned that I haven't heard a
10 lot of enthusiasm for going forward and trying to
11 make this work but I feel like I've heard, you've
12 been saying yeah, we're going to make it work. But I
13 also feel like I've heard a lot of reasons why it's
14 very complex, it can't possibly work and so I feel --

15 COMMISSIONER JEFFREY MEYERS: No one has
16 said it can't work with all respect, Representative.

17 REPRESENTATIVE OBER: No, I (inaudible) say
18 that.

19 COMMISSIONER JEFFREY MEYERS: We said we're
20 trying to make it work, yeah.

21 REPRESENTATIVE OBER: But with the
22 combination of words I'm starting to get that feeling
23 I'm a little concerned and I'm hoping that you do

1 seem to be the one who's saying yes, we'll make this
2 work and we'll meet those deadlines, that when you do
3 get us some additional things we could get a few more
4 details and maybe see where everybody is on board
5 with your position, sir.

6 CHAIR NEAL KURK: I wish I could, I wish I
7 could encapsulate that question, but I can't.

8 COMMISSIONER JEFFREY MEYERS: Yeah. So my
9 response is very simple. The legislation requires we
10 provide monthly updates to the Fiscal Committee. We
11 will continue to do so.

12 CHAIR NEAL KURK: Senator Morse?

13 SENATOR MORSE: Senator Bradley?

14 CHAIR NEAL KURK: Senator Bradley?

15 SENATOR BRADLEY: So thank you very much,
16 Mr. Chair. So Commissioner --

17 CHAIR NEAL KURK: And you're going to ask a
18 question in a form that I can encapsulate, yes?

19 REPRESENTATIVE OBER: Maybe.

20 CHAIR NEAL KURK: Thank you.

21 SENATOR BRADLEY: Regarding your letter of
22 August 31st, 2017, at the bottom of page 2 you say,
23 we do not read the language of the statute to

1 encompass those youth who have been detained at the
2 Sununu Youth Center.

3 COMMISSIONER JEFFREY MEYERS: Right.

4 SENATOR BRADLEY: And it's always been my
5 view that when we wrote Section 165 and working on
6 that with our House colleagues what we did in the
7 Senate that non-violent youth offenders who were
8 placed at the Sununu Youth Center could potentially
9 and be detained in your words be moved to this
10 alternative placement --

11 CHAIR NEAL KURK: Do I have to repeat the
12 question?

13 COMMISSIONER JEFFREY MEYERS: No, I heard
14 you.

15 SENATOR BRADLEY: Is, is there not a
16 misunderstanding of what I think the intent was that
17 non-violent youth at the Sununu Center, existing
18 detainees, could be moved if they were non-violent,
19 but I'm reading your letter to say you're not going
20 to do that?

21 COMMISSIONER JEFFREY MEYERS: No, the letter
22 doesn't say we're -- well, what the letter tries to
23 point out is that the language of the statute wasn't

1 as clear as maybe the intent was. And in my letter
2 of August 31st I provide an explanation of why we
3 came to that conclusion because of how the statute is
4 worded. So ultimately I can't necessarily always
5 discern someone's intent. We look at the plain
6 language of the statute to determine what we do. I
7 understand that there's a desire to have those kids
8 who would have been detained out in the community and
9 we will have that reflected in the RFA that goes out.
10 I think it changes the numbers involved as we said
11 earlier because I think 35 then is not really a real
12 number. I think it has to be north of there. But
13 if, if what we're being directed to do is to have
14 that capacity available for kids that were detained,
15 then we can do that.

16 CHAIR NEAL KURK: And I would just refer
17 back to Section 165 of the statute and I don't know
18 if you have it in front of you but --

19 COMMISSIONER JEFFREY MEYERS: I do, I do.

20 CHAIR NEAL KURK: -- lines 27 through 29
21 talk about insuring sufficient alternative placement
22 capacity is in place for those children who are not
23 serious, violent offenders who prior to this Act

1 would have been placed at the Sununu Youth Services
2 Center. Now maybe you read that differently than I
3 read it, but certainly and I think Representative
4 Byron and I labored over this. It was certainly my
5 intent that if there were kids that were already in
6 the Sununu Youth Center who were non-violent and
7 could benefit from alternative placement, that that
8 was a outcome that we wanted to see put into effect,
9 that they would -- if they were non-violent be
10 transferred into this alternative placement because
11 they'd prosper better and it would relieve some of
12 the, you know, potential overcrowding issues at the
13 Sununu Youth Center.

14 COMMISSIONER JEFFREY MEYERS: I understand
15 the rationale. I'm not questioning that whatsoever.

16 CHAIR NEAL KURK: I think the intent of the
17 language, though, reflects that rationale is what I'm
18 trying to say.

19 COMMISSIONER JEFFREY MEYERS: Well, I don't
20 want to --

21 CHAIR NEAL KURK: I'm not a lawyer, you are,
22 Commissioner.

23 COMMISSIONER JEFFREY MEYERS: I don't want,

1 I don't want to -- right. I spent eight years as
2 Assistant Attorney General discerning statutory
3 construction and cases before the Supreme Court, so I
4 read statutes very carefully and very narrowly. But
5 I just think the language doesn't really say that but
6 I understand the intent and we can design the RFA to
7 do that. There's nothing in the, in the statute that
8 would prohibit me from expanding this but I think my
9 point to the Committee is, it would have to be north
10 of 35 beds in order to maintain that capacity.

11 CHAIR NEAL KURK: Thank you. It's really
12 strange that many of us being on House and Senate
13 Finance Committees can't wangle -- wrangle enough
14 money for individual on, off microphones at each one
15 of the member's seats. I've been trying for many
16 years.

17 UNIDENTIFIED SPEAKER: I heard you have.

18 CHAIR NEAL KURK: There are institutional
19 blocks. Representative Byron?

20 REPRESENTATIVE BYRON: Thank you, thank you,
21 Mr. Chairman. One of the things as we've been going
22 through this is the expressed desire of the agency to
23 take a look at things like out-of-state placements

1 and there's a lot of information that you've provided
2 in the, I'll call it first draft that you've got
3 there. I guess my thought on this is that while I
4 would consider that as something that we should study
5 and something that's important, it doesn't relate to
6 House Bill 517 and why should we get that involved in
7 the House Bill 517 analysis and make this a more
8 complex discussion or a more complex evaluation than
9 really is required by the House bill?

10 COMMISSIONER JEFFREY MEYERS: The House bill
11 is very clear. The Commissioner shall evaluate the
12 adequacy of the service system and ensure that
13 sufficient alternative placement capacity is in place
14 for those children who are not serious violent
15 offenders, etc., etc. There's a directive that was
16 added in the law that that says I shall do this and I
17 don't think you're suggesting that you want me to
18 decide of all these requirements what I will do or
19 what I won't do.

20 REPRESENTATIVE BYRON: But then I go back to
21 existing statute 170-G:4 which already requires you
22 to have done that?

23 COMMISSIONER JEFFREY MEYERS: Not for the

1 alternative placement. That's the point we tried to
2 make earlier is that that -- that language in the
3 statute was there previously with respect to the kids
4 who are committed at a facility meaning the Sununu
5 Center.

6 CHAIR NEAL KURK: At this point, unless
7 there are further questions or --

8 COMMISSIONER JEFFERY MEYERS: Yeah.

9 CHAIR NEAL KURK: -- you would like to make
10 an additional presentation, let me state where we
11 are.

12 COMMISSIONER JEFFREY MEYERS: Yeah.

13 CHAIR NEAL KURK: The Commissioner has made
14 it very clear that he intends to comply with 517 and
15 make sure that the time lines are met and that the
16 intention of the Legislature as set forth in the
17 legislation gets implemented. To the extent that we
18 had some concerns about whether his August 31st
19 letter complied with the requirements of a plan, he
20 has assured us that the program will go forward, that
21 he will be submitting the monthly reports as required
22 and that he has every expectation that all of the
23 time lines will be met.

1 COMMISSIONER JEFFREY MEYERS: Yes.

2 CHAIR NEAL KURK: From that perspective, I
3 think this has been a very helpful meeting for me and
4 I think for the rest of the Committee in the sense
5 that our concerns have been, at least my concerns and
6 I think the rest of the Committee's concerns, have
7 been allayed and we look forward to receiving all of
8 the other information that we've asked for and that
9 the statute requires.

10 COMMISSIONER JEFFREY MEYERS: Yep.

11 CHAIR NEAL KURK: And that if there are
12 similar questions in the future, we will make every
13 effort through other means rather than a formal
14 special session to make sure that they're resolved.

15 COMMISSIONER JEFFREY MEYERS: Thank you.

16 CHAIR NEAL KURK: Does anyone wish to add
17 anything? There being nothing further, Commissioner,
18 thank you very much.

19 COMMISSIONER JEFFREY MEYERS: Thank you.

20 CHAIR NEAL KURK: This session is adjourned
21 and our next meeting will be as scheduled on the 29th
22 I believe of September. And that will be an ordinary
23 meeting.

