

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, February 16, 2018

MEMBERS PRESENT:

Rep. Lynne Ober

Rep. Karen Umberger (Alt.)

Rep. Frank Byron (Alt.)

Rep. Mary Jane Wallner

Rep. Daniel Eaton

Sen. Gary Daniels, Vice-Chairman

Sen. President Chuck Morse

Sen. Lou D'Allesandro

Sen. Regina Birdsell (Alt.)

Sen. Bob Giuda (Alt.)

(The meeting convened at 10:07 a.m.)

GARY DANIELS, State Senator, Senate District #11 and Vice-Chairman: The Committee will please come to order. First of all, I'd like you to join me in the Pledge of Allegiance.

(Pledge of Allegiance recited.)

(1) Acceptance of Minutes of the January 19, 2018 meeting.

CHAIRMAN DANIELS: Good morning and welcome to the Fiscal Committee meeting for Friday, February 16th. Our first order of business is acceptance of the minutes from January 19th. Is there a motion to accept those minutes?

****** LOU D'ALLESANDRO, State Senator, Senate District #20: Move the minutes.

REGINA BIRDSELL, State Senator, Senate District #19:
Second.

CHAIRMAN DANIELS: Motion made by Senator D'Allesandro, seconded by Senator Birdsell. Any modifications to the minutes?

Okay. Being none, all those in favor say aye? Opposed nay? The ayes have it. The motion carries.

*** {MOTION ADOPTED}

(2) Old Business:

CHAIRMAN DANIELS: Is there anything to be removed from the table on Old Business? Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chair. I'd like to remove item 18-003 from the table.

CHAIRMAN DANIELS: Senator D'Allesandro moves to remove 18-003 from the table. Is there a second?

CHUCK MORSE, State Senator/Senate President, Senate District #22: Second.

MARY JANE WALLNER, State Representative, Merrimack County, District #10: I'll second.

CHAIRMAN DANIELS: Second by Senator Morse. All those in favor say aye? Opposed nay?

LYNNE OBER, State Representative, Hillsborough County, District #37: Nay.

BOB GIUDA, State Senator, Senate District #02: Nay.

CHAIRMAN DANIELS: The ayes have it.

*** {MOTION TO REMOVE THE ITEM FROM THE TABLE ADOPTED}

SEN. D'ALLESANDRO: Mr. Chairman, I think the Commissioner of Corrections is here and the information that we requested is also in the packet.

CHAIRMAN DANIELS: Yes. Commissioner.

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REP. OBER: Part of the information we requested is in the packet, not all of it.

CHAIRMAN DANIELS: We'll have that discussion. Commissioner. Good morning.

HELEN HANKS, Commissioner, Department of Corrections: Good morning. Good morning, Honorable Members of the Committee. My name is Helen Hanks. I'm the Commissioner of Department of Corrections. For the record, Robin Maddaus is to my left, Director of Administration. We'd be happy to triage questions on this item.

CHAIRMAN DANIELS: Senator Ober. You still have questions or Senator D'Allesandro?

REP. OBER: I don't know. Senator D'Allesandro's the one who took it off so I assume he must have questions.

SEN. D'ALLESANDRO: Thank you. Thank you, Mr. Chairman.

CHAIRMAN DANIELS: Senator D'Allesandro.

SEN. D'ALLESANDRO: It seems to me there were a couple of questions about how Narcan would be distributed. And you addressed it, but I think the Committee should hear your plan that addresses the concern of the Committee with who would get it, and how it would be administered. I think that was the important issue as I saw it.

MS. HANKS: Thank you for that. The Department's plan in consideration of this item is to target the family or individuals that people are going to be living with as the primary recipient of that Narcan. And much to the great feedback of Members of this Committee and other members post the hearing it is a smart decision to move forward with that. They will be the person likely to respond emergently. Additional data provided in the letter speaks to work done in Massachusetts. They did a study of individuals post-release from incarceration and they're at a risk rate of six times higher to overdose

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during that first month's period. So it would be a resource to the family or individuals that would be the housing or custodial person they'd be living with. And our case managers, and specifically in addition to the proposed Re-entry Coordinator, would be tasked with face-to-face contact in education of that tool and distribution, logging that as an item that they left with and that we did the education with the family. I'd be happy to answer any follow-up questions.

CHAIRMAN DANIELS: Further questions.

REP. OBER: I have a question.

CHAIRMAN DANIELS: Representative Ober.

REP. OBER: Senator D'Allesandro, are you done?

SEN. D'ALLESANDRO: Yes, thank you.

REP. OBER: Commissioner, you're not going to be happy to hear this, but I have a constituent who has a son who is incarcerated in one of the prisons that you control -- in charge of. He was not addicted when he went in. She says he buys the drugs from a corrections officer. This is secondhand language, but I can tell you she does not want to have Narcan in her house and she does not want you to be saying home or saying to her son, well, now you're done. Narcan will go to your mother. You can go ahead and be a drug addict and now you're going to be responsible. She says to me he's in his thirties. Yes, I know he'll come back here to live. I don't want that kind of responsibility. I blame the State for the fact he's addicted. And there's no opt-out program here for people.

She said to me, can you imagine what my neighbors will think if I refuse to take Narcan to help my son? But this is not the way I want to be living my life when I send a son to you who is not addicted. So what are the plans to help those people and why should we be sending Narcan home at all? We should be putting people directly into community-based drug treatment

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programs if they're at-risk, getting them on Suboxone or something similar with the therapy.

MS. HANKS: So to address two points which is if there's an individual who's been identified as engaging in felony level activity certainly appreciate that person's name. Obviously, outside of this meeting.

Second, we do provide medication-assisted treatment post-release. We do connect people to primary care and licensed alcohol drug counselling programs post-release. And they're in the same queue as those community people seeking those services. The science and research tells us it's a high-risk period. It is a voluntary program the Narcan program. Someone can choose not to accept it. There's no forcing that intervention. It's another resource to get someone safely from post-release to that first appointment. Just as the community is distributing Narcan, we feel it's our responsibility to make the request and have that opportunity, voluntary opportunity to people leaving the facility and the friends and family.

REP. OBER: Follow-up.

CHAIRMAN DANIELS: Follow-up.

REP. OBER: Can you point in your documentation to the page and the place where it says this is voluntary and families can opt-out and talk to us about that process as put into the documentation you gave us?

MS. HANKS: Well, I can speak to the Constitutional right to choice, which is a requirement under Federal Law for individuals who are incarcerated to decline treatment, and that's the federal guideline we always operate under. It's not specifically in the letter.

REP. OBER: It's not in the documentation.

MS. HANKS: It's specifically in Federal Law. We can't force someone to leave with their medications. We can't force

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someone to take a piece of paper from our hand just as we have those rights as citizens in the community. I'll continue to scan the letter, but I will say Federal Law can't force us to do those things.

REP. OBER: One more follow-up.

CHAIRMAN DANIELS: Yes.

REP. OBER: I'm sorry, I thought you just said Narcan would be given to family members so that family member would not be leaving the prison and that is a kind of a different situation. You can't force a prisoner to take medicine with them.

MS. HANKS: And, again, Representative Ober, I also can't force a family member that I have no supervisory or custodial obligations to take something from me. I can only offer it. We do cite in our first letter the term "made available". We don't imply that it's a mandatory. On the explanation section, first paragraph, it will be made available. We don't use command language such as the word shall.

REP. OBER: One last question.

CHAIRMAN DANIELS: Follow-up.

MS. HANKS: And --

REP. OBER: How many of your prisoners are still -- how many of your prisoners are randomly drug tested? And I know you're doing some and how many of those are still showing with dirty urine tests?

MS. HANKS: I can tell you the Office of Statistics just did that last night. I'd be happy to send the analysis to the Committee that last month only 8.9% of people incarcerated tested positive. We have a population count of approximately 2,523 when I looked this morning. And they were positive for a drug named Suboxone. So that is the drug of contraband use

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within our facilities. And I can send you a policy on urinalysis, random urinalysis as well.

Back to your previous question. Also, in the original item where we attached the MOU with Health and Human Services it speaks to the goal section. Again, doesn't use the word shall. It uses the word will be offered. So, again, it's not command language.

CHAIRMAN DANIELS: Further questions. I think last time we had asked a question and requested a breakdown of the benefits.

ROBIN MADDAUS, Director of Administration, Department of Corrections: Yes.

CHAIRMAN DANIELS: Those were provided. I guess I'd like an explanation. It seems the benefits are still way out of whack, and I know I've talked to the Commissioner and explained that it was a POS policy. But, you know, I typically see family policies -- family policies that from like 28 to \$30,000 and this one is more than twice that. So you have some sort of an explanation?

MS. MADDAUS: This is based on the highest benefit rate for the State, which is a family POS. So for the full year it would be 31,000 for the health plan.

REP. OBER: Single person?

MS. MADDAUS: That's a family plan. So this is the maximum it possibly could be. Could be a minimum which would be an HMO for one person is 8308.56. So it does vary widely depending on whether it's single person or family with Step 1 salary to Step 8. There are some percentages in there for the benefits as far as retirement.

