

**JOINT LEGISLATIVE FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, August 16, 2024

**MEMBERS PRESENT:**

Representative Kenneth Weyler, Chair

Representative Keith Erf

Representative Jess Edwards

Representative Mary Jane Wallner

Representative Peter Leishman

Representative Gerald Griffin

Senator James Gray

Senator Jeb Bradley

Senator Regina Birdsell

Senator Lou D'Allesandro

Senator Donna Soucy

**(1) Acceptance of Minutes of the June 20, 2024 and  
July 10, 2024 meetings**

KENNETH WEYLER, State Representative, Rockingham County,  
District #14, and Chairman: Good morning. I'll call the Fiscal  
Committee meeting to order for the August 16th, 2024, meeting,  
and the first item is the acceptance of minutes of June 20th.

**\*\*** JEB BRADLEY, State Senator, Senate District #04: So move.

JAMES GRAY, State Senator, Senate District #06: Second.

CHAIRMAN WEYLER: And July 10th, both of those. Take that  
as both of them. Is there any --

KEITH ERF, State Representative, Hillsborough County,  
District #28: Who was that moved and seconded?

CHAIRMAN WEYLER: It was Senator Bradley and Senator Gray.  
Um -- any -- any omissions or corrections? Seeing none. All in

favor of accepting the minutes for those two dates, June 20th and July 10th, say aye? Any opposed say no?

DONNA SOUCY, State Senator, Senate District #18: Abstain.

CHAIRMAN WEYLER: And want to welcome Senator Soucy replacing Senator Rosenwald to the session.

(2) **Old Business:**

CHAIRMAN WEYLER: Okay. There is no Old Business.

**CONSENT CALENDAR**

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

(4) **RSA 9:16-c, I, Transfer of Federal Grant Funds:**

(5) **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:**

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

(7) **RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source, and RSA 124:15, Positions Authorized:**

CHAIRMAN WEYLER: And under Tab -- first Tab 3 is where the Consent Calendar goes from Tab 3 through 9. In the House pre-Fiscal meetings we have listed several bills we want removed to question on the Consent Calendar. I will read them now.

Under Tab 3, 251, 252, and 264. Under Tab 6, 256, 258, and 270. Under Tab 7, 241, and under Tab 8, 272. There are a few

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left on the Consent Calendar. I'll entertain a motion to adopt the rest of the Consent Calendar.

**\*\*** SEN. BRADLEY: So move.

CHAIRMAN WEYLER: Senator Bradley moves, Senator D'Allesandro seconds to adopt the rest of the Consent Calendar. All in favor say aye? Opposed nay? The rest of the Consent Calendar is adopted.

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

CHAIRMAN WEYLER: First item we'll come to or questions is item No. 220 -- 24-251, and that is the Department of Education. Welcome, Commissioner.

FRANK EDELBLUT, Commissioner, Department of Education: Good morning. And for the record, Frank Edelblut, Commissioner of Education.

TAMMY VAILLANCOURT, Chief Financial Officer, Department of Education: Tammy Vaillancourt, CFO for the Department.

CHAIRMAN WEYLER: Okay. 251. Um -- it was curious why even though you're already occupying the building and you're in the building, so much more money has to be spent now for modifications. So that was -- that was a curious thing we all wondered about.

REP. EDELBLUT: Yes, so great question, and I appreciate that question. And what's not completely clear from the Fiscal item, and I apologize for that, is the original purchase negotiated price based upon an appraisal was \$7 million for this facility. In a typical real estate transaction, there is an inspection done and there is a list of items that need to be, you know, mitigated. Um -- so the actual purchase price for this building was not \$7 million. It was actually six million two hundred fifty. So \$750,000 decrease off the capital appropriation.

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CHAIRMAN WEYLER: Ah!

MR. EDELBLUT: And so working with DAS, they had asked us to look at otherwise lapsing General Funds from the previous Fiscal Year to be able to bring forward to be able to mitigate some of those punch list items as part of the close. The types of items that that's going to include are various, you know, repair and maintenance types of things in the building which would be expected.

Um -- I still think, you know, I was thinking about this as I was coming today, I still think we actually got quite a good deal. Um -- I, you know, in terms of the value \$6,250,000, I believe that the estimates of the repair of the facility that we previously were in are near 10 to \$15 million of continuing investment in that building. So the facility is actually working out quite nicely. It's approximate location to the highway is very convenient to educators. We have over 7,000, you know, outside visitors to the agency every year. It includes an event space and some classrooms, so we're able to conduct continuing education for educators. Just yesterday we had, you know, a training session going on in several of our classrooms for discovery education and bringing educators in. So we're happy with the facility.

CHAIRMAN WEYLER: Very good. And this is how far from your present position over in the Office Park?

MR. EDELBLUT: How far?

CHAIRMAN WEYLER: Yeah.

MR. EDELBLUT: It's just a couple of miles, but it is actually tends to be a little bit more convenient in the sense that it's right on Main Street and right off of the highway. So, again, all these external visitors that stop by, it's very easy for them to find us right off of the highway and convenient for them to get in and out.

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CHAIRMAN WEYLER: I guess I'm not familiar with Hall Street.

MR. EDELBLUT: It's -- it's the Granite State College Building, the old Granite State College Building right off of 93.

CHAIRMAN WEYLER: Ah! Now I know where it is. Thank you. Further questions from Committee Members? Representative Leishman.

PETER LEISHMAN, State Representative, Hillsborough County, District #33: Thank you, Mr. Chairman. Thank you for taking my question. So you say that there won't be really any impact on existing programs by taking more than a half a million dollars from that line. Could you explain that? It's a lot of money and the removal won't impact?