JOINT LEGISLATIVE FISCAL COMMITTEE MEETING

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[2] 10:3 14:9 35 [25] 8:1,5,18,19,20 9:2,11,12,13, 18 13:8 14:22 16:20 17:14 19:11, 13 23:18,22,22 24:5 26:4 31:20 52: 4 56:11 58:10 35-36 [1] 2:6 36-37 [1] 2:7 39-43 [1] 2:7</p> <hr/> <p style="text-align: center;">4</p> <p>4 [1] 41:8 4-11 [1] 2:3 40 [2] 23:22 26:4 43-45 [1] 2:6 45 [1] 23:23 46-60 [1] 2:4 465 [2] 44:22 45:3</p>	<p style="text-align: center;">5</p> <p>5 [1] 41:8 50 [3] 12:15,16 23:23 51 [2] 44:21 45:3 515 [1] 30:2 517 [22] 3:11 4:3 5:14 7:6,13 15:19 18:20 21:12,20 23:21 29:19 30:2 34:1 36:2 39:5 46:10 47:1,2,4 59:6, 7 60:14</p> <hr/> <p style="text-align: center;">6</p> <p>640 [3] 9:15 13:9 14:6 675 [2] 13:9 14:6</p> <hr/> <p style="text-align: center;">8</p> <p>8.7 [4] 48:7,8,8 50:18 8/25/17 [1] 1:12</p> <hr/> <p style="text-align: center;">A</p> <p>ability [5] 17:15 20:3 21:12 25:11 33:16 able [10] 17:21 24:12 26:6 30:14 36: 1,10 37:7 43:1,2 46:9 absolutely [2] 19:22 24:4 accept [1] 36:5 accepted [1] 13:2 access [1] 7:2 accordance [1] 51:4 according [1] 23:20 accordion [1] 18:13 accurately [1] 17:21 across [3] 39:23 40:4 41:6 act [3] 7:18,19 56:23 activity [1] 17:4 actually [11] 11:18 18:1 23:2 26:9 28:12 30:23 33:19 34:19 40:13 44: 4 51:3 add [2] 11:7 61:16 added [3] 15:1 35:21 59:16 adding [1] 11:12 addition [3] 11:12,20 39:21 additional [25] 7:9,16 8:5,19,20 9: 5,12,13 10:20 11:12 12:4,22,23 13: 8,12,17,20,23 14:2 15:18 16:12 29: 7 43:5 47:5 48:10,21 54:3 60:10 additionally [2] 12:4 40:8 address [5] 4:15 6:6 15:17 29:10 30:13 addressed [4] 6:8 7:4 14:19 27:14 addresses [2] 6:13 39:6 addressing [1] 44:19 adequacy [4] 31:21 35:22 45:9 59: 12 adequate [2] 16:20 34:5 adjourned [1] 61:20 adjudicated [3] 22:11 44:1 45:10 adopted [1] 28:10 afternoon [2] 3:1 11:10 age [1] 44:9 agency [2] 46:8 58:22 ago [3] 17:4,16 37:11 agree [4] 12:14,14 38:19 44:11 agreed [1] 9:1 agreements [1] 44:3</p>	<p>agrees [2] 25:3 48:15 ahead [1] 29:23 aligns [1] 50:3 allayed [1] 61:7 almost [3] 8:9 44:15,15 already [15] 6:22 10:9 12:5 31:16 34:7,10 35:9,10,13 38:1 39:22 50: 20,21 57:5 59:21 alt [3] 1:19,21,25 alternate [1] 3:7 alternative [14] 7:20 8:1 9:2 13:20 14:22 17:11 18:21 43:5 55:10 56: 21 57:7,10 59:13 60:1 although [1] 3:6 amended [1] 23:11 among [1] 10:10 amount [5] 10:7 15:10 24:5 48:4 51:5 analysis [1] 59:7 and/or [1] 45:14 answer [3] 30:15 38:4 49:21 anticipate [1] 26:17 anticipated [1] 31:2 anticipating [1] 5:19 anybody [1] 49:12 apologize [2] 3:21 29:23 appearances [1] 1:15 application [3] 29:12 30:20 31:6 applications [4] 24:21 25:14 26:1 39:22 applied [1] 35:17 appreciate [3] 14:4,19 21:18 appropriate [2] 26:12 50:13 appropriation [1] 7:6 area [1] 41:13 areas [1] 42:18 arena [1] 33:4 arise [1] 39:16 around [1] 42:2 array [3] 32:12 44:20 45:20 arson [1] 22:8 aspect [1] 40:7 assault [2] 22:8,9 assaulting [2] 36:23 37:1 assessment [3] 30:21 33:1 45:9 assist [1] 39:14 assistant [1] 58:2 associate [2] 4:21 52:22 assuming [1] 12:20 assure [2] 5:11 8:10 assured [1] 60:20 attached [1] 7:13 attempting [1] 8:11 attend [1] 36:1 attention [1] 27:7 attorney [2] 24:23 58:2 august [4] 3:18 54:22 56:2 60:18 authority [1] 48:7 available [10] 2:12 21 13:1 18:22 29:8 35:14 43:17 56:14 average [2] 38:6,7 away [1] 21:10</p> <hr/> <p style="text-align: center;">B</p>	<p>back [10] 32:19,21 43:4 44:10 46:14 51:2 53:1,7 56:17 59:20 based [4] 7:12 16:18 19:7 47:20 basic [2] 30:21 31:19 basically [4] 25:20,22 26:8,10 basis [1] 18:2 become [3] 12:21 13:3 51:14 bed [2] 8:9 50:19 beds [54] 5:19 8:1,5,8,18,19,20 9:2, 9,12,12,13,15 10:2,3,9 11:13,20,21, 22 12:4,5,19,20 13:3,8,9 14:2,21,22 15:1,3,3 17:14 19:13 25:11,22 26:5, 9 28:1,1,2,3 29:7,11,13 40:2 50:14 51:1 52:4,9,15,19 58:10 begin [3] 30:23 31:3 32:6 begin [2] 30:19 49:20 beginning [1] 29:16 begun [1] 33:1 behavior [2] 40:23 44:10 behaviors [4] 35:3 36:9,23 45:13 belabor [1] 13:11 believe [18] 6:23 8:3 14:1 16:18 25: 6 28:6,10 31:8,17 32:16 33:11,15 48:7 49:2,21,23 50:13 61:22 believed [1] 30:18 benefit [1] 57:7 best [2] 42:3,4 better [3] 16:22 37:8 57:11 between [9] 9:19 15:3 40:2 41:2,3 47:22 beyond [4] 9:10 22:20 24:5 28:11 bidding [1] 26:20 biennium [1] 8:6 bill [10] 3:10 4:4 5:17 7:13 34:1 38: 14 59:6,7,9,10 birdsell [2] 1:23 3:4 bit [4] 17:19 29:1 30:17 33:23 blended [1] 33:5 blocks [1] 58:19 board [1] 54:4 bob [1] 1:27 bodies [1] 42:20 both [8] 8:17 10:23 16:20 17:11 32: 20 33:7 bottom [1] 54:22 bradley [9] 1:26 14:14,17 54:13,14, 15,21 55:4,15 brady [30] 2:6 5:2 16:17,21 17:20 18:16,20 19:2,6,21 20:12,14,23 21: 4,8,16,20 22:2,22 27:19 28:18 29:2 34:18 35:15 36:7,12 37:20 38:4 43: 13,16 brady's [1] 22:1 briefly [1] 6:5 bring [4] 43:4,7 46:14 53:1 bringing [2] 13:8 32:18 broad [2] 40:18 45:1 broadcast [1] 27:8 broader [1] 45:8 broke [1] 17:4 brought [7] 17:8,17 26:15 27:6,20 42:19 53:7 bucket [1] 48:22 budget [1] 3:11</p>
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JOINT LEGISLATIVE FISCAL COMMITTEE MEETING