MS. HANKS: Senator Daniels, to follow-up to your question. The numbers here are the highest possible benefit package a family could incur at a cost to the State. There are certainly other lower cost options depending on the individual we hire,

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and we do have those detailed breakdowns. We could leave you with a photocopy. But you're right, it's very high, based on essentially the worst case financial situation we could end up in as a state and paying benefits depending on the candidate. We would anticipate it could be lower, certainly lower if it was a single person with no children, single person unwed. All of those paradigms exist on the benefit side. So we appreciate your question.

CHAIRMAN DANIELS: Okay. Has something changed since we tabled this bill? Because the last bill showed \$68,900 worth of benefits and now you're showing 27.

MS. MADDAUS: Correct. What was done there in the MOU it states that 150,000 will be for salary. We just allocated that within the total. And now we're down to where we know it's going to be the maximum six pay periods for this Fiscal Year and the maximum 19 would be the 118,000.

CHAIRMAN DANIELS: Representative Ober.

REP. OBER: Do you know -- may I ask LBA a question? Maybe they know something I don't know. What is the employer contribution rate that we put employees, please?

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: 12.15%.

REP. OBER: 12.15%. Thank you. Thank you, Mr. Chairman.

CHAIRMAN DANIELS: Thank you. Any other questions? What is your desire with this?

** SEN. D'ALLESANDRO: I would move the item.

CHAIRMAN DANIELS: Senator D'Allesandro moves to approve 18-003. Is there a second?

REP. WALLNER: I'll second.

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CHAIRMAN DANIELS: Seconded by Representative Wallner. Any further discussion?

REP. OBER: Mr. Chairman, I can't vote in favor of this. If we were putting people into actual drug treatment program, you'd have 100% of my support. This looks like the State is condoning and encouraging people to go back onto drug usage, and I just can't do that.

CHAIRMAN DANIELS: Thank you. Further discussion?

SEN. D'ALLESANDRO: Well --

CHAIRMAN DANIELS: Senator D'Allesandro.

SEN. D'ALLESANDRO: I'd like to address that. I don't think it in any way you're condoning drugs. We are talking about a way to keep people safe and maintain their rehabilitation. We are looking for the most effective methodology to do that. If you can find another one, bring it forward. I think it's something that we're -- we are trying to learn our lessons with regard to the treatment. And, you know, it's a new thing every day. But this seems to be facts indicate it's needed, and we don't want them coming back. So I hope that we can move this item forward, support this item, and try to get our convicted criminals back out, not to return but to be safe in their environment. Thank you, Mr. Chairman.

CHAIRMAN DANIELS: Thank you. Further discussion?

REP. OBER: Mr. Chairman.

CHAIRMAN DANIELS: Representative Ober.

REP. OBER: To the good Senator's point. Daniel Moynihan said you're entitled to your own opinion but not your own facts. The fact is my opinion is we are condoning using drugs by sending Narcan home. And I believe we should be sending these people directly to a drug treatment facility where they're

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getting help in the community immediately to stay out of being addicted. Thank you.

CHAIRMAN DANIELS: Thank you. Senator Giuda.

SEN. GIUDA: So the people that are being released with the Narcan to their family or self, whichever, are these people on the drugs as they're leaving the prison or it's just a preventative or a cautionary measure to prevent?

MS. HANKS: Senator Giuda, it's the latter. It's the latter, sir.

CHAIRMAN DANIELS: Follow-up.

SEN. GIUDA: Would that not then be an incentive? We are making it easier to know that I'm not going to be held accountable for the consequences of the addiction that we are not treating but, in fact, are, in fact, helping along. I mean, that would seem counterintuitive to me.

MS. HANKS: Senator Giuda, I appreciate your sentiments. But I can tell you that the research tells us that as much as we stand someone up, do the treatment in the facility, set them up to services, there's a critical period of relapse with this disease and for those people leaving incarceration it's higher than that in the general community. So just as a community member gets their loved one into a residential treatment facility and they're discharged, there's still risk upon release from that discharge that exists for them, just as it exists for this population. And because of the historical pattern of uses I'm asking for this as an emergency intervention for families to use to give them the opportunity to make sure that relapse, which is a part of recovery, isn't death. It's an opportunity to get them to that service that we've done our due diligence in connecting them to.

CHAIRMAN DANIELS: Follow-up.

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SEN. GIUDA: Thank you, Mr. Chairman. Do we have any statistics on how many of the folks that we release with or without Narcan actually wind up in a treatment facility versus back into individual use?

MS. HANKS: I don't have the specific data on which ones end up in a residential treatment unit. Some go in intensive outpatient. It's all individualized. I can work to get you that data. But that data aside, I can't hide or change the research that there is a period of significant high risk with opioid addiction. Massachusetts has done a depth and breadth of that research that we can learn from, as well as the Center for Disease Control and that's why we ask you to give us this resource to help that process.

CHAIRMAN DANIELS: Follow-up.

SEN. GIUDA: In the absence of that research, to me, we're heading down the wrong track. If we don't know whether people are choosing to get treatment or not, and that's the number one hurdle from my understanding. If I'm getting Narcan and I go out and I have no serious intent or no requirement to get into treatment, we're in fact facilitating the additional use of the drugs, compassion notwithstanding. So, you know, a little bit of tough love doesn't hurt either. If a person doesn't have the mind to get into treatment, they're not going to and we are just facilitating the problem.

MS. HANKS: Sir, Senator Giuda, if I could follow-up. We are going to target people that have a re-entry plan and have an appointment set up; and as part of the measurement for us at this point going forward in this project is to have hard strong information. We're not going to target providing Narcan to individuals who aren't invested in follow-up treatment. I just want to make that clear.

SEN. GIUDA: Thank you.

MS. HANKS: My pleasure.

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REP. OBER: I have one more.

CHAIRMAN DANIELS: Representative Ober.

REP. OBER: I thought you said that you were randomly drug testing and of the drug tests you did 8.9% were found to be taking drugs within your prison. But I believe you just said in response to Senator Giuda that no one with a drug problem is released from prison. So are you telling us that you drug test them before they go out and if they're still found to be positive for Suboxone and anything and not on a drug rehab program within prison that you're not releasing them?

MS. HANKS: Representative Ober, actually, that's correct. If someone is granted the privilege of parole, and the Parole Board has made that opportunity available, and during the course of waiting for that release date they engage in illicit drug use and receive a positive urine and disciplinary report, parole is revoked. For those instances where it's a maximum release and we don't have any authority to retain them that's different. But most of our releases are on parole and we would and the Parole Board has and continues to withdraw that parole so we can re-engage them.

REP. OBER: So nobody gets out unless they're on parole. Nobody serves out their time and leaves.

MS. HANKS: Representative, no. The majority of releases are on parole. There are a few people that choose to max out. I can send you that data.

CHAIRMAN DANIELS: Thank you. Could you reiterate again the Re-Entry Care Coordinator position. I understand it's \$150,000 a year. There's a statement in here that the Department is aware that the request -- requested allocation for salary and benefits the position exceeds the necessary funding. What does that mean?

MS. MADDAUS: In the MOU it allocates 150,000 and we are aware of that. It actually will be less with the weeks left, the

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pay periods left in this year and also for next year. So there will be excess funds.

CHAIRMAN DANIELS: Okay. And, Commissioner, if you could explain how this position is going to ensure and monitor what is happening to the person who leaves. I mean, is there monitoring that's going to go on? Is there any kind of report that's going to come back? How do we know if this position is going to be effective or not?

MS. HANKS: Senator Daniels, I have all of that information in the first letter where there's specific goals that we have to measure as part of receiving these Federal funds, just to point you to the document, as well as in working with other Members in this Committee, I outlined specifically where we're going to track it. We have an offender management system where we can code all the points of contact so we can get the reports out. We have numerous research studies from which we're basing this. I can go through those again, sir. I can send them to you. But it's previous research that we're using to go forward and pilot this in New Hampshire.

CHAIRMAN DANIELS: Thank you. Any further questions? Like to take a three-minute recess.

(Recess taken at 10:28 a.m.)

(Reconvened at 10:34 a.m.)

CHAIRMAN DANIELS: If the Committee will return to order. The motion before us is to approve --

KAREN UMBERGER, State Representative, Carroll County, District #02: FIS 18-003.

SEN. D'ALLESANDRO: -- 18-003.

CHAIRMAN DANIELS: Thank you. 18-003. Any further discussion on that?

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DANIEL EATON, State Representative, Cheshire County, District #03: Just one point, Mr. Chairman. Offline while you were out of the room was talking to the Commissioner about --

REP. OBER: Which Commissioner?

REP. EATON: Helen.

REP. OBER: Thank you.

REP. EATON: About the 8.8 -- about the 8.8% and how high that was. And just if I could allow her the opportunity to give a quick response on that and what she's going to.

MS. HANKS: Thank you, Representative Eaton. We did take the opportunity to talk about positive urinalysis in Corrections. I want you to know that 8.9% I reference is down from 25%. We've made significant strides in decreasing and shutting down those gaps in our facility over the last 12 months and I'm proud of my staff for that. We have a long way to go. I want to see that at zero percent.