MR. EDELBLUT: So these are funds that we would have been lapsing from last year that are then carrying forward. So, essentially, rather than using the capital savings 'cause we procured it for less, I think DAS wanted to just basically use these lapse funds to be able to do those repairs on the building.

REP. LEISHMAN: Okay. Thanks. Thank you, Mr. Chairman.

CHAIRMAN WEYLER: Okay. I'll entertain a motion to adopt the item.

**\*\*** SEN. GRAY: Move to approve.

SEN. BRADLEY: Second.

CHAIRMAN WEYLER: Motion by Senator Gray, second by Senator Bradley to approve the item. Further discussions? Seeing none. All in favor say aye? Opposed no? Sounds like you got a good deal.

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\*\*\* {MOTION ADOPTED}

CHAIRMAN WEYLER: All right. Moving on to 252 and that's Health and Human Services. And Representative Edwards had a comment or is it Representative -- was it Leishman?

REP. ERF: It was me.

CHAIRMAN WEYLER: It was you. Representative Erf is recognized.

REP. ERF: Want to let them introduce themselves first? Want to let them introduce themselves first?

CHAIRMAN WEYLER: Yes. Welcome, Mr. White.

KATJA FOX, Director, Division for Behavioral Health, Department of Health and Human Services: Good morning. I'm Katja Fox. I'm the Director of the Division for Behavioral Health at HHS.

NATHAN WHITE, Chief Financial Officer, Department of Health and Human Services: Good morning. Nathan White, Chief Financial Officer with the Department of Health and Human Services.

REP. ERF: Good morning, and thank you both for being here. I don't have a question, but I want to explain why I'm going to oppose this.

First of all, I really appreciate Mr. White's explanation. It was excellent. The concern I have though is we're adding five new general -- general funded positions, General Funds funded positions. And I think we made clear the last couple budget cycles that we're not looking to grow head count in the Department. And this is becoming more relevant in light of the fact that next year, next cycle, excuse me, we can expect -- um -- a tighter budget cycle for variety of reasons, one of which, of course, is we increased Medicaid rates and those are really going to hit next budget cycle.

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The other is all the COVID and ARPA funds are expiring and -- uh -- I don't know because we're not -- it doesn't get reported to us how many of those are actually used for ongoing expenses, which will probably want to be continued.

So, for those reasons, I feel that even with Mr. White's explanation, if it was such a high priority goal to have these five new positions, that it would make sense to just re-allocate your current personnel to fill those positions. Thank you.

CHAIRMAN WEYLER: Response.

MR. WHITE: Thank you for the question, comment, Representative Erf. Uh -- during the last budget cycle in House Bill 2, we -- one of the questions that was posed that I just kind of want to address for the Committee offline prior to the meeting was, you know, what -- what services are you stopping, and no services were being stopped here. The funds that are being used here were appropriated to us by HB 2. They -- they were funds that were repurposed from a prior biennium. And there was -- there was a broad authority relative to the use of those funds, and needs have been identified to support the -- the current and ongoing initiatives where we have not had adequate staff capacity. And, Katja, I don't know if you want to comment on that.

MS. FOX: Sure. As you have very much been involved in, the infusion of dollars as we look at new programming and expanded programming to address the needs of people in New Hampshire for mental health and substance use services, and with that funding comes additional responsibility on the Department. And to be good stewards of those dollars, we need to make sure that they're being spent efficiently and effectively. And we have seen this amazing growth as the needs have required -- um -- but we have not grown the people and the staff to be able to continue that oversight, and so that's the request that's before you today.

CHAIRMAN WEYLER: Further discussion on the item? Senator D'Allesandro.

LOU D'ALLESANDRO, State Senator, Senate District #20: Thank you, Mr. Chairman. First of all, thanks very much for coming. Always great to see you, Katja. Good to see you. As -- as referencing Representative Erf's questions, where are we as we begin to prepare for the next biennium with regard to this situation? This has got to be an ongoing situation. We have services that we have to render. And where are we as we're planning for the future?

MR. WHITE: Sure. Um -- our Department, as well as every other agency in the state, we were given our budget targets on August 1st. We are currently in the process of going through and looking at every class line, looking at every need and trying to prioritize those things that need to be absolutely a hundred percent need to be within our Efficiency Budget, as well as those items that would be included as prioritized needs. So we're very much in the throes of that right now.

Our Agency budget will be completed mid-September and submitted to the Department of Administrative Services and published on the 1st of October.

SEN. D'ALLESANDRO: Thank you. If --

CHAIRMAN WEYLER: Follow-up.

SEN. D'ALLESANDRO: If I could? Thank you. But, indeed, given -- given your -- the memo with regard to the budget, you -- you're going to establish priorities, obviously, as you move forward. But with programs like this that you're -- you're driving forward, they've got to be sustained or maintained, and I think that from my vision, I'm not going to be here for the preparation of the budget. I'm sorry you're going to miss me.

CHAIRMAN WEYLER: We will.

SEN. D'ALLESANDRO: But -- but I think a lot of consideration has to be given by -- by this group, I think, as to what's going to happen moving forward because we're making these commitments here, you know, based on existing funds. So I -- I think we're okay for -- for -- for '25. I think we're going to survive '25 okay; but I'm very concerned, very concerned about the future. Very concerned.

So I think -- I think you have your -- I think you have your hands full in meeting the obligations that you're -- you're committed to here and also going forward. Thank you. I'd appreciate your response to that.

CHAIRMAN WEYLER: Representative Edwards.

REP. EDWARDS: What do you want me to do?

CHAIRMAN WEYLER: Is there a response to that?