<p>byron [16] 1:19 3:7 23:15,16,20 24:9,16 33:21,22 35:8 53:2 57:4 58:19,20 59:20</p> <p style="text-align: center;">C</p> <p>calculator [1] 50:17 call [3] 20:20 24:13 59:2 came [1] 56:3 cannot [1] 20:1 capable [2] 32:18 43:22 capacities [1] 25:18 capacity [40] 7:9,10,16,20 8:4 9:23 10:1,11,12,20 12:2,22 13:20,23 14:3,22 15:18 16:12 17:11 18:4,11,14,21 19:6,9 24:13 28:13,14 31:19 34:16 35:23 42:21 43:5,6 47:6 48:10 56:14,22 58:10 59:13 capture [1] 40:14 cared [3] 37:13 38:1 careful [2] 49:17,18 carefully [1] 58:4 case [3] 20:10,11 46:7 cases [2] 20:11 58:3 categorized [1] 44:23 ccommissioner [1] 21:15 ceil [1] 27:7 center [29] 3:11 5:2,3 7:21,22 11:16,17 18:2,10 19:7,18 20:4 31:15 35:18 37:14,18 38:2,7 44:6 46:5 53:5,6 55:2,8,17 57:2,6,13 60:5 certain [4] 3:10 10:7 22:10 42:14 certainly [9] 8:12 21:23 29:10 38:20 39:15 44:7 48:16 57:3,4 certified [12] 9:14,20 10:3,9 11:13,20 12:3 13:3 15:4 28:1 39:23 40:2 certify [3] 11:9 16:5 35:10 chair [22] 1:18 3:1 4:22 6:18 8:7,15 9:4,7,11,18,22 10:6,23 11:4,10 12:13 13:14,17 14:4,9,12,16 15:5 16:15 18:7,19 19:1,14 20:7,16 23:4,15 24:8 25:13 26:19,22 27:2,4,6 29:4,18,21 30:1,7 33:20 35:7 36:3,11,13 37:9,22 38:9,21 39:3 46:6,20 47:9,14 48:4,11,14,20 49:1,9 51:18,20 52:1,3,6,11,14,18 54:6,12,14,16,17,20 55:11 56:16,20 57:16,21 58:11,18 60:6,9,13 61:2,11,16,20 chairman [10] 6:4,13,21 7:3 16:11 23:14,17 33:23 35:9 58:21 challenge [1] 42:2 challenging [1] 12:12 change [3] 23:5,11 44:9 changed [2] 23:7 44:9 changes [1] 56:10 changing [1] 38:13 charge [1] 45:5 charged [2] 19:22 44:5 charges [3] 37:2 44:4,16,23,23 45:3,4,22 charts [1] 44:18 chiefs [1] 48:17 child [5] 11:19 12:14 33:5 36:10,15 children [12] 10:9 12:6,8 33:10 34:5 37:14,17 38:1 52:23 53:6 56:22</p>	<p>59:14 choose [1] 26:6 chris [3] 27:18,19 28:17 christine [10] 2:7 4:19 28:20,23 29:3 30:16 34:12 36:16 37:15 39:11 chuck [1] 1:24 city [1] 17:5 clarified [1] 14:23 clarify [4] 7:10 15:7 30:17 41:10 clear [6] 14:14 21:7 48:13 56:1 59:11 60:14 close [1] 17:6 closed [2] 28:2 40:14 cognizant [2] 33:9 40:18 colleague [1] 40:19 colleagues [4] 4:18 39:14 41:9 55:6 collectively [1] 44:22 combination [1] 53:22 come [4] 4:1 9:18 15:2 18:15 26:4 29:6 42:15 48:5 51:2 comes [2] 24:11 46:8 coming [2] 24:18 31:2 comment [1] 16:17 commissioner [103] 2:3 3:19,20 4:14,16,21,23 6:18,20 7:18 8:10,14,22 9:5,8,17,21 10:5,18,21 11:3,5 13:10,15,18 14:8,10,18 15:6 16:16 17:20 19:4 20:17,18 21:22 23:17,19 24:3,15,19 25:8,16 26:21 27:1,3,5,11,13 28:21 29:9,20,22 30:4,9 37:20 38:3,9,19,22 39:17 46:6,11 47:3,13,16 48:6,19,23 49:7,15 51:18,19,22 52:2,5,7,12,17,21,22 53:15,19 54:8,16 55:3,13,21 56:19 57:14,19,22,23 59:10,11,23 60:8,12,13 61:1,10,15,17,19 commissioner's [1] 3:17 commitment [1] 22:13 committed [25] 5:22 7:21 8:18 10:13 15:20,20 16:3,4,4,6,8,9,13,13,21 17:12 18:10 22:5,6,10 23:5 35:13,17,21 60:4 committee [17] 1:7,12 3:3,14,18 5:11 6:10 16:11 21:6 24:7 32:3 42:19 45:1,17 54:10 58:9 61:4 committee's [1] 61:6 committees [1] 58:13 committing [1] 5:15 communities [2] 31:11 35:1 community [26] 5:17 7:23 8:20 9:3 10:15 11:17 17:23 18:6 19:10 20:2,6 25:10,20 27:23 32:2,19,22 35:21 36:1 38:8,11 45:15,21 46:1 52:19 56:8 companies [1] 47:12 complete [1] 24:21 complex [3] 53:14 59:8,8 complied [1] 60:19 complies [1] 25:3 comply [1] 60:14 conceivable [1] 12:19 concern [3] 11:19 19:7 43:5 concerned [4] 23:17 53:8,9,23</p>	<p>concerns [7] 3:19 46:1 50:10 60:18 61:5,5,6 conclude [2] 13:21 30:12 conclusion [1] 56:3 conducted [1] 33:11 confirmed [1] 4:19 confused [2] 33:23 34:7 congratulations [1] 4:22 conjunction [1] 30:18 consent [1] 6:4 consider [4] 24:10,17 40:8 59:4 considered [3] 22:13,14 38:17 consistent [1] 11:2 construction [1] 58:3 contacted [1] 33:2 contained [1] 27:17 continue [3] 31:14 38:21 54:11 continuum [1] 31:23 cost [4] 26:15,17 34:8 51:16 conversation [2] 33:17 51:7 conversations [2] 47:21 49:19 convey [1] 13:16 copies [1] 51:21 correct [3] 15:5 17:7,7 19:21 20:14 21:3,16 26:21 38:4 cost [3] 8:8,9 10:6 11:18 12:14,17 47:11,15,17 costly [1] 11:14 costs [1] 8:11 couldn't [2] 19:8 30:18 council [4] 4:20 26:16 51:15,16 couple [3] 43:20 44:18 50:7 course [4] 8:5 34:22 40:1,16 court [2] 5:13 58:3 criminal [2] 19:22 44:10 criteria [7] 19:21 25:17,23 26:12,14 50:13 51:4 critical [3] 17:23 18:5 31:4 current [7] 12:5 27:22 35:16 36:18 41:5 43:6,22 currently [3] 9:14 34:13,14,16,19 38:6 39:23 42:21</p> <p style="text-align: center;">D</p> <p>daily [1] 50:19 dan [1] 1:25 dangerous [1] 37:1 daniel [1] 1:22 daniels [1] 3:5 data [4] 31:3 53:3,5,8 date [1] 15:4 dated [2] 6:8,12 day [4] 4:2 8:8,9 47:22 days [3] 25:7,8,9 dcyf [3] 5:1,4 6:15 11:12 30:22 39:12 deadlines [1] 54:2 deaf [1] 3:22 deal [3] 3:11,23 4:11 18:12,14 36:9 dealing [2] 8:12,12 decade [1] 40:16 decide [1] 59:18 decision [2] 4:11 35:19 defined [1] 16:1</p>	<p>degree [2] 22:8,8 delinquencies [1] 22:4 delinquency [2] 20:1 22:6 deliver [2] 5:18,20 delta [1] 15:2 department [1] 4:21 5:8,21 13:6 17:2,17 19:19 20:2 32:8 34:3 46:9 department's [2] 7:1 29:5 depending [1] 52:16 description [1] 27:21 design [1] 58:6 designed [1] 12:7 desirable [1] 3:13 desire [4] 42:22 43:3 56:7 58:22 despite [1] 16:14 detailed [1] 27:21 details [1] 54:4 detained [2] 7:22 15:20 16:4,9,14,21,23 17:13 19:17,20 21:6 22:4 23:6 35:12,12,17,20 55:1,9 56:8,14 detainees [1] 55:18 detaining [1] 5:15 detention [3] 18:17,18 20:3 21:21 22:3,15 determine [2] 34:9 56:6 determined [1] 21:8 develop [4] 12:10 23:22,23 24:14 development [4] 19:18 30:19 39:20,21 difference [1] 9:19 differences [3] 40:1 41:2,3 different [13] 8:16 29:10,16 30:12 31:11,12 32:15 33:10 36:20 37:5 39:8 40:20 48:22 differently [1] 57:2 differs [2] 25:19 26:1 diligently [1] 5:9 directed [3] 46:18 47:6 56:13 direction [1] 15:12 directive [1] 59:15 directly [1] 44:13 director [1] 5:3 disagreeing [1] 18:8 disagreement [1] 15:14 discern [1] 56:5 discerning [1] 58:2 discharged [1] 36:22 discussed [1] 39:22 discussion [2] 4:5 59:8 distributed [1] 6:14 districts [1] 11:23 diverse [1] 36:17 divide [1] 50:23 document [7] 6:14,16,19,23 15:16 27:15 28:13 documents [3] 6:9,10 27:23 doing [12] 5:21,22 21:19 24:20 25:17 30:14,20 33:1 37:1 39:14 41:15 43:16 done [7] 4:11 23:6 32:23 36:2 47:7 51:13 59:22 doubles [1] 12:17 down [1] 18:13 dozen [1] 17:6</p>
---	--	---	---