REP. EATON: New dogs.

MS. HANKS: And we have two additional dogs that will be coming on board. Thank you, the Legislature, for allowing that funding. And next month we will be procuring those body scanners. Thank you again for that opportunity.

CHAIRMAN DANIELS: Thank you, Commissioner. Any further discussion? Seeing none, the motion before us is to approve 18-003. All those in favor of that motion say aye? Opposed nay?

REP. OBER: Nay.

FRANK BYRON, State Representative, Hillsborough County, District #20: Nay.

CHAIRMAN DANIELS: The ayes have it. The motion carries.

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MS. HANKS: Thank you very much.

(3) **RSA 9:16-a, Transfers Authorized and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source:**

CHAIRMAN DANIELS: Moving on to Tab 3. Anything to be taken off Tab 3?

REP. OBER: Mr. Chairman, I'd like to remove 18-028.

CHAIRMAN DANIELS: 18-028 is removed. Is there anything else? Seeing none, is there a motion to approve 18-029.

** SEN. D'ALLESANDRO: Move the item.

CHAIRMAN DANIELS: Moved by Senator D'Allesandro, seconded by Representative Wallner. All those in favor of that motion say aye? Those nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

CHAIRMAN DANIELS: 18-028. Representative Ober.

REP. OBER: We understood that there was some questions out of both groups when the groups met to discuss this, and perhaps the Commissioner or his lovely designee could just explain the issue. Thank you.

JEFF MEYERS, Commissioner, Department of Health and Human Services: For the record, Jeff Meyers, Commissioner of Health and Human Services. With me is Mary Calise who's the Deputy Chief Financial Officer for the Department.

MARY CALISE, Deputy Chief Financial Officer, Department of Health and Human Services: Item 18-028 is our Department-wide transfer to re-allocate Other Funds, primarily non-salary and benefit classes to other classes where we have determined that we have a need for additional funding.

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REP. OBER: I think Representative Umberger had a question.

CHAIRMAN DANIELS: Representative Umberger.

REP. UMBERGER: Thank you. Can you tell me about your cell phone increased usage. You know, that was one of the areas that you showed that you needed additional money.

MR. MEYERS: Yeah. We -- we provided cell phones to all of our DCYF assessment workers, smart phones. The lawyers also didn't have smart phones so felt that was really necessary. I felt it was necessary. It was something that was called for by one of the commissions that has been overseeing what's happening at DCYF. So that's the principal reason why that increased.

CHAIRMAN DANIELS: Follow-up.

REP. UMBERGER: So is this every employee that goes out to see clients or is this every employee?

MR. MEYERS: People who see clients, interact with clients or the court in case of attorneys.

REP. UMBERGER: Thank you.

MR. MEYERS: Yeah.

CHAIRMAN DANIELS: Further questions?

REP. OBER: I just --

CHAIRMAN DANIELS: Representative Ober.

REP. OBER: Commissioner, I'm on Page 9 of your submission where you mention the cell phones. I'm just curious. I agree with your assessment. I'm just curious how it didn't get budgeted correctly, because this talks about the Office of Administration. Please.

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MS. CALISE: There was misunderstanding during the budget process at Health and Human Services where we would no longer be allowed to use Class 20 to cover our phone expense this year. Previously we had been able to use Class 20. That I'm sure was communicated to us. That was not clearly understood at our Department.

REP. OBER: Thank you. Thank you very much.

MS. CALISE: You're welcome.

CHAIRMAN DANIELS: Representative Byron.

REP. BYRON: Thank you, Mr. Chairman. Commissioner, can you talk a little bit about the money you're planning on moving in to support of the Sununu Youth Service Center in this request? Are you moving additional money into the Center or are you just moving within the Center.

MS. CALISE: It's within the Center.

MR. MEYERS: This is not related to the Fiscal 19 issue, Representative, that you and I have discussed. This transfer is unrelated.

REP. BYRON: No, I understand that. But it appeared to me, Commissioner, that you were looking to increase, for example, I think it says maintenance is one of them and I'm on Page 3.

MS. CALISE: But those were the funds that are being moved into maintenance are from within the Sununu budget. It's not from other places within the Department budget.

REP. BYRON: Okay. Thank you.

MS. CALISE: You're welcome.

CHAIRMAN DANIELS: Further questions. Seeing none. Do we have a motion?

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** SEN. D'ALLESANDRO: Move the item.

CHAIRMAN DANIELS: Moved by Senator D'Allesandro.

REP. OBER: Second.

CHAIRMAN DANIELS: Seconded by Representative Ober. Any further discussion? Seeing none. All those in favor of approving 18-028 say aye? Opposed nay? The ayes have it. Motion carries.

*** {MOTION ADOPTED}

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

CHAIRMAN DANIELS: Moving on to Tab 4. Anything to remove from Tab 4?

REP. UMBERGER: 18-032.

CHAIRMAN DANIELS: 18-032.

REP. BYRON: And 18-018.

CHAIRMAN DANIELS: 18-018. That leaves one left. Is there a motion to approve?

** REP. OBER: Move to approve.

CHAIRMAN DANIELS: Representative Ober moves to approve 18-031.

SEN. D'ALLESANDRO: Second.

CHAIRMAN DANIELS: Second by Senator D'Allesandro. Discussion? All those in favor say aye? Opposed nay? The ayes have it. Motion carries.

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*** {MOTION ADOPTED}

CHAIRMAN DANIELS: 18-018. Representative Byron.

REP. BYRON: Thank you, Mr. Chairman. Commissioner, on this request it budgets for a membership in a Council of Juvenile Correction Administrators. Is that part of the requirements for obtaining this grant?

MS. CALISE: Yes, it is.

MR. MEYERS: I believe it is. Yes.

REP. BYRON: Okay. And that also includes travel that's associated with that membership to attend meetings or what does that include?

MS. CALISE: I believe it's they provide us information, statistical information. I would have to verify what exactly that membership does provide.

REP. BYRON: It says on page --

MR. MEYERS: The letter says the funds are being budgeted in Class 70 for purposes of the State Advisory Group to attend meetings. That's part of this.

REP. BYRON: I just wondered if that was part and parcel of the membership. When I say part and parcel, is that -- in other words, there's the membership you have in the Juvenile Correction Administrators Council, and is that a requirement or are you going or planning on travel to attend meetings of that Council?

MR. MEYERS: The State Advisory Group does travel at annual meeting to that.

REP. BYRON: Okay. Thank you.

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CHAIRMAN DANIELS: Any further questions? Seeing none. Is there a motion to approve 18 --

** REP. OBER: So move.

CHAIRMAN DANIELS: -- 018. Representative Ober moves that.

SEN. GIUDA: I'll second.

CHAIRMAN DANIELS: Second. Second by Senator Giuda. All those in favor of the motion say aye? Opposed nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

CHAIRMAN DANIELS: 18-032. Representative Byron.

REP. BYRON: Thank you, Mr. Chairman. Commissioner, on 18-032.

MR. MEYERS: Yes.

REP. BYRON: One of the things I notice is in your discussion of this or the explanation section which is on Page 3 and 4.

MR. MEYERS: Yes.

REP. BYRON: You talk about the average daily caseloads. And I believe that the budget was 2300, but you see an increase in that. Can you talk about why we are seeing that increase?

MR. MEYERS: Yes.

REP. BYRON: And what's causing that?

MR. MEYERS: Yep, I'm happy to do that.

The TANF caseload is increasing because the eligibility level for TANF changed in the budget. It was brought forward

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first in the Governor's -- actually, it was in the Department's Efficiency Budget. To be clear, it was kept in the Governor's Budget. It was put in the House Budget. House Budget didn't leave the body, but it was then when the Senate considered it, it was -- it had been in the Governor's Budget. Senate used the Governor's Budget as a baseline. It stayed in the Senate Budget.

There was a provision in House Bill 2 that raised the eligibility level from roughly, and I'm saying roughly because there was a different methodology than the Federal Poverty Level that was used prior to this change, but essentially we set a threshold for TANF at 60% of FPL of the Federal Poverty Level. So an individual -- and that was slightly higher than the methodology that established the threshold for eligibility prior to this change.

So as a result of this change there are some additional individuals who are now eligible for TANF that were not under the old eligibility standard.

REP. BYRON: Do you know how many --

MR. MEYERS: I can tell you what the -- the differential is roughly a million dollars.

MS. CALISE: Hm-hum.

MR. MEYERS: I don't have the number of people. I don't have that figure right in front of me, but I can certainly get it to you.

REP. BYRON: And do you also have an estimate or any planning estimate as to what you think this will rise to in terms of caseloads? What that cost will be?

MR. MEYERS: Yeah, we have to take a very close look at this in terms of the next budget. So for this budget the Legislature has established 60% of FPL as the threshold. That's something, obviously, that we can take a look at as we go forward into the next budget.