MR. WHITE: As I said before, at this point in time we're looking at all of our programming and all our costs and looking at things globally and at a micro level, and we haven't made any decisions yet; but those will be reflected in the coming weeks in our budget. And I agree with your commentary, yes, it will be challenging. It is very challenging.

SEN. D'ALLESANDRO: Thank you.

CHAIRMAN WEYLER: Representative Edwards.

REP. EDWARDS: Thank -- thank you, Mr. Chair, and thank you for taking the question. This is -- this is more a strategic overview question. We have tried in the last two budget cycles to be very aggressive at funding IT investments for infrastructure. And one of our thoughts driving that has been to give the Department the productivity tools it needs to have in order to continue to redeploy manpower to the highest value tasks. And -- and I've heard -- I've read your e-mail and it's a great e-mail, like Representative Erf said, and I've heard your

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answer. I -- I just -- I'm just wondering to what extent do you -- and we can take most of this answer offline, but I'm just curious, are -- are we starting to see the impact of the money that we've spent the last two budget cycles on IT in terms of productivity improvements, and are they -- are they discernible? Are they describable?

MR. WHITE: Sure. So I -- I think Dave Wieters, our -- our Chief Operating Officer would be most qualified to answer that question. But in the past budget there were two appropriations in HB 2 specifically for IT consultants. One to help us with the design and, two, to help us with implementation. And there has been ongoing work across the Department to implement Salesforce-based solutions, as well as some other E-signature and expedited processing. But, yes, we have seen improvements in that, but I think what's important to recognize is that that's not necessarily going to eliminate the need for positions.

I think with every legislative cycle, both at the state and federal level, we continue to have additional reporting requirements, additional programming requirements put on the Department that continues to take away the resources that we have. So while I do think that efficiencies are incredibly important to gain through those, I just want to also recognize the fact that the -- the baseline operating needs continue to increase as well.

REP. EDWARDS: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. EDWARDS: Absolutely agree. Government's growing. We're asking more and more of you. Absolutely agree with your point. I'd like to just keep this other point distinct though.

MR. WHITE: Sure.

REP. EDWARDS: Are -- are we seeing payback in terms of increased productivity as a result of the IT infrastructure investments?

MR. WHITE: Sure. Would it -- would it be acceptable if I had Dave Wieters --

REP. EDWARDS: Absolutely.

MR. WHITE: -- follow-up with some details, specific details on the various programs that have been implemented? Would that be helpful?

REP. EDWARDS: Right, right. And -- and --

MR. WHITE: Sure.

REP. EDWARDS: And if you just -- because we're in a budget cycle, it's going to be a big question next year particularly. So we don't need an immediate answer but it's -- it's coming.

MR. WHITE: Excellent.

**\*\*** SEN. GRAY: Move to approve.

CHAIRMAN WEYLER: Excuse me. On Item 24-252, Senator Gray moves to approve. Senator Bradley seconds. Is there further discussion? Seeing none. Those in favor say aye? Opposed no?

REP. ERF: No.

REP. EDWARDS: No.

CHAIRMAN WEYLER: Two nos. The rest are ayes. So you wish to be recorded, those nos? All right.

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

CHAIRMAN WEYLER: Moving on to Tab 6.

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SEN. GRAY: Still in three.

CHAIRMAN WEYLER: We still have 264, Department of Administrative Services. Talking mathematics here. I read the item. It says approval of \$1,838,351. When I look at the item I don't see that figure repeated, and we were trying to figure out how that figure came to be and took some rather imaginative moving figures around to come up with it. Is that, in fact, the figure or is it the \$1,765,091?

SHERI ROCKBURN, Assistant Commissioner, Department of Administrative Services: That is a great question. For the record, Sheri Rockburn, Assistant Commissioner, Department of Administrative Services. I'll have to take a -- take a look at the difference. I didn't notice a math error when we were reviewing it, so I'll have to take a look to see what that variance is. Normally, it's the combination of both accounting units, so there's a combination of 444 and the 72,000 that's getting moved within the accounts.

Um -- so I'll have to -- I can get you a detail sheet of sort of exactly how that comes up. I think what's throwing it is that we have a both the ins and outs of 1.3 million that's coming out of one accounting unit, and there's significant numbers of coming into the accounting unit. So I'll have to look at the math for you to break that out. I know we did look at that, but I'll take a look at it.

CHAIRMAN WEYLER: Give us a wave when you got your figures done.

MS. ROCKBURN: Yep, sure. Just give me a few minutes and I'll take a look at that.

CHAIRMAN WEYLER: Bring that item back.

MS. ROCKBURN: Sure.

CHAIRMAN WEYLER: We'll skip by it for now. And we'll go on to Tab 6 and Item 256. And I believe it was Representative Edwards had questions on these are incentive payments.

REP. EDWARDS: Yes, sir. Do we want --

CHAIRMAN WEYLER: Yeah. New folks introduce yourselves.

DAVID CHORNEY, Deputy Director, Office of Medicaid and Business Policy, Department of Health and Human Services: Good morning. I'm David Chorney, the Deputy Medicaid Director. I'm here for Henry Lipman.

CHAIRMAN WEYLER: And welcome back, Mr. White.

MR. WHITE: CFO.

REP. EDWARDS: So -- so this question is -- I'm -- I'm fine with the proposal. I just have some questions. As I understand the -- the process, and I need you to correct me if I'm mistaken, is -- is that we withhold 2% of the premium payments to Medicaid and MCOs so that we can create some incentive goals, some stretch goals for them to achieve that further State policies and priorities. And to the extent that they hit those, they get paid those on a timely basis. But any money that's not spent out to pay for an incentive payment gets withheld and stored until the -- sometime after the accounting period of the contract closes. And all of that money that's withheld still needs to go back to the MCOs; is that correct?