Sheet 2

byron - dozen

JOINT LEGISLATIVE FISCAL COMMITTEE MEETING

<p>draft ^[1] 59:2</p> <p>drafted ^[1] 30:11</p> <p>drafting ^[1] 10:16</p> <p>dropping ^[1] 18:11</p> <p>during ^[1] 48:17</p> <p>duties ^[4] 7:17 10:21 34:2,3</p> <p>dynamics ^[1] 40:18</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>each ^[3] 5:11,23 58:14</p> <p>earlier ^[4] 4:19 56:11 60:2</p> <p>eaton ^[1] 1:22</p> <p>education ^[1] 40:22</p> <p>educationally ^[1] 11:23</p> <p>effect ^[1] 57:8</p> <p>effort ^[1] 61:13</p> <p>eight ^[1] 58:1</p> <p>either ^[3] 5:10 41:9 46:22</p> <p>eligible ^[1] 12:9</p> <p>email ^[3] 6:8,13 7:4</p> <p>embedded ^[1] 29:11</p> <p>enacted ^[2] 5:8 16:8</p> <p>encapsulate ^[2] 54:7,18</p> <p>encompass ^[1] 55:1</p> <p>end ^[4] 4:2 35:2 47:21 50:22</p> <p>engage ^[1] 41:14</p> <p>enough ^[3] 33:16 49:11 58:13</p> <p>ensure ^[6] 31:22 32:17 34:4 35:23 45:20 59:12</p> <p>ensures ^[1] 34:21</p> <p>enthusiasm ^[1] 53:10</p> <p>entire ^[1] 32:17</p> <p>entirety ^[1] 40:5</p> <p>entities ^[2] 33:14,18</p> <p>entitled ^[1] 6:15</p> <p>entity ^[3] 33:6 41:15 42:15</p> <p>environment ^[3] 23:14 35:6 42:8</p> <p>environments ^[2] 41:19,20</p> <p>envision ^[1] 24:12</p> <p>escalating ^[1] 42:11</p> <p>essentially ^[3] 25:17 34:18 35:5</p> <p>established ^[1] 5:16</p> <p>etc ^[2] 59:15,15</p> <p>evaluate ^[2] 35:22 59:11</p> <p>evaluating ^[3] 44:20 45:19 46:8</p> <p>evaluation ^[15] 15:15 27:16 28:8, 12 29:17,19 30:6 43:17 46:13,13,22 47:7,10,15 59:8</p> <p>even ^[5] 30:18 31:1 43:23 45:10 50:16</p> <p>everybody ^[6] 15:8 27:10 44:8,11 51:10 54:4</p> <p>everyone ^[3] 3:1 6:21 7:2 48:13,14</p> <p>exactly ^[1] 37:12</p> <p>example ^[2] 17:2,3</p> <p>exceeds ^[1] 51:5</p> <p>excerpt ^[1] 7:13</p> <p>excess ^[1] 18:11</p> <p>excuse ^[4] 33:20 35:10,12 37:22</p> <p>executive ^[1] 4:20</p> <p>exist ^[1] 9:12</p> <p>existed ^[2] 21:2,2</p> <p>existing ^[15] 6:15 7:9 12:19 14:2 15:22 16:1 27:22 28:13,14 30:22</p>	<p>34:10 37:7 39:12 55:17 59:21</p> <p>expand ^[1] 17:18</p> <p>expanding ^[1] 58:8</p> <p>expanse ^[1] 33:13</p> <p>expect ^[1] 36:13</p> <p>expectation ^[2] 18:8 60:22</p> <p>expectations ^[1] 50:4</p> <p>expense ^[1] 48:1</p> <p>expensive ^[1] 8:21</p> <p>experience ^[3] 32:4 33:7,13</p> <p>experienced ^[1] 40:23</p> <p>explain ^[2] 16:22 25:13</p> <p>explanation ^[1] 56:2</p> <p>explored ^[1] 40:1</p> <p>expressed ^[1] 58:22</p> <p>extensive ^[2] 12:11 15:21</p> <p>extent ^[3] 4:5 10:2 60:17</p> <p>external ^[1] 46:7</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>facilities ^[4] 33:11 35:11 38:11 41:18</p> <p>facility ^[15] 10:14 16:5 17:8 24:18 32:11,14 34:15,15 35:6,18 42:8 44:14,22 45:2 60:4</p> <p>facing ^[1] 40:12</p> <p>fact ^[3] 4:13 13:22 19:10</p> <p>fairly ^[3] 15:21 25:5 27:21</p> <p>familiar ^[1] 22:1</p> <p>federal ^[1] 48:1</p> <p>feel ^[3] 53:11,13,14</p> <p>feeling ^[1] 53:22</p> <p>felt ^[5] 31:3 40:3,13 41:4,10</p> <p>feltes ^[1] 1:25</p> <p>females ^[1] 41:2</p> <p>few ^[3] 3:3 6:17 54:3</p> <p>fewer ^[2] 23:21 44:4</p> <p>figured ^[1] 50:21</p> <p>file ^[1] 14:15</p> <p>filled ^[1] 12:20</p> <p>final ^[2] 23:21 31:1</p> <p>finance ^[1] 58:13</p> <p>fingertips ^[1] 42:4</p> <p>first ^[10] 3:3 4:18 7:4 14:21 22:8 26:20 29:7 30:13 31:5 59:2</p> <p>fiscal ^[7] 1:7,12 3:2 24:2,7,9 54:10</p> <p>five ^[4] 6:6 18:3 33:11 47:11</p> <p>florida ^[2] 32:5,9</p> <p>fluctuate ^[1] 17:22</p> <p>fluid ^[1] 17:22</p> <p>flush ^[1] 9:1</p> <p>folks ^[3] 8:13 33:3,12</p> <p>follow ^[3] 24:8 35:7 37:9</p> <p>follow-up ^[1] 39:1</p> <p>form ^[1] 54:18</p> <p>format ^[1] 61:13</p> <p>format ^[1] 39:9</p> <p>forth ^[4] 4:4 26:13 28:4 29:8 60:16</p> <p>forward ^[13] 5:18 26:4 29:12 31:3 41:23 46:3,12,17,17 47:5 53:10 60:20 61:7</p> <p>foundational ^[6] 30:21 31:19 33:1 39:19 43:10</p> <p>four ^[3] 6:6 7:3 18:3</p>	<p>fourth ^[3] 15:17 22:11,12</p> <p>frank ^[1] 1:19</p> <p>frankly ^[1] 31:7</p> <p>friday ^[1] 33:15</p> <p>front ^[3] 7:5 43:10 56:18</p> <p>full ^[2] 3:6 33:12</p> <p>fund ^[5] 7:16 8:12 10:19 12:17 48:1</p> <p>funds ^[2] 12:16 24:5</p> <p>further ^[2] 60:7 61:17</p> <p>furtherance ^[1] 34:1</p> <p>future ^[2] 38:18 61:12</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gangs ^[1] 17:5</p> <p>gap ^[1] 12:3</p> <p>gather ^[1] 31:3</p> <p>gave ^[2] 23:2 48:18</p> <p>gender ^[1] 41:1</p> <p>general ^[5] 8:12 12:16,17 48:1 58:2</p> <p>general's ^[1] 25:1</p> <p>gets ^[1] 60:17</p> <p>give ^[2] 45:1,1</p> <p>given ^[3] 18:3 49:20 51:8</p> <p>giving ^[4] 18:11 21:5 38:14 49:11</p> <p>gloss ^[1] 6:2</p> <p>got ^[3] 50:17,20 59:2</p> <p>government ^[1] 48:1</p> <p>governor ^[4] 4:20 26:15 46:15 48:20</p> <p>governs ^[1] 48:8</p> <p>group ^[3] 18:15 32:7,7</p> <p>guess ^[3] 19:15 20:20 59:3</p> <p>guida ^[1] 1:27 3:4</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hampshire ^[6] 1:1,5 33:5 40:15 42:21 44:9</p> <p>handed ^[1] 27:15</p> <p>handle ^[1] 34:6</p> <p>handout ^[1] 27:20</p> <p>happen ^[1] 4:6</p> <p>happening ^[2] 42:1 49:4</p> <p>happens ^[1] 18:1</p> <p>happy ^[1] 7:11</p> <p>hard ^[1] 47:17</p> <p>hear ^[3] 7:11 11:6 27:10</p> <p>heard ^[13] 25:15 37:10,12 42:9,12 52:21 53:1,6,9,11,13 55:13 58:17</p> <p>held ^[1] 21:9</p> <p>hello ^[1] 11:8</p> <p>help ^[3] 20:17 31:4 41:10</p> <p>helpful ^[2] 45:18 61:3</p> <p>helps ^[1] 42:16</p> <p>high ^[1] 32:13</p> <p>higher ^[5] 24:6 32:14 35:2,3 43:8</p> <p>highlights ^[1] 39:13</p> <p>history ^[3] 43:21 44:16 45:12</p> <p>hit ^[2] 39:13 51:9</p> <p>hold ^[1] 31:8</p> <p>home ^[4] 32:21,22 43:4,8</p> <p>homicide ^[1] 22:8</p> <p>hope ^[1] 29:15</p> <p>hopefully ^[2] 32:21 41:23</p> <p>hoping ^[2] 47:23 53:23</p>	<p>hours ^[1] 50:7</p> <p>house ^[15] 1:19,20,21,22 3:5,10 7:13 17:18 34:1 55:6 58:12 59:6,7,9, 10</p> <p>however ^[5] 11:13 16:1 26:5 36:19 37:5</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea ^[2] 10:10,11</p> <p>imagine ^[1] 45:3</p> <p>impacted ^[1] 43:9</p> <p>implemented ^[5] 5:5,9,12,12 29:7 30:2</p> <p>implemented ^[6] 3:16 4:3,13 5:23 39:5 60:17</p> <p>important ^[6] 6:2 40:4,13 41:11 46:15 59:5</p> <p>inaudible ^[1] 53:17</p> <p>including ^[1] 5:2</p> <p>incorrectly ^[1] 15:9</p> <p>increase ^[5] 10:10,11 11:18 42:23 44:7</p> <p>increased ^[1] 44:12</p> <p>increases ^[5] 7:16 10:19 38:15,15 48:9</p> <p>increasing ^[1] 10:3</p> <p>independent ^[1] 46:23</p> <p>index ^[1] 2:1</p> <p>individual ^[2] 42:10 58:14</p> <p>individuals ^[1] 52:18</p> <p>inform ^[2] 31:4 47:8</p> <p>information ^[16] 24:10 28:5 33:16 34:8,9 37:23 39:6 41:12 43:10,13 45:16,18 46:16 51:14 59:1 61:8</p> <p>informational ^[1] 44:19</p> <p>informs ^[1] 46:16</p> <p>initial ^[2] 6:7 15:9</p> <p>initiate ^[2] 31:20 49:17</p> <p>inside ^[2] 44:13 45:2</p> <p>instantly ^[1] 44:15</p> <p>institution ^[1] 49:14</p> <p>institutional ^[1] 58:18</p> <p>insuring ^[1] 56:21</p> <p>intended ^[2] 14:1 15:11</p> <p>intends ^[1] 60:14</p> <p>intensity ^[1] 35:4</p> <p>intensive ^[1] 37:6</p> <p>intent ^[6] 10:16 13:19 55:16 56:1,5 57:5,16 58:6</p> <p>intention ^[2] 41:17 60:16</p> <p>intentional ^[1] 39:18</p> <p>interested ^[1] 25:21</p> <p>internal ^[1] 43:17</p> <p>interpret ^[2] 13:19 22:13</p> <p>interpretation ^[6] 8:8,16 11:1,1 14:5,7 15:22 19:11 46:21</p> <p>interpreted ^[2] 31:7,21</p> <p>interviewed ^[1] 47:11</p> <p>interviews ^[1] 33:12</p> <p>introduce ^[1] 4:18</p> <p>invitation ^[1] 26:11</p> <p>involved ^[4] 5:5 17:5 56:10 59:6</p> <p>involvement ^[1] 22:17</p> <p>isn't ^[1] 30:7</p>
--	---	--	---