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But what I want to emphasize, I knew a letter went to Chairman Kurk and Chairman Daniels this fall that explained this as well that by raising the level of 60% of FPL all we did is really increase the -- the -- it was more of a cost-of-living increase because what was happening was that the benefit under the old methodology hadn't been adjusted for inflation, in other words, for many, many years. And people were not able to provide for basic subsistence, including rent, food. Not food, excuse me, rent under the existing standard. So there were studies done of what other states were doing. We came into line with what other states were doing by raising it to 60% of FPL.

The last point I make is that at 60% of FPL, that's the lowest threshold for any benefit that the State of New Hampshire provides. I mean, we are providing Medicaid up to 138% of FPL through expansion program. There's other benefits that are north of 100% of FPL. So this is really a very minimum standard when you look at what the State provides and it's consistent with what's provided in other states.

REP. BYRON: Thank you. Can I follow-up, Mr. Chairman?

CHAIRMAN DANIELS: Follow-up.

REP. BYRON: Thank you. And on Page 3 of 4, again, you talk about the displacement of funds where you're using the maintenance of effort from outside agencies.

MR. MEYERS: Yes.

REP. BYRON: Or outside contractors, I'll call it, to offset that. And you were in anticipation of questions you have some of that at the bottom of the page. But my question is a different question.

MR. MEYERS: Sure.

REP. BYRON: And that is can outside services funds that displace General Funds for the maintenance of effort now, can we use the additional monies that we budgeted? My recollection is

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we budgeted \$32 million to receive TANF matching funds of \$38 million.

MR. MEYERS: I think that's about right, yeah.

REP. BYRON: And my question to you is, now that you're going to be using outside services to use or to displace some of those General Funds, okay, the 32 million --

MR. MEYERS: Yep.

REP. BYRON: -- are you now using those displaced funds for other purposes and what are those purposes?

MS. CALISE: Only to the extent of the \$5 million that's referenced here. We had community spending of just over \$9 million in Fed Fiscal 17, and we're going to displace 5 million in our budget for that.

REP. BYRON: Thank you.

CHAIRMAN DANIELS: Further questions? Is there a motion on 18-032?

** SEN. D'ALLESANDRO: Move the item.

CHAIRMAN DANIELS: Senator D'Allesandro moves.

REP. OBER: Second.

CHAIRMAN DANIELS: And Representative Ober seconds 18-032 for approval. All those in favor of that motion say aye? Opposed nay? The ayes have it. Motion carries.

*** {MOTION ADOPTED}

MR. MEYERS: Thank you.

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

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**Any Non-State Source and RSA 124:15 Positions
Authorized:**

CHAIRMAN DANIELS: Move on to Tab 5. Anything to be removed?

REP. OBER: Chair, we'd like to remove 18-019.

CHAIRMAN DANIELS: 18-019. Anything else? We'll take up 18-030, 18-037. Is there a motion on those?

** REP. OBER: Move to approve.

SEN. D'ALLESANDRO: Second.

CHAIRMAN DANIELS: Representative Ober moves to approve, seconded by Senator D'Allesandro. All those in favor say aye? Opposed nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

CHAIRMAN DANIELS: 18-019, Representative Ober.

REP. OBER: I have a question of the agency.

CHAIRMAN DANIELS: Somebody from the agency.

STEVEN LAVOIE, Director of Administration, Department of Safety: Good morning. Steve Lavoie, Director of Administration, Department of Safety.

REP. OBER: Mr. Lavoie, good morning. The reason I have a question is not on your paperwork, it's lovely. State Law provides that 5% of the grants such as these be set aside in case of arrest, and this appears that you anticipate some increased arrests at some point. And the reason that was being set aside is because most of the people being arrested are being used by -- are using Public Defender support which falls under the Judicial Council, another State Agency. And that Council is supposed to then work with the agency with the grant and get their money back.

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I had a long meeting with the Director of the Judicial Council and an attorney this week saying that they were having a great deal of difficulty working with agencies getting Granite Hammer Grants, Granite State Grants, all these other grants to pay for the prosecution costs. And I didn't see anything in this paperwork that even acknowledged that that might happen. So what is the plan of the agency to support the State Law in that effort? I mean, I do assume you're going to do this because you think you're going to make some arrests. You're going to make things better.

MR. LAVOIE: Correct.

REP. OBER: How are we going to follow State Law if you're spending 100% of the money and not keeping that offset in case of the arrests for the Public Defender?

MR. LAVOIE: I'm going to be honest with you. I'm not familiar with that specific law and how it applies or whether it applies in this case. I do know that this is a federal grant that has certain requirements to only be used for certain purposes. And in that regard there's certain items that be excluded, like those activities really to funding the Public Defender area. But I can certainly look into -- look into that aspect and how we are handling that as a department.

CHAIRMAN DANIELS: Follow-up.

REP. OBER: I think we need to table it to give Mr. Lavoie a chance to look into it.

CHAIRMAN DANIELS: That something you could have for us by the next time we meet?

MR. LAVOIE: If I may? In this regard, we have a federal -- a federal award. This item is requesting to accept and expend Federal funds from the Department of Justice. And the intention is to increase enforcement activities and also provide support for our current enforcement activities, including Granite Shield and the new MET Troopers and --

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REP. OBER: We know that.

MR. LAVOIE: We -- we -- the grant award itself is limited to those specific activities and can't fund other areas. So, for example, indirect costs are not included here as well because those are prohibited from the federal -- from federal funding. So if we do table this item, it will just delay the implementation of this program regardless of the response that I provide for how we're handling that 5%.

REP. OBER: Well, if I might. We do have an issue with Judicial Council has to fund the prosecution from your arrests, which is a direct result of this grant. So probably is legal as you define the grant. But they also have a State Budget and these grants are impinging upon them dramatically. And they're happy to help you out, but they're also -- they have also got some financial concerns. Maybe you and Director Blodgett could, if we tabled this, talk about this and look at the grants together and come back. I mean, that seems like the best conversation to have, don't you think? Rather than me being the middle man telling you she came to see me and now I'm telling you that and now you want me to talk to her. I don't want to tell her you have to get the grant. Read it yourself. I'd rather she talks to you directly and you guys work on that.

MR. LAVOIE: Oh, I agree. I'm happy to meet with -- to meet with Director Blodgett and speak to that item and speak to that situation. I guess what I would ask the Committee would you consider moving this item and then after a discussion with the Judicial Council, I can report back on what the plan is there, but not having that be a hindrance for this particular piece. Because I agree that we do need to have that discussion and understand what the implications are.

REP. OBER: I really think that should have been part of what you submitted.

CHAIRMAN DANIELS: Senator D'Allesandro.

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SEN. D'ALLESANDRO: Thank you, Mr. Chairman. I think we're talking about two separate issues. The accept and expend the grant, the grant specific. The nomenclature of the grant is clearly available in the item that's before us. The other issue is something that has to be looked at, obviously, because there seems to be some consternation developing here. That's a totally separate issue. Has nothing to do with this grant. And under the terms of this grant, you can't set that money aside because they're a very specific situation.

REP. OBER: We don't know that.

SEN. D'ALLESANDRO: So you can talk about the situation, but it has nothing to do with this grant.

MR. LAVOIE: And I would agree. That's my opinion as well.

CHAIRMAN DANIELS: Further discussion?

** REP. OBER: I move to table.

CHAIRMAN DANIELS: Representative Ober moves to table 18-019.

REP. UMBERGER: I'll second.

CHAIRMAN DANIELS: Second by Representative Umberger. All those in favor of that motion say aye?

REP. OBER: Aye.

REP. UMBERGER: Aye.

REP. BYRON: Aye.

CHAIRMAN DANIELS: Opposed nay? The motion fails.

*** {MOTION TO TABLE FAILED}

** SEN. D'ALLESANDRO: I move the item.

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SEN. GIUDA: Second.

CHAIRMAN DANIELS: 18-019 is moved by Senator D'Allesandro, seconded by Senator Giuda. Any further discussion on this? There being none, all those in favor say aye? Opposed nay?

REP. OBER: No.

CHAIRMAN DANIELS: Ayes have it. Motion carries.

*** {MOTION ADOPTED}

REP. UMBERGER: I'm sorry, who seconded it?

CHAIRMAN DANIELS: Senator Giuda. Representative Ober. Excuse me, Umberger.

REP. OBER: Sorry, not me. My hand was not up.

REP. UMBERGER: Can we request that Safety provide us some information at the next Fiscal meeting as to how they are going to handle this?

CHAIRMAN DANIELS: Mr. Lavoie is shaking his head yes.

REP. UMBERGER: Just so we know we have it.

CHAIRMAN DANIELS: Yes.

REP. OBER: Please understand that's not just this grant. That's all the grants that are impinging upon Judicial Council.

MR. LAVOIE: Understood.

REP. OBER: We need our agencies to work together. We are in favor of your arresting, but there is a prosecution piece of that as well. We can't leave one agency hanging out with no additional money when other agencies are getting lots of money, and we're assuming you're going to continue making arrests.

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CHAIRMAN DANIELS: Thank you.