MR. CHORNEY: Yes.

REP. EDWARDS: Okay. So with that in place, my questions are do the MCOs know how to book any anticipated revenue that may come back to them through the payment of the unpaid out incentive programs? In other words, do they have an accounting concern if they don't have enough data to adequately book an accounts receivable, do you know?

MR. CHORNEY: I -- I don't know; but they do know the total capitation amount -- um -- and that the total amount of funds available and what's been earned up to a period of time and what's left over. Um -- and they would be able to account -- um -- I think on their books and -- and --

REP. EDWARDS: I think the challenge that they have, and I'm not in the weeds, but -- and you are -- but I think the problem that they have is that there -- they know the pool. But they know that there are three MCOs and they don't know the methodology in which you will carve up the remaining unspent balance. And as a result of not knowing the methodology you will use to -- to make a proportionate payout, they are hesitant to book an accounts receivable. Does that -- does that -- and I -- I -- I -- I -- maybe -- maybe could you just take that away and think about it and talk to the MCOs about it -- um -- and then may I follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. EDWARDS: Um -- now, I -- I -- I'm a big believer in stretch goals, but there seems to be two things at play when we do stretch goals or incentive goals is that there needs to be some hope that the stretch goals are achievable. We don't want to create a stretch goal that we know or -- or should know is really not achievable -- um -- and -- and, you know, sort of mess with them without any chance of success. That's one thing.

The other thing is some of these stretch goals will -- would need to be in place for one, two, three years to let these kind of battleship MCOs move towards where we're directing. So, in your opinion, do you think we are coming up with adequately stretched goals, not overstretched, and do you think we're leaving them in place long enough to become achievable?

MR. CHORNEY: I do. So we do look at the -- the, you know, the likelihood that the MCO could potentially reach the goal without making it too easy, but also without making it too hard.

And for certain goals, you know, we want to see, you know, a continuing trend over, because it's a five-year contract over a period of time. So when you look at the current contract that we're about to go live with on September 1st, one of the goals is the new primary care focus model and health risk assessment completion. And so that would sort of be a ramp-up of like in year one we would like to see this and we would likely keep that metric in future years seeing continued growth, similar with lead screening. But then there are also more short-term goals that we want to incentivize the MCOs with.

For example, in the unwind we wanted the MCOs to help with outreach and redeterminations. So that was more of a focused, shorter term goal because the unwind had an end -- end -- a definitive start and end date or somewhat definitive.

**\*\*** REP. EDWARDS: So -- so thank you, Mr. Chair. Thank you for the answer. And then I'd like to move to pass this if there's no other discussion.

CHAIRMAN WEYLER: All right. Motion to approve. Is there a second? Second by Senator Soucy. Further discussion? Seeing none. Motion was to approve 24-256. Is there any -- are you ready for the question? All in favor say aye? Opposed nay? That item is adopted. Please stay seated. We'll be right with you in a minute.

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

CHAIRMAN WEYLER: I'm just going to announce that 257 has been removed and we're moving on to 258. And this was another one that speaks about DSH Payments. You may want to bring another --

SEN. GRAY: I have a question, Mr. Chair.

CHAIRMAN WEYLER: Senator Gray.

SEN. GRAY: Since we didn't talk about 257 before we took the vote to pass all the other items on the Consent Calendar -- um -- it may be wise to have a motion for reconsideration on that motion and then pull it and then have the vote again; but I'm looking towards legislative --

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: Sure. So 257 was withdrawn by the Department. The letter itself is the necessary action to remove that. So -- um -- no additional. Once that letter is submitted, the item is no longer under consideration. So no additional motions are necessary.

SEN. GRAY: Okay. Thank you.

CHAIRMAN WEYLER: Okay. Now we come to 24-258 dealing with DSH Payments. And I believe somebody had a question about the State Plan Amendment. Representative Edwards.

REP. EDWARDS: Yes, sir. Thank you. So -- um -- you -- I'm sure you recall that at the end of this legislative session there was a lot of discussion in the Legislature about whether or not the DSH Payments should be paid out to the hospitals at a 91% or maybe a 93% or somewhere in-between. And -- and the Legislature failed to agree to anything in the Committee of Conference; and, therefore, the Governor has stated publicly that he's going to distribute 80% with the idea of keeping the other 20% for other community services. And so that was the last I had heard about this was back in early, early July. I'm just wondering if there's any update that you could give us relative to what we're doing with the disproportionate share distributions?

MR. CHORNEY: Uh -- good morning. David Chorney again, Deputy Medicaid Director. Um -- so we are following through with the 80% plan. We don't really have an update on the 80% plan right now. But with respect to New Hampshire Hospital and DSH Payments, under the prior MET Settlement Agreement and the prior State statute, New Hampshire Hospital is not included in the

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MET/DSH settlement. So for purposes of the 91% or 80% calculating it, any of the funds New Hampshire Hospital pays is outside of that. And that's because under Federal Law there's a separate allotment for IMDs which is New Hampshire Hospital. And so there's a -- there's different rules around that.

CHAIRMAN WEYLER: Anything further?

REP. EDWARDS: I -- I don't have any further questions.

CHAIRMAN WEYLER: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. Just for point of clarification. The DSH deal is in -- the deal that we had is in place. They've already paid the payment. They should have been reimbursed for this year. It's the new deal that begins; isn't that -- isn't that correct? So the 80%, we asked for a change in the plan and so forth, but that's for the future; right?

MR. CHORNEY: Correct.

SEN. D'ALLESANDRO: I want it to be clear that the hospitals got 91% back because that arrangement was in place and it had -- it was in existence and the change is for the next biennium. So that has to be dealt with by the Legislature because the current deal expired.