JOINT LEGISLATIVE FISCAL COMMITTEE MEETING

<p>issue [1] 3:12,14 4:9,12 14:20,21 15:1,7,17 17:23 27:14 40:10 42:17, 20 48:15</p> <p>issued [2] 25:4 29:15</p> <p>issues [3] 3:10 4:1,15 6:5 7:3 17: 22 40:11 41:1 57:12</p> <p>issuing [2] 24:20 29:12</p> <hr/> <p style="text-align: center;">J</p> <p>january [3] 16:3 29:8,14</p> <p>jeb [1] 1:26</p> <p>jeffery [4] 4:16,23 6:20 24:3 60:8</p> <p>jeffrey [7] 2:3 8:14,22 9:5,8,17,21 10:5,18 11:3,5 13:10,15,18 14:8,10, 18 15:6 16:16 19:4 20:18 21:15,22 23:19 24:15,19 25:8,16 26:21 27:1, 3,5,13 28:21 29:9,20,22 30:4,9 37: 20 38:3,19,22 46:11 47:3,13,16 48: 6,19,23 49:7,15 51:19,22 52:2,5,7, 12,17 53:15,19 54:8 55:3,13,21 56: 19 57:14,19,23 59:10,23 60:12 61:1, 10,15,19</p> <p>job [1] 5:12</p> <p>joint [2] 1:6,12</p> <p>jointly [1] 33:8</p> <p>judge [4] 20:3,11 21:8 26:2</p> <p>july [1] 16:6</p> <p>jurisdiction [1] 3:14</p> <p>jurisdictions [1] 41:15</p> <p>justice [3] 32:5 33:4,5</p> <p>juvenile [3] 32:4 33:4,5</p> <hr/> <p style="text-align: center;">K</p> <p>kathleen [3] 2:5 5:4 11:7,8,9,11 40: 20 43:14</p> <p>keep [3] 37:16 42:12 51:10</p> <p>kid [1] 38:8</p> <p>kids [3] 17:12,12,17 45:3 56:7,14 57:5 60:3</p> <p>kind [3] 21:1 26:11 27:19 38:5 40: 18 41:10 44:23 52:19</p> <p>kinds [2] 18:12 38:16</p> <p>king [1] 23:1</p> <p>knows [1] 44:8</p> <p>kurk [3] 1:18 3:1 4:22 6:18 8:7,15 9:4,7,11,18,22 10:6,23 11:4,10 12: 13 13:14,17 14:4,9,12,16 15:5 16: 15 18:7,19 19:1,14 20:7,16 23:4,15 24:8 25:13 26:19,22 27:2,4,6 29:4, 18,21 30:1,7 33:20 35:7 36:3,11,13 37:9,22 38:9,21 39:3 46:6,20 47:9, 14 48:4,11,14,20 49:1,9 51:18,20 52:1,3,6,11,14,18 54:6,12,14,17,20 55:11 56:16,20 57:16,21 58:11,18 60:6,9,13 61:2,11,16,20</p> <p>kurk's [1] 6:13</p> <hr/> <p style="text-align: center;">L</p> <p>labored [1] 57:4</p> <p>language [1] 7:12,14 10:17,18 21: 13 54:23 55:23 56:6 57:17 58:5 60: 2</p> <p>large [1] 52:10</p> <p>larger [1] 31:21</p> <p>last [3] 27:14 28:2 40:16 43:20 50:6</p>	<p>late [2] 17:8,17</p> <p>later [1] 7:1</p> <p>law [1] 3:13,16 5:6,8,10,23 15:22 16:1 19:8 21:2 28:7,15 34:10 35:16 41:17 44:9 59:16</p> <p>lawyer [1] 57:21</p> <p>lead [1] 30:11</p> <p>learning [1] 42:6</p> <p>least [4] 15:12 38:5 50:7 61:5</p> <p>led [3] 13:18,21,23</p> <p>left [1] 10:8</p> <p>legislation [3] 16:8 23:6 31:1 46: 18 54:9 60:17</p> <p>legislative [3] 1:6,12 4:11 10:16 15:11 42:19</p> <p>legislature [1] 8:11 14:1 17:9 18: 9 31:9 32:10 35:19 46:14 50:4 60: 16</p> <p>legislature's [1] 5:19</p> <p>less [3] 7:7 8:3 41:19</p> <p>letter [1] 3:17 6:7,8,11 7:5,14 14: 15 15:9,17,22 27:14 49:3 54:21 55: 19,21,22 56:1 60:19</p> <p>letter's [1] 6:22</p> <p>level [1] 38:12</p> <p>levels [1] 41:3</p> <p>license [1] 12:4</p> <p>licensed [1] 9:16,19 10:4 11:21 12:3,20 13:9 15:3 28:1 35:10 40:2</p> <p>lies [1] 42:1</p> <p>likely [1] 45:13</p> <p>limits [1] 49:13</p> <p>lines [4] 45:7 56:20 60:15,23</p> <p>listed [1] 40:17</p> <p>literally [1] 30:23</p> <p>little [3] 17:19 19:16 28:23 30:17 33: 23 37:11 53:8,23</p> <p>local [1] 11:23</p> <p>longer [3] 10:13 12:10 13:2 22:4 46: 4</p> <p>look [1] 3:9 7:19 13:6 25:1 40:4,19, 20 41:9,11,21,23 43:4,18 44:6 45:1 56:5 58:23 61:7</p> <p>looked [3] 39:23 40:15 41:2,3 42: 17</p> <p>looking [4] 23:9 41:16 42:20 45:19</p> <p>lot [3] 10:7 28:4 42:3,4 50:10 53:10, 13 59:1</p> <p>low [1] 38:12</p> <p>lynn [1] 1:20</p> <hr/> <p style="text-align: center;">M</p> <p>made [4] 10:2 23:3 35:19 60:13</p> <p>maintain [2] 31:9 58:10</p> <p>maintained [1] 20:1</p> <p>majority [1] 44:10</p> <p>males [1] 41:2</p> <p>manchester [3] 17:2,16 18:1</p> <p>mandate [1] 32:9</p> <p>mandatory [2] 47:2,4</p> <p>manner [1] 3:16</p> <p>many [2] 17:3,16 25:22 26:5 31:12, 16 33:2 37:13,17 38:15 40:11,14 43:18,19 44:2,4 49:23 51:1,1 58:12,</p>	<p>15</p> <p>marjorie [1] 1:21</p> <p>matched [2] 47:23 48:3</p> <p>max [1] 24:13</p> <p>mean [3] 9:12 17:21 19:19 34:18 43:18 45:4 47:11 50:5 51:14</p> <p>meaning [3] 20:6 35:18 60:4</p> <p>means [2] 9:13 61:13</p> <p>medicaid [1] 12:16</p> <p>meet [3] 12:8,11 25:23 26:11 36:10, 15 42:22 46:9 54:2</p> <p>meeting [1] 1:12 3:2,8,9,23 4:8 39: 4 43:23 45:20 50:6 61:3,21</p> <p>meets [2] 26:13 46:3</p> <p>member [1] 5:11</p> <p>member's [1] 58:15</p> <p>members [1] 32:7</p> <p>men [1] 20:21</p> <p>mentioned [2] 39:17 40:20</p> <p>met [3] 19:21 45:10,12 48:16 50:5,5 60:15,23</p> <p>meyers [7] 2:3 4:16,23 6:20 8:14, 22 9:5,8,17,21 10:5,18 11:3,5 13:10, 15,18 14:8,10,18 15:6 16:16 19:4 20:18 21:15,22 23:19 24:3,15,19 25:8,16 26:21 27:1,3,5,13 28:21 29: 9,20,22 30:4,9 37:20 38:3,19,22 46: 11 47:3,13,16 48:6,19,23 49:7 51: 19,22 52:2,5,7,17 53:15,19 54:8 55: 3,13,21 56:19 57:14,19,23 59:10,23 60:8,12 61:1,10,15,19</p> <p>meys [2] 49:15 52:12</p> <p>microphone [1] 27:10</p> <p>microphones [1] 58:14</p> <p>middle [1] 16:23</p> <p>midnight [1] 18:15</p> <p>might [7] 18:15 30:14,16 39:15 43: 15 48:5 60:22</p> <p>million [3] 7:8 3:17 10:8 15:12 48: 5,21 52:4</p> <p>mind [1] 23:1</p> <p>mine [1] 8:17</p> <p>minimum [1] 8:4</p> <p>minors [1] 35:11</p> <p>minute [1] 16:17</p> <p>minutes [1] 6:17</p> <p>misdemeanors [1] 22:10</p> <p>misunderstanding [3] 7:8 13:22 55:16</p> <p>mix [1] 52:16</p> <p>moment's [1] 17:1</p> <p>money [3] 7:8,15 10:7,8 13:1,12 14: 21 49:11 58:14</p> <p>monies [1] 15:10</p> <p>monthly [2] 54:10 60:21</p> <p>months [4] 17:4,16 50:20 51:1</p> <p>morning [1] 19:3</p> <p>morse [1] 1:24 14:12,13 47:9,10 48: 11,12 54:12,13</p> <p>most [3] 31:4 45:4,13</p> <p>move [2] 33:16 41:18</p> <p>moved [2] 55:9,18</p> <p>moving [2] 41:8 42:7</p> <p>much [7] 17:23 32:9 42:9,13 48:3</p>	<p>54:15 61:18</p> <p>multiple [3] 26:6 31:17 36:21</p> <p>murder [1] 45:6</p> <p>must [1] 35:12</p> <hr/> <p style="text-align: center;">N</p> <p>names [1] 33:13</p> <p>narrowly [1] 58:4</p> <p>national [3] 33:2 41:14 42:15</p> <p>neal [3] 1:18 3:1 4:22 6:18 8:7,15 13 13:14,17 14:4,9,12,16 15:5 16: 15 18:7,19 19:1,14 20:7,16 23:4,15 24:8 25:13 26:19,22 27:2,4,6 29:4, 18,21 30:1,7 33:20 35:7 36:3,11,13 37:9,22 38:9,21 39:3 46:6,20 47:9, 14 48:4,11,14,20 49:1,9 51:18,20 52:1,3,6,11,14,18 54:6,12,14,17,20 55:11 56:16,20 57:16,21 58:11,18 60:6,9,13 61:2,11,16,20</p> <p>nearily [1] 48:2</p> <p>necessarily [2] 12:8 56:4</p> <p>necessary [3] 24:5 38:12 39:7</p> <p>necessitate [1] 35:3</p> <p>need [2] 4:2 12:4,10 17:23 21:9 23: 22,23 24:1,11 25:18 26:10 27:9 32: 15 39:20 40:22 41:21 42:9,13 45:8 46:22 48:16 51:5,6,10 52:23 53:7</p> <p>needed [4] 22:21 32:1 41:5 48:21</p> <p>needs [1] 11:14 12:8,11 28:8,15 31:12 33:7,10 36:10,15 37:6 40:21 42:22 43:23 45:9,11,20 46:3</p> <p>neither [1] 26:8</p> <p>new [1] 1:11 5:9,22,23 10:1 12:10 14:2 18:17 28:10 31:20 33:4 35:23 40:15 42:20 44:9 52:22,22</p> <p>next [4] 15:7 28:16 47:8 61:21</p> <p>night [3] 17:1,8,17 19:1,18</p> <p>nobody [1] 52:15</p> <p>non-violent [3] 55:7,17,18 57:6,9</p> <p>none [2] 12:19,21</p> <p>north [2] 56:12 58:9</p> <p>nothing [3] 23:10 58:7 61:17</p> <p>notice [1] 17:1</p> <p>number [1] 9:15 18:9 19:13 23:18 24:13 26:9 27:23 28:1,2,2,16 50:21 51:1,8,9 56:12</p> <p>numbers [3] 16:19,19 40:3 44:14 47:20 56:10</p> <hr/> <p style="text-align: center;">O</p> <p>o'clock [2] 19:1,18</p> <p>ober [1] 1:20 20:16,17,19 21:1,5, 11,17 22:19,23 23:8,13 52:20,21 53: 17,21 54:19</p> <p>obviously [3] 7:11 20:5 24:7 41:1 51:15</p> <p>occasion [2] 22:11,12</p> <p>occasions [1] 22:12</p> <p>of-home [1] 7:17</p> <p>offenders [3] 55:7 56:23 59:15</p> <p>offense [3] 19:23 22:7 43:21 44:1, 16 45:11</p> <p>offenses [2] 22:7,9</p>
---	--	--	--