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

CHAIRMAN DANIELS: Moving on to Tab 6, 18-034, use of State-owned vehicles.

** REP. OBER: Move to approve.

CHAIRMAN DANIELS: Representative Ober moves to approve. Is there a second?

SEN. GIUDA: Second.

CHAIRMAN DANIELS: Second by Senator Giuda. Any discussion? There being none, all those in favor say aye? Opposed nay? The ayes have it. Motion carries.

*** {MOTION ADOPTED}

(7) RSA 198:15-y, III, Public School Infrastructure Fund:

CHAIRMAN DANIELS: On to item number seven.

** REP. OBER: Move to approve.

SEN. BIRDSELL: Second.

CHAIRMAN DANIELS: Public School Infrastructure Fund. Representative Ober moves to approve, that's seconded by Senator Birdsell. Any discussion? There being none, all those in favor say aye? Opposed nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

(8) RSA 228:12 Transfers from Highway Surplus Account:

CHAIRMAN DANIELS: Tab number eight.

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** REP. OBER: Move to approve.

CHAIRMAN DANIELS: Transfers from highway surplus account. Representative Ober moves to approve. Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN DANIELS: Second by Senator D'Allesandro. Any discussion? There being none, all those in favor say aye? Opposed nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

(9) RSA 622:28-a Industries Inventory Account:

CHAIRMAN DANIELS: Tab number nine.

** REP. OBER: Move to approve.

CHAIRMAN DANIELS: Industries Inventory Account. Representative Ober moves to approve. Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN DANIELS: Second by Senator D'Allesandro. Any discussion? There being none, all those in favor say aye? Opposed nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

(10) Miscellaneous:

(11) Informational Materials:

CHAIRMAN DANIELS: Is there anything under Tab 11 on the Informational Materials that people would like to take for discussion? Seeing none. We will go on to the Audits and recognize the Unique College Investing Plan.

AUDITS:

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CHAIRMAN DANIELS: Good morning.

STEVE SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee. For the record, Steve Smith, Director of Audits for the LBA. With me this morning to present Unique and 529 College Savings Plan is a new partner that you haven't seen.

REP. OBER: Can you talk into -- is that microphone even turned on?

CHAIRMAN DANIELS: It is but it's not --

REP. OBER: It's not doing well.

MR. SMITH: This better?

REP. OBER: Yeah, thank you.

MR. SMITH: Sorry. With me this morning to present the Audit from PwC, PricewaterhouseCoopers, is Declan Byrne. He is a not a new Partner but due to rotation he's a new Partner on this job. As you know, we contract out for this particular Audit. So he will present the Audit from PwC's perspective. And then also joining us is Bill Dwyer, the State Treasurer.

DECLAN BYRNE, Partner, PricewaterhouseCooper, LLP: Perfect. Thank you. I am, for the record, my name is Declan Byrne. Thank you for having me here today. It's my pleasure to be here for the first time to outline the results of our Audit for this year. And by way of introduction, I'm a U.S. Partner based in Boston. Been in the U.S. 15 years now. Last number of years I've been serving Fidelity organization broadly actually, in Asia. I recently moved to Boston last summer where I assumed the role of Engagement Leader on the 529 Plan. And my background is asset management. I worked on a number of 529 Plans across the United States, as well as some donor advised funds in a not-for-profit.

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Spent a lot of time at Fidelity, both in Asia and since I've been back, and it's my pleasure to be here today.

So I'll dive right in. So I'm here today to speak to the Audit results of the Unique College Investing Plan and Fidelity Advisor 529 Plan. I hope you have in front of me -- front of you the presentation. I'll refer to you on Page 2, and these are managed and administered by Fidelity Investment.

The Unique College Investment Plan is comprised of 36 portfolios. Fidelity Advisor 529 Plan is comprised of 27 portfolios. Each portfolio does maintain its own books and records by Fidelity. And the investments themselves are investments in other underlying Fidelity mutual funds, which are those themselves audited as well.

We highlight on Slide 3 the composition of the Unique College Investment Plan, total net assets of the plans as over the last number of years, including 2017. The good news today is we did issue an unqualified opinion on December 21st, 2017, on the financials as of December -- September 30th, 2017. It was a good audit, a seamless audit, in time for these results today. I present from a controls, from a fraud risk assessment, from adjustment differences perspective, pretty straightforward audit.

I'll highlight on Slide 4, 5, the composition of the underlying portfolios as of year-end, as well as on Slide 7 talks about more about the Fidelity Advisor 529 Plan as the assets have also grown on that plan over the last number of years.

I'll refer you then to Slide 9 which really gets into the depth of from our audit approach, how we approach the audit from controls and substantive testing. From controls' perspective, we look at the daily unit value process, rebalancing process, participant transactions, multi-class accounting, management override control is a key focus of ours, as well as the education savings platform.

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Much of controls were done by our controls team and based on the control environment at Fidelity itself. No exceptions or significant issues noted as part of our review of the controls as we reviewed the underlying books and records and their controls report to provide comfort over the controls themselves.

From financial statement audit perspective, we highlight the main areas of focus, including valuation of the underlying funds, fees and expenses, participants' subscriptions and redemptions, reclassifications of capital gains distribution which under U.S. GAAP needs to be classified as realized gain. Presentation of disclosure is also another area we focus on. I think we have the financial statements here to highlight if you want to go in a deeper dive.

So that's our audit approach. In terms of comparison the prior year, the fact there's been no significant changes in the accounting standards in the prior year did make it a bit easier to do this year's audit. As we highlight on Slide 10, we did issue an unqualified opinion. We didn't have any adjustments noted and nothing to report from a fraud perspective.

Slide 11 through Slide 18 then talks about our required communications which we're under professional standards required to report to you. I won't go through line by line. Maybe I'll just highlight the more important areas.

Starting perhaps on Slide 12, from a significant accounting policy the financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America which require management to make certain estimates and assumptions of the data financial statements. Such accounting policies were disclosed in the notes. From our perspective, we had no significant issues with the notes as presented. No real adjustments or challenges were made to Management as part of the review process of the financial statements.

Some of the main accounting policies I draw your attention to on Slide 13; investment valuation, investment transactions

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and income, expenses, and class allocations for, in particular, the Fidelity Advisor Plan. I would say all are consistent with what we see in peer 529 Plans and consistent with what we see in U.S. GAAP in general.

Moving to Slide 14, some of the higher points based on our Audit of the Plan's financial statements, no real significant areas of judgment and estimates from our perspective. The underlying funds themselves are audited and the NAV itself has a wrapper from underlying audit financial statements. So from a judgment and estimates perspective, there was not a lot of significant judgments needed to be made.

From an identified misstatements perspective, we did not identify any audit adjustments and there were no unadjusted differences.

Move to Slide 15. No disagreements with Management nor really significant difficulties with Management during the course of our audit. I will commend Fidelity Investments for their cooperation, including the gentlemen here, Bill and Steve, for their help throughout the Audit. We did issue our Audit Opinion, as I mentioned, on December 21st, which was on time. No experienced delays and things went pretty smoothly from our perspective.

Slide 16 then talks high level about our responsibility for fraud to communicate to you. From our perspective during the course of our testing no irregularities, fraud, or illegal acts involving Management -- Senior Management that would cause material misstatement of financial statement came to our attention.

The rest of the materials themselves speak to our independence to the plans, and I confirm at this meeting PwC is independent to perform -- engage in their Audit Opinion and sign our Audit Opinion. We have no issues from an independence perspective.

And the rest of this document covers our written required communications, including a representation -- a rep letter as

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well as our Audit Opinion itself. So happy to take any questions or hand to Bill to embellish anything I've said.

CHAIRMAN DANIELS: Anything to add?

WILLIAM DWYER, State Treasurer, Department of Treasury: No, I don't want to take up any of the Committee's time.

CHAIRMAN DANIELS: Any questions? Representative Byron.

REP. BYRON: Thank you, Mr. Chairman. On Slide 3, which is your combined net assets, I'm not sure who the best person to answer this is. But the net assets in terms of what is the difference between the invested amount versus the earned amount, if you understand what I'm saying.

MR. BYRNE: A hundred percent is the direct answer if I understand correctly.

REP. BYRON: So let me explain maybe a little bit better. You're showing a growth from 2016 of 10 -- ten thousand seven hundred five, which is millions of dollars, to 11,942. How much of that is earned income versus how much of that is new investments I'll call it?

MR. BYRNE: I don't have the numbers exactly on that. I will say the market improved significantly over the course of the year. So there would be a sizeable portion of that to reflect on the market in 2017. That will be pure appreciation. So I probably don't have the numbers, but I do know it to be an element of pure appreciation of assets versus new money. Probably that's what I'd say. I'm sorry, I don't have the exact number.

REP. BYRON: Thank you.

MR. DWYER: Thank you. Again, for the record, State Treasurer Bill Dwyer. With regard to your question, Representative Byron, as Mr. Byrne noted, a significant portion of that increase does represent capital gains appreciation as a

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result of equity valuations having run up. To give you an example of the type of -- again, we receive quarterly reports from Fidelity that highlight the number of new accounts, the number of dollars contributed. And so the answer I'm going to give you isn't going to tell you exactly how much of this specific growth was due to contributions versus appreciation and investments.