MR. CHORNEY: Yes.

SEN. D'ALLESANDRO: Right? So they got the 91% back at this point in time. It's for the future that -- that this 80% situation will be discussed by the Legislature. Governor has one idea, but I think the Legislature has -- has an option to work on that and -- and to make its own decision with regard to that. I -- I -- I find that this situation, this 80% nonsense have been done -- uh -- fiat. That's -- that's in my opinion not the way -- not the way to do business. This Legislature should have a say in that. We all have hospitals in our Districts. We're all

being serviced by those hospitals. Those hospitals are performing and we had -- we had an arrangement that was in place for a period of years that we thought was fairly successful. I think the hospitals did, too. So this change that's going to take place going to have to be dealt with by the Legislature; am I correct?

MR. CHORNEY: Yes.

SEN. D'ALLESANDRO: Thank you. I love those quick answers. I love yes. I hate no. Thank you.

REP. EDWARDS: So if I may, Senator, I want to give you some more yes. I agree with everything you just said. I wanted to understand what the status was several months later because we're in a -- we're running out of time in the House to submit legislation. And I just want to let the Senators know that if -- if there's a bill to be worked on in this area, I'm open to doing that; but my clock is ticking.

SEN. D'ALLESANDRO: Right. Appreciate that. Thank you for that comment. But I -- I think -- I mean, I'm not going to be here, but I think the Senate would have something to say. I would hope so. Thank you.

CHAIRMAN WEYLER: Is there a motion on the Item 258?

**\*\*** SEN. BRADLEY: So move.

CHAIRMAN WEYLER: 24-258 moved by Senator Bradley, second by Senator D'Allesandro. Is there any further discussion? Seeing none. You ready for the question? All in favor say aye? Opposed no? That item is adopted.

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

CHAIRMAN WEYLER: Before we go to Sheri Rockburn again, we'll finish up this 24-270, refugees. And the question arose you obviously list 210 Afghans and 923 Ukrainians. How many

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others from other countries are -- are we taking care of other than those that are listed? Do we know -- do we know what other groups that we might have?

ANNE LANDRY, Associate Commissioner, Department of Health and Human Services: Good morning. Anne Landry, Associate Commissioner. Thank you for the question. So yes, we have estimates of what is anticipated, what the State has approved for the upcoming year. Sorry. My phone just went -- um -- and so -- sorry. Where did that just go? Um -- the best estimate for the upcoming year is 315 refugees that are coming from countries outside of Ukraine and Afghanistan or Cuba or Haiti. Those are special kind of refugee categories. So the standard refugee resettlement program that we're anticipating for the upcoming federal year is 315.

CHAIRMAN WEYLER: And these are all covered with Federal funds.

MS. LANDRY: Yes, this is a fully federally funded program across the country. And the state, the Federal Government works -- um -- with each state in allocating the number of refugees. We have very little say into that.

CHAIRMAN WEYLER: Thank you.

REP. ERF: Question.

CHAIRMAN WEYLER: Representative Erf.

REP. ERF: Do you happen to know how many of these programs that are letting these, quote, refugees in are the result of Executive Orders as opposed to current law?

MS. LANDRY: In the Executive Order you're referring to like the Ukrainians and Afghanistan, those emergency humanitarian or --

REP. ERF: No, specifically with the 315 others that you're referring, to the others.

MS. LANDRY: No, I don't know which ones are related to Executive Order. They anticipate a number of refugees from certain countries each year, right, that are dealing with civil wars or religious persecution or what have you. And I'm not sure which ones are related to Executive Order or not.

REP. ERF: Okay. Thank you.

CHAIRMAN WEYLER: All right. Representative Edwards.

REP. EDWARDS: Thank you. And thank you, Miss Landry, for taking the question. I -- I think -- I think just to sort of restate where I -- I believe state policy is on this, and in the hope that you all are executing it when no one's around is that we understand the refugee program. We understand the federal money that's coming to it. And so there are questions around whether or not the Federal funds are adequate. If they cease to become adequate, we should be getting a heads-up that the -- the money isn't keeping up with the federal obligation. That's one thing.

And then the second thing is there are other categories other than refugees. I don't think asylum seekers count as refugees. And, certainly, the got-aways don't count as -- as either asylum seekers or refugees. Are we making explicit endeavors to ensure that got-aways are not receiving state benefits other than those mandated to provide emergency medical care in ERs? What's the status of our making sure the integrity of -- of the eligibility, I guess?

MS. LANDRY: Yes. Thank you. So I can't speak to how emergency rooms across the state serve any population, right. That's -- that's up -- I mean, there's the -- they serve whomever comes into their emergency room. But that is completely separate from our refugee resettlement program in which we have federal refugee resettlement agencies that are part of the

nine -- I think it's eight or nine federal resettlement agencies that have local branches. And the only -- the only individuals who are served by the federal funds that come through this program are those legal refugees that the Federal Government says they're ready for New Hampshire.

It does -- there are certain -- you're right, you know, humanitarian parolees, that's where the Ukrainian status is or all -- there are asylees. There are special immigrant visas. They're all part of the federal refugee resettlement program and some of those categories receive like these cash of medical and some do not. It just depends on the status. But the only individuals for which this program serves are the legal refugee -- refugees that come through this program. So there -- it's very much vetted. It's -- there's lots of federal reporting and there's no discrepancy of what these dollars are for. They only serve those refugees that come through the program.

REP. EDWARDS: And -- and did you say the federal funding so far has been adequate to the task?

MS. LANDRY: Oh, I apologize. To your first question, yes, as far as we know. In fact, we've had -- they have increased the amount of funding in the last couple years due to the Afghan population that has arrived, as well as Ukrainians that continue to arrive. So there has been more than adequate funding to -- to serve this population.