JOINT LEGISLATIVE FISCAL COMMITTEE MEETING

<p>offering [1] 26:10 office [1] 25:1 often [2] 35:3 43:8 oftentimes [2] 32:15 44:2 okay [8] 11:3 22:22 30:1 39:1,10 46:20 49:9 52:6 once [1] 4:9 one [20] 6:5,11 13:5 17:17 22:7,9 26:3,8,18 33:17,18 40:7,7 42:1,10,18 43:18 45:4,5,5 49:4 50:1 53:15 54:1 58:14,21 ones [1] 22:14 ongoing [8] 17:22 21:2 29:14 only [11] 8:20 15:20 18:16 22:5,14 26:20 28:13 31:18 39:6 45:21 53:5 open [3] 3:2 24:10 25:11 open-ended [1] 26:10 opening [1] 3:3 opportunity [4] 4:17 41:14 42:15 43:7 order [6] 6:1 17:14 20:3 25:23 28:9 34:4 35:5 58:10 ordered [2] 20:12,13 ordinary [1] 61:22 organization [1] 28:12 organizations [2] 34:23 47:18 other [20] 6:23 9:7 11:22 16:7 18:22 26:8 27:15,20 34:17 37:1,18 41:15 42:5,19 46:23 48:10 52:16,19 61:8,13 others [2] 16:11 50:10 ourselves [1] 5:13 out [28] 7:16 9:1 18:8 21:13 24:4 25:1 27:16 32:11 34:8 41:18,18 42:23 43:7 44:2,3,18 48:5,7 50:12,17,21,23 51:4 52:23 53:7 55:23 56:8,9 out-of-home [2] 10:20 13:20 out-of-state [4] 12:2 13:2 42:17 58:23 outcome [1] 57:8 outset [2] 5:7 6:10 over [11] 3:14 6:3 8:5 10:8 28:2 40:15,15 43:20 50:19 51:1 57:4 overcrowding [1] 57:12 oversee [1] 5:1 overwrites [1] 21:12 own [2] 44:20 45:19</p>	<p>partnership [2] 31:14 37:5 passed [2] 28:7 31:16 past [1] 38:17 pay [2] 7:9 8:4 paying [1] 12:23 peers [1] 36:23 people [16] 18:3 19:17,20 20:21 21:10 22:3,16 24:18 30:11 34:9 43:23 44:3,22 45:2,13 46:4 per [8] 8:8,9 11:18 12:14 23:7 percent [4] 12:15,16,20 44:15 perhaps [1] 27:8 person [2] 19:23 49:13 perspective [1] 61:2 ph [1] 27:7 phase [2] 31:5 47:8 physical [2] 10:1,1 pieces [1] 39:19 place [3] 39:19 56:22 59:13 placed [8] 11:23 15:23,23 18:10 45:14 52:23 55:8 57:1 placement [10] 8:1 9:2 12:1,2 18:21 28:4 41:22 42:18 43:22 53:3 55:10 56:21 57:7,10 59:13 60:1 placements [7] 7:17 8:19 10:20 13:2,21 38:8,10 58:23 places [1] 37:19 plain [1] 56:5 plan [8] 24:1,11 29:6,7,11 30:8 39:8 46:23 60:19 plans [1] 53:4 plea [1] 44:3 pled [1] 44:3 please [3] 27:11 38:21,21 pleased [1] 4:14 pled [1] 44:2 plus [2] 9:14 12:7 point [18] 6:2 13:7 14:11 18:8 21:13 22:15 24:22 28:17 32:9 40:12 44:21 46:16 50:18 53:9 55:23 58:9 60:1,6 pointing [1] 24:4 points [2] 6:6,13 police [5] 17:2,17 19:19 20:2 48:17 policy [8] 4:10,10,13 21:2 28:10 46:16 pool [3] 36:17 37:3,7 population [10] 10:13 13:4 18:13 20:5 25:19 37:6 44:8,12,13,14 portions [1] 16:7 position [1] 54:5 possible [2] 11:13 38:20 possibly [1] 53:14 post [1] 6:22 posted [2] 6:22 7:1 potential [1] 57:12 potentially [2] 11:18 55:8 powers [1] 34:3 practices [2] 42:3,4 precisely [1] 48:2 precursors [1] 38:18 preliminary [2] 47:20,20,21 prepare [2] 31:19 35:10 prepared [2] 32:16 38:11</p>	<p>presentation [1] 60:10 president [1] 1:24 presumably [1] 13:6 previous [1] 32:4 previously [2] 31:13 60:3 price [1] 26:12 prices [1] 47:18 primarily [1] 34:22 prior [5] 22:17 38:7,10 39:20 56:23 private [1] 12:1 probably [3] 16:22 31:13 43:12 proceed [3] 27:12 47:8 51:7 process [13] 12:18 24:22 26:1,7,20 28:22 30:20 48:17 49:6,8,18,20 51:13 procure [1] 47:6 procurement [2] 49:18,20 procuring [1] 47:5 productive [1] 4:8 professional [1] 28:12 program [8] 18:5,9,22 24:16 31:20 32:20 50:14 51:11 60:20 programming [1] 46:3 programs [12] 11:11 12:7,10 33:9 35:4 36:21,22 40:1,6,14 41:4,6 prohibit [1] 58:8 project [1] 16:19 projecting [1] 28:15 proposal [3] 25:22 30:19 50:2 proposals [1] 26:2 prosper [1] 57:11 protection [1] 33:6 provide [8] 10:8 22:1 24:1 38:11,16 51:10 54:10 56:2 provided [7] 2:22 15:21 34:5 39:5 59:1 provider [12] 5:17 25:20 26:3,18 34:23 36:5,9,15,17 37:3,7 50:1 providers [19] 26:6 29:13 31:12,16 32:12,15 36:5,14 37:13,13 38:1,15 40:12 43:22 49:6,10,19 50:6,15 provides [2] 36:17 38:14 provisions [8] 3:12,15 4:3 5:14 39:4 46:9 public [2] 51:14,17 publicly [2] 6:23 7:2 published [1] 51:23 pulled [2] 32:7 41:6 purpose [7] 3:9,23 15:13 26:18 35:11 39:3 48:10 purposes [3] 7:6 25:12 44:19 pursuant [2] 7:17 10:21 put [8] 14:15 26:14 44:18 45:15 49:12 57:8 putting [4] 11:17 21:9 50:12 51:4</p>	<p>quick [1] 25:5 quickly [1] 5:9 quite [1] 21:6</p> <p style="text-align: center;">R</p> <p>radar [1] 43:2 raise [1] 45:23 raised [4] 3:19 6:7,13 7:4 raising [1] 8:15 range [1] 47:18 rate [12] 7:16 10:19 25:22 40:10 41:5 43:8 48:9 50:3,19,19,22 51:12 rates [4] 12:22 28:3 38:13 50:17 rather [4] 8:15 14:6 26:7 61:13 ratio [2] 35:4 42:13 rationale [2] 57:15,17 ratios [1] 42:6 read [8] 49:3 54:23 57:2,3 58:4 reading [1] 55:19 real [3] 17:3 22:9 56:11 realized [1] 32:10 really [17] 14:20 15:1 23:23 28:14 31:5,20,22 35:13 36:18,18 39:6 40:4 41:21 56:11 58:5,11 59:9 reason [1] 53:4 reasonable [1] 30:11 reasonably [1] 14:1 reasons [2] 42:11 53:13 reassured [1] 4:6 receive [1] 39:8 receiving [2] 35:11 61:7 record [1] 37:17 recorded [1] 27:8 records [2] 37:16,23 reduce [1] 8:11 refer [2] 16:8 56:16 reference [1] 16:2 referenced [1] 8:2 references [2] 16:7,14 referred [1] 15:9 referring [1] 6:19 refers [3] 7:20 15:23 34:1 reflected [1] 56:9 reflects [2] 28:6 57:17 regan [1] 3:5 regarding [1] 54:21 regardless [1] 46:7 regina [1] 1:23 regular [1] 18:1 regulars [1] 3:6 reimbursement [1] 38:13 relate [3] 29:19 44:13 59:5 related [2] 36:23 41:1 relates [1] 29:5 relieve [1] 57:11 remarks [1] 3:3 remember [2] 12:15 39:3 repeal [3] 23:2,4,7 repealed [1] 23:11 repeat [3] 27:9 29:4 55:11 repetitive [1] 52:3 replacing [2] 3:5,7 report [1] 24:6 reporting [1] 46:8</p>
---	---	---	---

Sheet 5

offering - reporting

JOINT LEGISLATIVE FISCAL COMMITTEE MEETING