However, the -- in the retail sold college savings plan which is what we refer to as the Unique Plan, in the third quarter of 2017 the contributions totaled about \$300 million, which was a 10% increase from the prior quarter. So if you were to annualize that it would be about 1.2 billion with the rest being the result of equity appreciation. And, of course, all of that is offset by distributions taken to pay college tuition as well.

REP. BYRON: Thank you.

CHAIRMAN DANIELS: Further questions. Seeing none. Is there a motion to place this Audit on file?

** REP. UMBERGER: This is accept report, place on file, and release in the usual manner.

REP. OBER: Second.

CHAIRMAN DANIELS: Okay.

REP. UMBERGER: Okay.

CHAIRMAN DANIELS: Thank you, Representative Ober, that seconded, motion by Representative Umberger.

REP. UMBERGER: Right.

CHAIRMAN DANIELS: And seconded by Representative Ober. All those in favor of that motion say aye? Opposed nay? The motion carries.

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*** {MOTION ADOPTED}

** REP. UMBERGER: We also have to accept the Fidelity 529 Plan Annual Report and place it on file and release in the usual manner.

CHAIRMAN DANIELS: Take that as a motion?

REP. UMBERGER: Yes.

SEN. BIRDSELL: Second.

CHAIRMAN DANIELS: Seconded by Senator Birdsell. Any discussion? There being none, all those in favor say aye? Opposed nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

REP. UMBERGER: And --

CHAIRMAN DANIELS: Thank you very much. Jumping back to Tab 11. This was all the Informational Materials. Do we need a motion to place this on file or is there specific wording on that?

REP. OBER: I think you read it once for everything.

** REP. UMBERGER: It says accept report, place on file, release in the usual manner.

REP. OBER: Second.

CHAIRMAN DANIELS: Okay. Motion by Representative Umberger, second by Representative Ober. Discussion? There being none, all those in favor say aye? Opposed nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

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CHAIRMAN DANIELS: And we will jump back to the Audits and for the Lottery Commission.

MR. SMITH: Thank you, Mr. Chairman. You have before you our Management Letter for our Audit of the Lottery Commission for Fiscal Year 2017. To present the Management Letter from our office is Jim LaRiviere. He was the Manager on the engagement and joining us from the Commission is Director McIntyre.

JAMES LARIVIERE, CPA, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Chairman, and Members of the Committee. Again, for the record, my name is Jim LaRiviere. We're here today to present the Management Letter resulting from the 2017 financial audit of the Lottery, the Lottery's Fiscal Year 2017 financial statements represented to the Committee at the January 19th meeting.

This Management Letter report contains three Internal Control Observations, each categorized as a significant deficiency in internal control. No material weaknesses in internal control were identified and no comments suggest legislative action may be required. The Lottery concurred with each of the recommendations. The Observations begin on Page 3.

Observation No. 1 identifies weaknesses that existed in the Lottery's reconciliation controls during Fiscal Year 2017, and recommends the Lottery review and re-establish its reconciliation monitoring controls to ensure that it remains aware of the status of its reconciliation, including steps taken to remedy non-compliance and other problems identified by those reconciliations.

Observation No. 2 on Page 4 notes that during Fiscal Year 2017 the Lottery experienced challenges in the routine of performing game draws. In two of the three game draw videos reviewed by the auditors, game balls were mishandled at some point during the draw process. We recommended that the Lottery strengthen the control environment over its game draw activities, establish policies and procedures to ensure that the draw process is sufficiently designed and performed, and

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evaluate whether mishandling of game balls during a draw constitute a procedural risk, risk requiring documentation and Management notification.

Observation No. 3 on Page 5 discusses lack of independence in the operation of the Lottery's current ICS System, which the Lottery uses to prove the accuracy of the gaming system. Currently, the gaming system vendor contracts for the ICS System directly with the ICS System vendor. We recommend that at its next opportunity the Lottery contract for the ICS System to lessen the potential for conflicts of interest in the operation of that system.

We also recommended that the Lottery implement mitigating controls, such as obtaining a service organization controls report relative to the controls in place and in the operation at the ICS System vendor.

Behind the Appendix on Page 7 reports the current status of the Observations contained in the Fiscal Year 2016 Management Letter. As noted in the table at the bottom of the page, five of the comments were fully resolved, three comments substantially resolved and three comments were partially resolved.

This concludes my presentation. I'd like to thank the Lottery's Executive Director Charlie McIntyre and Lottery staff for their assistance during the audit. And we'd be happy to answer any questions the Committee may have. Thank you.

CHAIRMAN DANIELS: Thank you. Questions from the Committee? Representative Umberger.

REP. UMBERGER: Yes, thank you. I was a little disturbed as I was reading the Observations that some of them have carried over from audit to audit, and either they're important or they're not. And so I guess that, you know --

REP. OBER: You looking at Page 7 where there's a summary?

REP. UMBERGER: Yeah. I'm just looking at each of the Observations and that, you know, either we're serious or we're not and -- 'cause -- so anyhow, I'm just concerned that we need to be sure to take each one of these things very seriously and we've concurred, and we need to see the corrective actions that are making their way through the system.

CHARLES MCINTYRE, Executive Director, New Hampshire Lottery Commission: Representative Umberger, thank you for the -- not a question but more of a comment. Excuse me. There were measures taken last year to address them. They obviously didn't work and we'll take further action as to them. One of the difficulties in this area is we're now in our fourth CFO in five years. And so he's just come on board, typically experienced financial accountant, and we'll take further action on all the matters in question. But, certainly, with turnover comes difficulties like this, and I certainly take your point to heart, Representative.

REP. OBER: Mr. Chairman.

CHAIRMAN DANIELS: Representative Byron.

REP. OBER: Go ahead.

REP. BYRON: I do have a question. Commissioner, or Executive Director, I should say, whatever. Is there anything from the Legislature in terms of resources that you don't have that you need to complete to Representative Umberger's comments, these --

MR. MCINTYRE: No, Representative. One of the areas is because one of the findings relates to a game that's run by the Tri-State Commission which we are a 40% member. We're a 40% member, Maine is a 40% member, and Vermont is a 20% member. To make changes to that system, the draw system, has to happen by agreement of the three states, and then the funding from that has to agree through the three states. So we made a further change. Based on the comments last year we thought we had fixed the specific problem related to draw. It wasn't fixed. Now we have to go back and suggest, all right, we have to hire more

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staff to handle the drawings or buy different equipment, and draw equipment is very expensive. A draw machine costs \$15,000 per and we're talking several of them. So that's the -- that's -- it's not just bodies, Representative. I appreciate you asking.

REP. BYRON: Are there --

CHAIRMAN DANIELS: Follow-up.

REP. BYRON: Thank you, Mr. Chairman. Are you receiving the cooperation of the other states in terms of trying to get these fixes put in place?

MR. MCINTYRE: Of course. We had proposed a fix last time and it's a matter of people and physical handling of stuff. It's -- we can fix it with machines, I think. So we have to go back to the group and ask for more funding essentially. But we haven't received any difficulty from the fixes, no, to answer your question.

CHAIRMAN DANIELS: Representative Ober.

REP. OBER: Charlie, I'm on Page 7 in the audit which is the Appendix.

MR. MCINTYRE: Yes.

REP. OBER: I'm looking at the summary. And I know five -- internal comment here five which is partially resolved is clearly Tri-State. Is four also part of that?

MR. MCINTYRE: Yes, it is, Representative.

REP. OBER: Wouldn't it be better then to non-concur and point out that you don't have full control of that rather than to be nagged for that the following year?

MR. MCINTYRE: Hum -- we don't often like to non-concur with the auditors.

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REP. OBER: I understand that. But the reality is you don't have 100% control. I'm not sure if you have 100% control of number 9; but 4 and 5 you don't have 100% control.

MR. MCINTYRE: Yes, that is correct, Representative Ober. But I like to think we can fix it. And next year I promise I'll non-concur. But a non-concurrence brings forward --

REP. OBER: You can partially concur if you want. I have, if I might, a follow-up question for the auditors.

CHAIRMAN DANIELS: Follow-up.

REP. OBER: Given the fact that he doesn't have 100% control, do you look at audits for the other states that are here to see if they're having the same problem with this? Because that would be something that we would expect Charlie to do to checkout their audits. But there ought to be some cohesion here supporting him, as well as supporting the Audit. So what was the -- what was done with that?

MR. LARIVIERE: We do look at the Tri-State Audit financial statements, but we were not aware of any issues brought up by the State of Maine or Vermont relative to. Vermont handles the accounting aspects for the Tri-State organization. New Hampshire handles the draw -- the draw procedures. But it is a policy that has to go through the Tri-State Commission as far as any policies changing with regards to the procedures that are performed.