**\*\*** REP. EDWARDS: Thank you, Mr. Chair. If there aren't any other questions, I'd move to approve.

SEN. SOUCY: Second.

CHAIRMAN WEYLER: Motion by Representative Edwards, second by Senator Soucy to approve Item 24-270. Is there any further discussion? Seeing none. All in favor say aye? Opposed no? That -- that is adopted.

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

CHAIRMAN WEYLER: I'd like to now return back to Tab 3, and call on Sheri Rockburn.

MS. ROCKBURN: Thank you. I apologize for not having the math in my head a little bit sooner.

So there's three numbers that make this up. The first, if you look at the very first page, the transfers out of 444,000, plus the 72,000, those two numbers total 517,444. In addition to that there's another transfer out of 1,320,907. It's on Page 2, and it's line -- Class line 022.

So on Page 2 the 1.3 million plus the 517,000, those numbers make up 1,838,351 that's in the total. So I'll give you a minute to take a look at that. But the -- the total that's always written in the letter is the sum of the transfers out, even though there's ins and outs that sort of would offset it. We just focus on all the negative numbers which are the transfers out and those will sum that 1,838,351, which is correctly stated in the requested action.

CHAIRMAN WEYLER: Thank you. All right. So the figure is correct, but it's just not spelled out in a way that's easily recognized.

MS. ROCKBURN: And we can make that change on future ones so it's a little bit more clear.

CHAIRMAN WEYLER: Appreciate it. Any further discussions on item 24-264?

**\*\*** SEN. GRAY: Move the item.

SEN. BRADLEY: Second.

CHAIRMAN WEYLER: Senator Gray moves the item, Senator Bradley seconds. Any further discussion? Seeing none. You

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ready for the question? All in favor say aye? Opposed no? The item is adopted. Thank you for the explanation.

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

CHAIRMAN WEYLER: Now we'll move on to Tab 7, and we had Item 241, the only item there, I think. Okay. I had a question. It talked about giving these to communities that were low and moderate communities. Where do I find a list of who's a low and who's a moderate community?

JOSH ELLIOTT, Director, Division of Policy and Programs, Department of Energy: Good morning, Mr. Chairman. For the record, Josh Elliott, Director of the Division of Policy and Programs with New Hampshire Department of Energy. That is an excellent question.

So U.S. EPA, who is granting us these funds, has divined -- excuse me -- defined low moderate income is the household making less than 80% of area median income or less across the state. So that, obviously, varies by county. That aligns with Housing and Urban Development's threshold for living in subsidized housing, for example.

CHAIRMAN WEYLER: Oh, it's by county. And if you're low income, you're only making 80% of the average income in that county.

MR. ELLIOTT: Correct.

CHAIRMAN WEYLER: Okay.

MR. ELLIOTT: And then that is then controlled for by household size as well.

CHAIRMAN WEYLER: Thank you. I was curious about that and where would I go to look it up where that figure might be? Is it under the EPA or is it under the census or --

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MR. ELLIOTT: I can -- I'd be happy to provide the Committee with the list where it has the breakout of everywhere in the state for those figures.

CHAIRMAN WEYLER: Appreciate it. Thank you. Because we're all wondering if, okay, can my communities qualify. Well, are they low, are they moderate, what are they?

MR. ELLIOTT: If -- if I may follow-up? It's not necessarily the community itself. It's the individuals who meet that criteria. So you could have, for example, a very wealthy community where somebody happens to be making 80% or less of area median income in that community, they would qualify. So there's no restriction in terms of where the person lives or where the household lives. Anybody who meets those criterias would be -- would be eligible to benefit.

CHAIRMAN WEYLER: All right. So it's an individual that gets the grant, not the -- not a community system.

MR. ELLIOTT: Well, it would be a -- the individual or the household that qualifies would be able to receive the benefits from the installation of these arrays. The arrays themselves would be installed depending on how -- where they come in the door, so to speak, either by grants provided by the community loan fund, the New Hampshire Housing Finance Authority, or through a grant through the Department itself.

CHAIRMAN WEYLER: Thank you. Further discussions on the item? All right. Questions have been answered. Anybody wish to approve?

\*\* SEN. BRADLEY: So move.

SEN. D'ALLESANDRO: Second.

CHAIRMAN WEYLER: All right. Senator Bradley moves approval, Senator D'Allesandro seconds for 24-241. Are there any further discussions? Seeing none. Are you ready for the

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question? All in favor say aye? Opposed no? And that item is adopted.

\*\*\* {MOTION ADOPTED}

AMERICAN RESCUE PLAN 2021  
CONSENT CALENDAR

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

CHAIRMAN WEYLER: Okay. Moving on to Tab 8. Last one we have a question on is 272, and you will introduce yourself.

MILES GREENWAY, Interim Port Director, Pease Development Authority: Good morning. Miles Greenway, Intern Port Director.

CHAIRMAN WEYLER: Okay. This one was 271 or 272? Find my place. Yes, Representative Leishman for a question.

REP. LEISHMAN: Thank you, Mr. Chairman. Thanks for taking my question. So there has been some notoriety about this activity recently, and I did hear from Representative Grote from Rye looking for a commitment and transparency and more public participation which, I guess, maybe there's been some lacking thereof.

MR. GREENWAY: Thanks for the question. So we did address a little bit of that on the 8th at our last PDA Board meeting -- um -- of this month. Also, I'm working hand in hand and letting the Planning Board know for Rye what's happening, keeping them in contact with everyone. And we're going to -- we're in the process right now of having a couple of more public meetings not -- in-between now and the next Board meeting as well. So just trying to be as transparent as possible, as well as with the other project that's in Portsmouth, too, for the commercial fishing pier.