<p>reports [1] 60:21 representative [2] 54:19 58:20 representative [4] 3:7,8 19:14,15 20:7,9,13,15,16,17,19 21:1,5,11,17 22:19,23 23:8,13,15,16,20 24:9,16 33:20,22 35:8 36:3,4,8 37:10,16 39:10 52:20,21 53:2,16,17,21 57:3 58:19 59:20 request [2] 24:20 25:14,23 26:2 29:12 30:19,20 31:5 39:21 require [2] 9:23 13:8 required [2] 3:18 15:19 28:7 29:20, 22 30:3,5 59:9 60:21 requirement [2] 16:12 35:22 requirements [2] 27:17 59:18 60:19 requires [4] 10:1 54:9 59:21 61:9 requisite [1] 26:9 reserved [1] 20:5 residential [2] 5:17 11:9,16 resolved [1] 61:14 respect [4] 15:13,19 53:16 60:3 respond [2] 17:15 34:12 49:12,16 50:16 responded [1] 38:23 responding [1] 39:15 response [4] 25:10 35:16 49:11 54:9 responses [2] 25:9 49:22 responsibilities [4] 5:1 29:5,21 30:2 responsibility [2] 31:8,22 rest [2] 61:4,6 restrictive [2] 41:19,20 result [1] 4:5 results [2] 38:17,18 retrospective [1] 41:22 review [4] 6:15 30:22 39:12 43:14 reviewing [1] 24:22 revisit [1] 5:10 revisiting [1] 4:10 rfa [7] 24:21 29:11,15 49:7 51:21 56:9 58:6 rfp [4] 26:1,7,22 49:6 rich [1] 32:12 ripple [1] 23:1 risk [1] 45:15 role [1] 5:13 roughly [1] 9:17 rsa [2] 34:2 53:2 run [1] 50:19</p> <hr/> <p style="text-align: center;">S</p> <p>safe [2] 36:19 42:12 51:11 safely [2] 20:1 32:1 safety [2] 18:6 31:10 34:21 46:1 48:15 same [2] 4:2 8:9,23 16:8 25:2 32:9 sanborn [1] 14:15 saving [1] 12:18 saw [2] 30:9,17 44:13 saying [2] 9:9 11:6 17:9 19:12,12 30:3 51:8 53:12 54:1 says [2] 13:19 16:4 22:3 23:21 48:9</p>	<p>59:16 scan [2] 39:18 41:5 schedule [1] 4:4 scheduled [1] 61:21 school [1] 11:23 score [1] 26:8 se [1] 23:7 seats [1] 58:15 second [2] 6:14 14:20 15:16 16:5 22:8 section [1] 7:12,18,19,19 8:2 10:21 15:19 16:2 21:17 23:2 27:18 30:5 34:1 36:2 46:21 48:8,9 55:5 56:17 sections [1] 3:10 secure [1] 11:15 secured [2] 32:13,14 34:14 35:6,6 41:18 42:8,8 see [1] 5:22 14:8 25:5,9 39:18 40:3 43:9 45:22 54:4 57:8 seeing [1] 35:13 seem [1] 54:1 seems [1] 3:6 segway [1] 27:15 select [2] 29:13 51:14 selecting [1] 33:18 senate [7] 1:23,24,25,26,27 55:7 58:12 senator [1] 14:12,13,14,14,17 47:9,10 48:11,12,14 54:12,13,13,14,15, 21 55:4,15 senators [2] 3:4,5 sense [1] 61:4 sent [1] 20:22 separate [4] 22:11 30:10 45:11 46:12 september [2] 6:12 61:22 serafin [2] 2:6 5:2 17:20 18:16,20 19:2,6,21 20:12,14,23 21:4,8,16,20 22:2,22 29:2 35:15 36:7,12 43:16 serious [4] 22:6,9 56:23 59:14 serve [7] 10:12 28:9 37:3,7 40:7,9 44:12 served [1] 10:15 service [1] 31:21 32:12,12,18 34:17 35:22 40:19 44:20 45:19 52:19 59:12 services [2] 5:18 6:15 7:23 8:5 9:6 11:17 20:4 25:18 26:13 27:22 30:23 31:23 34:4 38:12,16 39:13 43:13 50:14 51:2,3,10 52:10 57:1 serving [2] 33:10 43:19 session [2] 61:14,20 set [2] 4:4 21:23 60:16 setting [1] 25:17 settled [1] 3:13 several [2] 5:14 45:23 47:17 shall [2] 48:9 59:11,16 share [2] 31:14 32:3 33:3,13 39:12 41:8 shared [4] 31:13 32:5,6 36:20 she's [1] 21:23 shift [1] 32:11 shouldn't [1] 6:2</p>	<p>side [1] 3:5 significance [2] 44:16 45:6 significant [4] 35:2 38:15 45:15 46:1 significantly [2] 17:14 44:17 similar [1] 61:12 simple [2] 22:23 23:3 54:9 simply [1] 52:4 simulate [1] 35:5 simultaneously [1] 32:23 since [2] 5:8 44:6 single [2] 44:1 45:11 sir [1] 54:5 sit [2] 14:14 49:22 situation [1] 17:15 situations [1] 18:12 six [2] 38:7,7,10 smith [1] 1:21 somebody [1] 51:15 someone's [1] 56:5 sometimes [1] 23:1 somewhere [1] 47:22 soon [2] 25:4,4 51:13 sorry [2] 11:6 22:22 29:23 sort [2] 17:4 30:16 39:18 speaker [2] 23:10 25:7 58:17 special [2] 3:2 61:14 specialized [2] 36:6,14 specialty [1] 40:22 specific [1] 20:21 specifically [2] 21:12 22:3 spend [1] 15:12 spent [1] 58:1 spoken [1] 12:5 staff [7] 5:4 34:22 35:4 37:1 42:6,8, 10 staffing [1] 42:10 stand [2] 46:2 51:3 standard [2] 23:5,7,12 standards [1] 5:16 start [1] 28:23 started [1] 44:12 starting [2] 50:18 53:22 state [1] 1:1 10:19 13:11 19:19 27:22 32:5 34:10 43:1,8 44:20 52:23 53:7 60:10 stated [2] 15:9 17:21 states [4] 7:15 21:20 35:9 42:5 status [1] 27:16 statute [2] 3:18 7:15 13:7,11,13,23 15:23 17:10 18:17 19:11 23:11 25:3 29:6 31:18 54:23 55:23 56:3,6,17 58:7 59:21 60:3 61:9 statutes [2] 30:11 58:4 statutory [1] 58:2 steeped [1] 33:3 step [2] 5:18 28:11 still [2] 18:14 46:9 stood [1] 29:14 stop [2] 22:19 28:17 47:4 stopping [1] 46:19 strange [1] 58:12 strive [1] 41:18 structure [1] 34:15</p>	<p>study [1] 59:4 subgroup [1] 35:20 submit [2] 25:21 26:9 submitted [1] 50:2 submitting [1] 60:21 success [1] 18:5 successful [1] 32:20 successfully [1] 32:19 sufficient [4] 17:11 34:6 56:21 59:13 suggest [1] 52:8 suggesting [2] 11:4 14:5 59:17 suggests [1] 46:21 suitable [1] 3:21 summary [1] 15:21 sununu [2] 3:11 5:2,3,15 7:21,22 8:9 10:12 11:16 12:9 18:2,10 19:7, 9 20:4,22 31:15 35:18 37:14,18 38:2,6 43:13 44:6 46:4 53:5,6 55:2,8, 17 57:1,6,13 60:4 support [2] 24:6 32:1 supporting [2] 9:8,9 supposed [2] 30:7 34:10 supreme [1] 58:3 surrounding [1] 3:10 system [2] 6:1 9:13 10:11,12 11:21 14:3,3 15:2 27:16 28:8,9,14 29:17,18 30:6 31:22 32:5,18 33:6 34:17 35:23 38:13 39:18 40:5,19 59:12</p> <hr/> <p style="text-align: center;">T</p> <p>talbot [2] 5:5 4:11 8,9,11 talked [2] 14:23 24:17 45:17 talks [1] 34:3 tappan [1] 2:7 4:19 27:18 28:20, 23 29:3 30:16 34:12 36:16 37:15 39:11 targeted [1] 33:15 tend [1] 32:14 term [2] 16:1 20:21 terms [1] 5:14 25:2,10 31:10 40:5, 6,22 41:12,23 43:2,16 testimony [1] 2:2 testing [1] 42:5 themselves [2] 20:6 45:14 50:12 therapeutic [1] 36:18 there'll [2] 49:23 50:1 there's [2] 6:9,10 15:13 16:2 39:1 41:1 44:7 47:16 56:7 58:7 59:1,15 therein [1] 42:1 they'll [1] 50:3 they've [2] 40:23 50:17,17,18,20,20 though [4] 10:19 13:11 28:6 57:17 three [2] 18:3 22:11 42:10 three-on-one [1] 42:9 three-to-one [1] 42:13 threshold [1] 8:4 timely [1] 3:16 today [2] 4:19,19 7:1 27:21 39:23 49:3,10,14,22 today's [2] 3:23 4:5 39:4 together [2] 32:8 33:9 41:7 tone [2] 3:20,21</p>
--	---	--	---