In Observation No. 4 we had observed, you know, mishandling of the balls and observing, you know, two -- excuse me -- we observed three videos of the draw and had observed out of those three that two where balls were mishandled. And so we wanted to bring that to the attention of the Lottery and seeing if, obviously, they could make improvements in that process just to improve the due care over that, the draw process. Whether policies get implemented and changes occur that does go through the Tri-State process.

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REP. OBER: Thank you.

MR. LARIVIERE: Yeah. As far as Observation No. 5, that had been brought up in the past with regards to New Hampshire Lottery employees working on those draw procedures. When they're working during the day, they're paid as New Hampshire Lottery staff. When they do the draws at night, they're being paid as Tri-State, and the concern was whether there was any implications with regards to the -- the Fair Standards Labor Act, and we had recommended that they seek Attorney General advice on that.

CHAIRMAN DANIELS: In the audit process, is it customary to take the control comments from one audit to the next? I'll give an example.

In December of 2016 we noticed that on that report the Lottery funds on deposit with Treasury should be credited with interest. At that point in time it was substantially resolved. We see in this report that it is fully resolved. Glad of that. But there's also another one that says resolved, recognize weaknesses in security systems that was substantially resolved but that's not noted in this instance. So am I to take it that that is still outstanding or is that resolved?

MR. LARIVIERE: Those have been resolved.

CHAIRMAN DANIELS: Okay. So it goes to my comment is it customary to take these, you know, should I have seen that it to be resolved so that I could see the continuing from one year to the next or am I just supposed to assume that if it doesn't show up it's not a problem?

MR. LARIVIERE: In Observation No. 2, we have bullet -- we have those identified with three bullets showing they're fully resolved for the interest, if I understood your question.

CHAIRMAN DANIELS: And that -- that goes to one process in saying, okay, in the last one it wasn't fully resolved. This time I know it fully is.

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MR. LARIVIERE: Right.

CHAIRMAN DANIELS: Last time there was recognized weaknesses in security systems, but I don't see anything in this one. So I have no idea what the status of that is. And my question is should I have seen like I did the last one that it has been fully resolved?

MR. LARIVIERE: Right. What happens is we always report on the prior year. So that would have been actually from the Fiscal Year 15 Audit. So in '16 it was substantially resolved. By the time we got to Fiscal Year 17, it had been fully resolved so we no longer brought it up as an issue.

CHAIRMAN DANIELS: But is that to say that the interest or the credited with interest was not resolved? I mean, I see two different things, but they seem to be handled two different ways.

MR. LARIVIERE: So, for example, Observation No. 2.

CHAIRMAN DANIELS: Yeah.

MR. LARIVIERE: Lottery funds on deposit with Treasury should be credited with interest. That has now been fully resolved. The Lottery is receiving the interest on the funds on deposit with State Treasury. So in the Fiscal Year 2018 Management Letter you would no longer see this comment brought up and that was the case with 2015.

CHAIRMAN DANIELS: I'm not expressing myself clearly.

MR. SMITH: I think, Senator, if I follow your question, in terms of the security controls that was as a result of Fiscal 15 Audit.

CHAIRMAN DANIELS: Okay. But it was not resolved in '16.

MR. SMITH: It was partially resolved in '16.

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CHAIRMAN DANIELS: Why did I not see it as fully resolved in this one?

MR. SMITH: We typically go back to the previous Management Letter. We don't go back further unless through our audit work a prior comment, in this case the '15, if it re-emerged as an issue, then it would be a current year Observation. I think the quickest way to answer it the assumption is if it's not here it's been resolved.

CHAIRMAN DANIELS: Okay.

MR. SMITH: If it's not in the body of the report, or it's not brought forward as a bulleted item in the Appendix, then it's been fully resolved from our perspective.

CHAIRMAN DANIELS: Then my question goes back to the interest credited. Why did I not just see nothing in here instead of seeing it as being resolved?

MR. SMITH: The interest credited was brought up in the last most recent report.

CHAIRMAN DANIELS: Okay. So we didn't -- okay. Never mind.

MR. KANE: Steve, you only go one year back.

MR. LARIVIERE: Correct. We go back to the prior year and if it's been resolved then it doesn't carry forward two years later.

CHAIRMAN DANIELS: But if you go back to the prior year the credit was not resolved. So you see it resolved this year. If you go back to the prior report the security systems was not resolved, but I don't see it this year. So I've got two from last year that were not resolved. I'm seeing one resolved this year but the other one does not show up, and I'm just questioning the inconsistency of how those are being handled.

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MR. SMITH: We can take it back and take a look at that particular --

CHAIRMAN DANIELS: Okay.

MR. SMITH: -- to see if we need to reconsider our approach.

CHAIRMAN DANIELS: One way or the other. I'm fine either way. I just want to know if I don't see something there, I don't know if it's left off or if it's resolved and why we got something on that's resolved that wasn't resolved before, so. Got it. Any further questions?

** REP. UMBERGER: I will move that we accept the report, place on file, and release in the usual manner.

SEN. BIRDSELL: Second.

CHAIRMAN DANIELS: Moved by Representative UMBERGER, seconded by Senator Birdsell. All those in favor say aye? Opposed nay? Ayes have it. Motion carries.

*** {MOTION ADOPTED}

CHAIRMAN DANIELS: Thank you.

MR. LARIVIERE: All right. Thank you.

CHAIRMAN DANIELS: Liquor Commission.

MR. SMITH: Thank you, Mr. Chairman. Our last presentation is our Management Letter for the Liquor Commission for Fiscal Year 2017 Audit. With me from my office is Jean Mitchell. She was the Manager on the job, will present it from our perspective. And joining us from the Commission is Dan St. Hilaire, Director of Administration, and Tina Demers, the CFO.

CHAIRMAN DANIELS: Good morning. Is it morning?

REP. OBER: Still morning. You're good.

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JEAN MITCHELL, CPA, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, everyone. For the record, my name is Jean Mitchell. I'm here today to present the Fiscal Year 2017 Management Letter of the New Hampshire Liquor Commission. This report is a by-product of our Fiscal Year 2017 Audit of the Liquor Commission's financial statements that were presented to the Committee at its January meeting.

This report contains three Internal Control Comments. One is classified as a material weakness and two are classified as significant deficiencies. The Commission concurs with all of our comments and none of the comments suggest that legislative action may be required.

Our first comment begins on page number three. It's a material weakness. Management Letters from Fiscal Years 2013 through 2016 have reported material weakness in the Commission's core financial accounting and reporting resources. The Audit comments have recommended the Commission enhance its operations by employing additional staff that have financial accounting and reporting expertise appropriate for the scope and complexity of the Commission's operations. Though the Commission was able to meet its Fiscal Year 2017 financial reporting deadline, the Commission's weakness in its in-house core financial accounting and reporting resources continue through the date of this report.

This is evidenced by a key Commission employee, finance employee, continuing to work a significant amount of overtime hours and the Commission finding it advantageous to hire contracted expertise to assist its finance group. This weakness was exacerbated when the Commission's Comptroller left employment shortly after Fiscal Year 2017 ended.

Although the Commission has made significant progress in its efforts to establish policies and procedures for critical financial activities during Fiscal 17, certain critical

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financial accounting and reporting activities remain unaddressed.

Our recommendations are outlined in items numbers 1 through 3 of the comment.

Observation No. 2 begins on Page 5. It recommends that the Commissioner -- the Commission work with the Department of Information Technology to obtain additional information to better understand the hours and costs of DoIT efforts on the Commission's IT projects. This will allow the Commission to better manage and accurately capitalize the cost of developing and implementing their new IT system.

Our final Observation No. 3 is also located on Page 5. It relates to an unsupported balance related to one of the Commission's budgetary accounts. Since at least Fiscal Year 2014, the budgetary retained earnings account has had a reported \$3.2 million balance at Fiscal Year end. The source and continued appropriateness of this balance could not be explained by the Commission, and we recommend the Commission perform a review to determine whether the continued reporting of a retained earnings balance is appropriate in the Commission's budgetary accounts.

The Appendix to the report is located on Page 7. This summarizes the December 19th, 2017, status of Observations contained in the Fiscal Year 2016 Liquor Commission Management Letter. Of the 14 comments noted, seven are fully resolved, two are substantially resolved, and five are partially resolved.

I'd like to thank the Liquor Commission Management staff for their assistance during this Audit, and the Committee for letting me have the opportunity to make this presentation. And we certainly could answer any questions that you may have.

CHAIRMAN DANIELS: Thank you very much. Senator Giuda.

SEN. GIUDA: I have a level of concern on this report. I refer to page number one, the definition of material weakness.

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A deficiency or combination thereof in internal control such there's a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented. That raises an element of concern but is compounded when I go to Page 5 that we have \$3.2 million. It's saying as though there's no way they could explain the source or continued appropriateness of that balance. You have \$3.2 million, we don't know where it came from or if it's real. The material weakness that they're unable to stop the problem. So that, to me, is a significant concern. And I'm new to this but, nonetheless, as a neophyte maybe those of you who experienced might have more concern.

CHAIRMAN DANIELS: Representative Umberger.