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REP. LEISHMAN: Okay. I guess that's all I have, Mr. Chairman.

CHAIRMAN WEYLER: Thank you. Discussions with the previous Director were about retail on -- on the Rye -- Rye Harbor. And thank you for the photos you sent us. It looked like parking would be a problem. And I remember he expressed that to me that, you know, you couldn't have retail there and still have parking for the fishermen and liable to fill up the parking lot and take their boats out and may not be any space left for retail. So wonder how we're dealing with that. Is there a project in mind? You going to enlarge the whole space, you going to make more parking or what? Thank you.

MR. GREENWAY: Thanks for the question, sir. So right now the commercial fishermen park over on the commercial pier side; haven't had any complaints about parking so far. But you're correct. If we move forward with the proposed plans, it would incorporate a little bit of the parking that we use right now for the recreational side and recreational fishing and those folks that are attending for the establishments there. So we're still working with the engineers and our staff to work through that with the parking.

CHAIRMAN WEYLER: Thank you. Further questions on the item? Seeing --

\*\* SEN. GRAY: Move to approve.

CHAIRMAN WEYLER: Seeing none. Motion to approve 24-272 by Senator Gray, second by Senator Bradley. Further discussion? Seeing none. You ready for the question? All in favor say aye? Opposed no? Okay. We're done with the Consent Calendar. We're moving on to the Regular Calendar.

\*\*\* {MOTION ADOPTED}

#### REGULAR CALENDAR

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(10) RSA 21-M:11-a, IV, Youth Development Center Claims Administration and Settlement Fund:

CHAIRMAN WEYLER: Under Tab 9, I think. Yeah, Tab 10. All right. First item is Youth Development Center Claims Administration and Settlement Fund. And you can -- you can sit on those chairs over there if you've got other people that want to have input if there's not enough room for them at the table. Yeah. You can sit --

JOHN FORMELLA, Attorney General, Office of Attorney General, Department of Justice: Okay. Thank you, Mr. Chair.

CHAIRMAN WEYLER: -- sit on the end there, and -- and -- and if you speak, remember to push the button for the microphone. Attorney General Formella, welcome.

ATTORNEY GENERAL FORMELLA: Thank you, Mr. Chair, Members of the Committee. For the record, John Formella, Attorney General. And joining me today to my right is Attorney Laura Raymond in the Civil Bureau at the Attorney General's Office. She has replaced Jenn Ramsey as the AG designee for the YDC claims process. So she's been spear-heading our efforts there. We're also joined this morning by Jenn Foley. She is General Counsel with the Administrator's Office. Matt Broadhead, Associate Attorney General in our office, head of the Division of Legal Counsel; and Tom Kaempfer, who is the Director of Claims at Operations for -- for the YDC Claims Process in the office.

So we know this is an important item and we wanted to make sure everyone who potentially might need to speak to it is here. Um -- I'm going to, if it would be helpful, in a minute I'll turn it over to Attorney Raymond to give you an overview; but I'll just start by sort of setting the context here.

We're here today to get approval to the revisions to the guidelines and the other documents for the YDC Claims Process. These revisions are really just to implement the revisions that we just made within this past legislative session. So, as you'll

recall, we had extensive negotiations with -- with claimants' counsel to come up with revisions to the YDC claims process that would result in the vast majority of the claimants coming through the process as opposed to going through litigation. So that bill passed in the last session.

After the bill was signed by the Governor in June, we've had a lot of discussions with claimants' counsel since then to come up with the revisions or these revisions to the guidelines. And you will have received a letter from Nixon-Peabody and -- and -- and Rilee & Associates that indicates that they are, I would say, supportive of these revisions. I don't want to -- I don't have the letter in front of me, but I think what they said is with these revisions while there was negotiation and they didn't get everything they wanted, we didn't get everything we wanted, this was a sufficient compromise for them to continue to feel that they could recommend this process to the vast majority of their clients. So that -- that is the product you see before you.

I certainly want to thank Nixon-Peabody and Rilee & Associates and all the attorneys involved there and all the other claimants' counsel for coming to the table and engaging in these negotiations. I want to thank everyone who's here today with me for the work on this, that the work that's been done so far and the work to come.

With that, I'm going to turn it over to Attorney Raymond just to give you an overview of the biggest pieces of these revisions, and then I'll certainly be here to answer questions as well. But Laura spearheaded the details of this. So I want to give her a chance to give you that overview.

CHAIRMAN WEYLER: For discussion purposes, the Committee, we're looking at both 261 and 262 which are very closely related. So if you have questions on either one, this is the moment; but go ahead and give us the explanation.

LAURA RAYMOND, ESQ., Attorney IV, Civil Bureau, Office of Attorney General Department of Justice: Thank you, and good morning.

CHAIRMAN WEYLER: Good morning.

ATTORNEY RAYMOND: So I would be happy to walk through in the order of our item the sort of overview of what the proposed revisions to these documents are. We've also provided to the Committee today a handout, a one-page handout that summarizes those changes to both the guidelines governing the value of claims, as well as the process. I believe those were just handed out to, hopefully, guide this overview as well.

SEN. GRAY: Just backup from the mic about an inch or two.

ATTORNEY RAYMOND: Sorry about that. Thank you. So, first, with respect to the claims process. As Attorney General Formella mentioned, the main driver of the proposed revisions there was the changes to the statute that passed in this most recent legislative session. So the changes there are really focused on updating some timelines to bring the claims process as it previously existed in line with those new amendments.