Sheet 6

reports - tone

JOINT LEGISLATIVE FISCAL COMMITTEE MEETING

total [2] 10:4 13:9	wanting [2] 40:9,17	
towards [2] 33:17 41:9	warrant [1] 37:2	
track [1] 43:3	way [9] 6:5 18:7 22:20 34:21 36:19	
transfer [1] 16:2	website [1] 7:1	
transferred [1] 57:10	week [2] 24:23 29:16 50:7	
transitioned [1] 32:21	welcome [2] 3:4 14:16	
trauma [1] 40:23	weyler [1] 3:8	
treatment [2] 11:11,16	whatever [2] 23:23 26:5 48:4	
trend [2] 43:19 44:6	whatsoever [1] 57:15	
trends [4] 28:4 41:12,22 43:9	whether [17] 3:12,15 4:9,12 7:8 11:22 14:20,21 15:1,2,18 16:20 25:3 40:6,21 50:3 60:18	
tried [1] 60:1	who's [2] 5:4,4 54:1	
tries [1] 55:22	whole [2] 21:23 48:17	
trouble [1] 19:16	will [26] 3:16 4:3,7 5:20,21 6:22,23 7:22 12:10 24:10 25:4,5,19 26:11 28:15 29:15 32:3 34:4 44:3 46:9,15 47:7 49:22 50:1,2 51:14,16 54:11 56:9 59:18 60:20,21,23 61:12,21,22	
true [1] 12:18	willing [7] 5:18 19:12 25:21 43:22 50:9,15 51:12	
try [2] 9:1 35:16	wind [1] 32:13	
trying [9] 13:6,16 42:5 49:2 52:8 53:10,20 57:18 58:15	wish [2] 54:6,6 61:16	
turn [1] 43:12	within [2] 11:21 12:3 32:20	
turnaround [1] 25:6	without [4] 10:3 18:7 21:5 30:20	
two [2] 6:9,10 18:2 45:5 51:18	word [2] 13:12,23	
types [2] 36:8 40:10,21,23 41:6	worded [1] 56:4	
typically [2] 32:13 35:2	words [4] 11:2 46:23 53:22 55:9	
U		
ultimately [2] 5:13 50:11 56:4	work [15] 5:23 32:6,7 33:18 34:16,23 37:4 42:10 51:11 53:11,12,14,16,20 54:2	
um-hum [1] 10:5	worked [1] 5:8	
under [2] 5:14,15 18:17,20 28:9,15 29:6 34:9 49:6	workforce [1] 40:11	
understand [17] 12:13 14:5,11 15:11 16:10 24:12 27:11 31:18 39:20 40:14 49:4,5 52:8,12 56:7 57:14 58:6	working [4] 5:5 32:4 33:17 55:5	
understanding [2] 4:1 7:10 19:8,16 33:7	workloads [1] 34:6	
understands [1] 15:8	wrangle [1] 58:13	
understated [1] 19:11	write [1] 21:11	
undertake [1] 30:5	wrote [2] 3:19 55:5	
underway [1] 29:15	Y	
unidentified [2] 23:10 25:7 58:17	ydc [1] 19:17	
unless [2] 12:17 43:14 60:6	years [2] 28:3,16 43:20 58:1,16	
unrelated [1] 47:1	yep [10] 4:23 11:5,7 21:15,15 29:2,2 48:19,23 61:10	
unsafe [2] 20:5,6	yesterday [2] 6:9,12	
up [22] 10:3 12:15 13:8 15:10 17:4 18:3 24:8 25:11 29:6,14 32:13 35:7 37:9 43:6 44:14,17 46:2,8 48:13,15 50:22 51:3	young [13] 18:3 19:17,20,23 20:20 22:3,16 43:23 44:3,21 45:2,13 46:4	
updates [1] 54:10	youth [26] 5:15 7:20 11:13,16,22 12:9,12 15:20,23 16:3,5,6,23 17:5,7 18:10 19:8,17 20:4 27:22 28:9 31:10,11,15,20 32:1,11,13,18 33:8,8 34:13,14,22 35:1,17,20 36:1,18,19 37:4 40:7,10,21 41:18 42:7,11,12,23,23 43:4,7,7,13,19,21 45:21 55:1,2,7,8,17 57:1,6,13	
using [2] 52:15,20		
V		
variance [1] 41:5		
variety [2] 37:3 42:11		
varying [1] 42:22		
version [1] 23:21		
versus [1] 40:8		
view [2] 4:7 7:12 16:10 47:2 55:5		
violent [2] 22:7 56:23 59:14		
virtually [1] 24:21		
W		
walk [2] 27:20 28:18		
wallner [12] 19:14,15 20:7,9,13,15 36:3,4,8 37:10,16 39:10		
wangle [1] 58:13		
wanted [2] 33:6 40:8 43:1,9 57:8		

Sheet 7

total - youth