REP. UMBERGER: Yes, thank you. I certainly have a lot of concern as well about the material weakness, and especially since it's been going on for a while and as identified. And I don't, you know, if we -- if we can't resolve it in-house, then we should hire someone to resolve it. I mean, you and your people handle millions of dollars all the time, and there should be no question on the accuracy. That's like going to Hannaford and Hannaford not knowing where their money is being spent or being received from. It's, you know, it's the exact same process. I'm very, very concerned about that.

CHAIRMAN DANIELS: Senator Giuda.

SEN. GIUDA: Thank you, Mr. Chairman. I also look as a compounding factor on Page 3, recommendation number one, they should enhance their staff since 2013, this is five years we have, and now we have a material weakness and an unaccounted for 3.2 million in terms of where it came from. That, to me, is a management problem. I'll be very blunt with that. Five years of being told you need staff and you have a management problem and a material weakness. This is beginning to worry me more every time I read this report.

CHAIRMAN DANIELS: Representative Ober.

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REP. OBER: While they've recommended this since 2013, I can tell you the last budget cycle had a new accountant in Tina's staff and a new administrator. The Legislature has not failed to provide them resources. Liquor had the highest number of new employees in this year's biennium of any agency. So the question is somewhat different, I believe, than what you expressed. And yes, I believe this has been offered since 2013; but last year we took significant steps to offset that. We, the Legislature.

CHAIRMAN DANIELS: Senator Giuda.

SEN. GIUDA: Mr. Chairman, would it be appropriate to speak with the Commissioner?

CHAIRMAN DANIELS: If you have a question --

REP. OBER: The Commissioner isn't here.

SEN. GIUDA: Or someone from the Department. I would ask what you have in mind to remedy this specifically this year?

DANIEL ST. HILAIRE, Director of Administration, New Hampshire Liquor Commission: I'll speak to that staffing issue. Again, for the record, Dan St. Hilaire. Chief Operating Officer and Director of Administration.

We have experienced a shortfall in staff and turnover in staff. We have our Comptroller position being advertised now. We did in-house, didn't receive candidates from within the State and now it's published on the Internet and out of house. We have other positions that have gone through DOP and been approved that we are going to be posting as well to enhance the finance section.

As a stopgap measure what we did was contract with Berry Dunn, brought in some CPAs to assist us to review our books and assist the LBA auditors. Also, for the record, I just want to point out how great the auditors have been. I want to thank Jean, Steve, and Bill. They have been very professional and helpful and I think we've, in turn, tried to provide them with

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everything that they need as well. So I'm hopeful that by next year when we're sitting here we will have increased staff to help with the increased volume of sales that we're experiencing such that we don't have to contract out for the help.

CHAIRMAN DANIELS: Follow-up.

SEN. GIUDA: I don't think hopeful is an appropriate response to this audit. I would like, as a member, a written report of what you're going to do to fix this problem. And if that means you need to demand more financial resources, so be it. But I want something in writing that says we recognize it and here's what we're doing to fix it.

MR. ST. HILIARE: If I may? When we contracted with Berry Dunn, our -- we had them for two parts. The first part was to analyze our financial system and give us their recommendation of what we should do to reorganize it and positions involved. I can give you their report. They made their recommendations --

SEN. GIUDA: I'd like that.

MR. ST. HILAIRE: -- as external auditors. So we are following their report and we have been conferring with Administrative Services. They have been helping us with positions as well. We now have them in hand, and we are starting the process of filling those. We also, though, can't account for things we didn't expect to have our Comptroller leave as well. We don't expect staff turnover, just like the other agencies don't expect staff turnover. Sometimes we try to get ahead and get behind because you can't control where your employees are going to be in the next year. But I can assure you that every position that Berry Dunn has recommended that we have, we are going to be posting, and so by this time next year we should be up to staff.

Now, I will be honest and tell you that I'm not sure we will still need their expertise because these people will be new and I'd still like to have them on board for the next year to help us out with the audit to make sure our staff has all the

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resources and training they need that will give you a report that, hopefully, you'll be satisfied with.

SEN. GIUDA: Thank you.

CHAIRMAN DANIELS: Thank you. Further questions?
Representative Umberger.

REP. UMBERGER: Maybe we should ask the Liquor Commission to provide something in writing as to their process like we did with -- was it the Pharmacy Board? Whatever. Because I don't want this to fall through the cracks, and I think Senator Giuda kind of feels the same way. And, you know, we need to -- we need to know what their progress was. Maybe it only needs to come every three months or something. But I just think that we need some sort of follow-up to whatever is happening.

CHAIRMAN DANIELS: And understanding that you're following the guidelines of a couple different entities, provide the Committee with a quarterly report on the progress on this.

MR. ST. HILIARE: We would be happy to provide that to you. I'll provide Berry Dunn's findings and their recommendations to the entire Committee, and we will provide a report to let you know how we're following up with those recommendations.

CHAIRMAN DANIELS: That be great. Thank you. Anything further? Representative Umberger.

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

CHAIRMAN DANIELS: Motion by Representative Umberger. Is there a second?

REP. BYRON: Second.

CHAIRMAN DANIELS: Second by Representative Byron. All those in favor of that motion say aye? Opposed nay? Ayes have it. Motion carries.

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**** {MOTION ADOPTED}**

CHAIRMAN DANIELS: Thank you all very much. Is there anything else to come before us? Representative Byron.

REP. BYRON: Yes, I would like to -- I'm concerned by the answers from the questions that our Chair has asked today concerning our audits, and I would like to ask the Legislative Budget Assistant if we can re-examine the policy in terms of how many Observations and the resolution of those Observations we carry forward in audit reports.

My personal opinion is that none of them should drop-off until they're complete, and that we should be able to carry those year, to year, to year, whether it's two years, three years, four years or whatever so that we, as a Legislature, can have an understanding as to what's going on. I would like to ask our Legislative Budget Assistant if they can re-examine that policy and see if changes need to be made.

MR. KANE: Yes, I'll talk with Steve on it.

MR. SMITH: Be happy to.

REP. EATON: With an asterisk for each year carryover.

CHAIRMAN DANIELS: I think if we just carry it until it's complete, then we can see one-time it's complete and then it drops off, if it doesn't show up. But if it's incomplete, you know --

REP. BYRON: That makes perfect sense to me.

CHAIRMAN DANIELS: -- it would be there until -- that way we can go back and as far back as we need to to find out how long it's been hanging on.

REP. BYRON: Yes, agreed 100%.

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CHAIRMAN DANIELS: Thank you very much.

(12) Date of Next Meeting and Adjournment

REP. UMBERGER: Next meeting is set for March 16th.

CHAIRMAN DANIELS: Next meeting is set for March 16th. Same time, same place. Senator Giuda.

SEN. GIUDA: Would you envision your carry on uncompleted items having a year --

CHAIRMAN DANIELS: No. No, I think just knowing that what you're looking at -- if there was something that was uncompleted say in 2016, I would expect it to show up on 2017 either as uncompleted or completed.

SEN. GIUDA: So that we know from which year it came. That's what I'm saying.

REP. EATON: That's why I think if they put an asterisk for each year it's continuing you can look and see three asterisks for three years' rollover, it's a problem.

REP. UMBERGER: Why don't we let the LBA take care of it and come back.

MR. KANE: Sure, yes. I'll absolutely talk to Steve and I understand I think the Committee would like to see an issue, if it's been resolved, you'd like to see the three dots.

CHAIRMAN DANIELS: Exactly.

MR. KANE: I'll talk to Steve the best way to do that so we continue to carry forward the unresolved issue.

CHAIRMAN DANIELS: Senator Giuda.

SEN. GIUDA: Mr. Chairman, for the record, I would like to comment that I was unaware that person sitting here was newly

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appointed and that the Commissioner who is responsible for these failures was not here today. And I would like, for the record, a request made that the Commissioner show up the next time at the next meeting to explain these. I think it's inappropriate with a report of this nature that the fella that runs the whole show has been here for some time chooses not to be here.

CHAIRMAN DANIELS: Well, I don't know if that was a choice or some other --

REP. EATON: For the record, Dan St. Hilaire is a new appointee. He's been around for a long while.

REP. UMBERGER: Neither one of them are new.

CHAIRMAN DANIELS: I don't have the Commissioner's schedule so I don't know if it was something that could not be avoided or whatever.

REP. EATON: Right.

CHAIRMAN DANIELS: Anyway, March 16th is our next meeting.

REP. BYRON: Is it possible we could at that meeting get a report from LBA as to what resolution on this audit question we asked?

MR. KANE: Sure, we can do that.

REP. BYRON: Thank you.

CHAIRMAN DANIELS: With that, I will accept a motion to adjourn.

** REP. BYRON: So moved, Mr. Chairman.

REP. EATON: Moved.

CHAIRMAN DANIELS: Moved by Representative Byron, second by Representative Eaton. All those in favor say aye? Opposed nay? The ayes have it. Motion carries.

***** {MOTION ADOPTED}**

(The meeting concluded at 11:44 a.m.)

CERTIFICATION

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

Cecelia A. Trask
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