Another significant procedural change outlined on your handout is the fact that the Claims Administrator now has the discretion under the statute to determine whether to award payments from the fund in a lump sum or in installment payments over time. That is a change from the previous practice where the claimant had the discretion to make that election. So that is also reflected in the changes to the process. That will help, I think, ensure the stability and solvency of the fund over time for many more claimants to come.

We also, again, in looking at those time frames, we're looking to expedite certain parts of the claims process. To that end, the process also now allows for brief oral arguments by counsel at the end of a resolution proceeding. Again, a change to the previous process. One that I -- we've sort of been beta

testing, for lack of a better word, in resolution proceedings, and I think is going well so far and will ultimately result in an expedited process of awards being issued after follow -- following a resolution proceeding.

And, finally, the new statute, as amended, provides that instead of submitting a complete claim by the deadline of June 30th, 2025, claimants can instead submit a notice of claim form that is included with the item for approval today. And when a claimant submits that form, they are essentially putting the fund on notice that they intend to submit a claim, but maybe don't have all of their complete materials right now. And they have 60 days following the submission of that form to submit a completed claim. So that's also a change from the current process. So in lieu of filing a full complete claim by June 30th, 2025, they can also file a notice of claim by that date and still be extended 60 days to file their complete claim.

Those are sort of a high-level overview of the changes to the process. I would be happy to answer any questions about that specifically or continue through to the guidelines themselves.

CHAIRMAN WEYLER: Senator D'Allesandro for a question.

SEN. D'ALLESANDRO: Thank you. Thank you, Mr. Chairman. Thank you very much. Stuff you said this was -- was fine. Thank you. I did get the letter from the lawyers and it seems to me that they're in concurrence with the changes that have been made.

I would like to know the number of people who have filed claims. This number has been bounced around. I -- I think in the letter they talk about 1200. Somebody said about 1500. How many claims have been filed? What is the number of claims that we're dealing with at this time?

ATTORNEY RAYMOND: Yes. So that number as of August 14th, I believe, is 642. Miss Foley or Tom may have an updated number.

JENNIFER FOLEY, ESQ., General Counsel, YDC Administrator's Office: It's 632.

ATTORNEY RAYMOND: 632.

ATTORNEY GENERAL FORMELLA: And that's, just to clarify, that's claims in the claims process. Were you asking, Senator, about that and also about lawsuits filed or just claims in the claims process?

SEN. D'ALLESANDRO: The number of -- the number of individuals who are involved in the legal aspects of this. This is lawsuits and your administrative work.

ATTORNEY GENERAL FORMELLA: Yeah. I think lawsuits it's thirteen to fourteen hundred at this point. I don't have that exact number off the top of my head.

SEN. D'ALLESANDRO: So that's a -- that's a realistic number that's -- I've heard that a variety of numbers. I'd like to focus on what the real number is, as -- as I think the public should be aware of that. Obviously, when you look at that and when you look at what's happened in terms of the settlement, you got X number of dollars that are out the door. You're expecting, you know, an additional appropriation that's going to come. I think we should have at least an idea of how many cases we're dealing with.

ATTORNEY GENERAL FORMELLA: I think, Senator, when we get to June 30th, 2025, that will be the point where we get the final number of claims that will come through this process. You know, we -- we can -- we can make a projection of what we think it will be; but, you know, we -- we won't know the final number --

SEN. D'ALLESANDRO: Sure.

ATTORNEY GENERAL FORMELLA: -- until then.

SEN. D'ALLESANDRO: But I think the projection is extremely important because that projection's going to call for appropriation.

CHAIRMAN WEYLER: Yep.

SEN. D'ALLESANDRO: And some -- somebody around this table is going to have to make that appropriation.

ATTORNEY GENERAL FORMELLA: Yes. Well, and that -- that gets to, and this isn't necessarily a part of the guidelines and the process today, but that gets to, you know, the payment -- well, the payments over time are part of the process; but then the \$75 million cap per Fiscal Year.

So -- so, yes, we -- when we were going through the legislative process we discussed the fact that the sooner we have the deadline for the window to close, the sooner we will finally be able to say this is how many claims came into the process. This was the total amount claimed and, you know, based -- we've resolved about 200 claims now. The average award has been maintaining around \$500,000. So I think once we get the total number of claims in and we know that's -- that's it, we'll be able to make a projection sort of over how many years we're going to need to continue funding this given the cap of \$75 million per year.

SEN. D'ALLESANDRO: All right. Thank you. Thank you, Mr. Chair.

CHAIRMAN WEYLER: Representative Leishman for a question.

REP. LEISHMAN: Thank you, Mr. Chairman. I -- I had a few, but I'll certainly go through the Chair. On Page 12 there's a mention of a maximum of three hours for the discussion of a claim.

ATTORNEY RAYMOND: Hm-hum.

REP. LEISHMAN: What happens if it has to go over three hours? This is just a suggested guideline or -- or is this, in fact, that three hours the gavel comes down and that's it?

ATTORNEY RAYMOND: In my experience with resolution proceedings and -- and -- and having attended them and having gotten information about each one that has occurred, actually none have come close to three hours. That's because it's, you know, it's -- it's a very difficult conversation for the claimant, the victim, to have and it's not the intent, I think, of anyone in this process, either from our office or from the Administrator's Office, to continue to sort of compound that by dragging it on for the full three hours. They often don't go that long. I imagine if it had to, no one would object to a continuation of additional time.

REP. LEISHMAN: Further question?

CHAIRMAN WEYLER: Further question.

REP. LEISHMAN: I think it was on Page 22 in my notes here -- uh -- the payment out over time I think is up to ten years. Is that something you tried to get already or people willing to go that far out or --

ATTORNEY RAYMOND: So I can speak to that. We are starting to implement the considerations for that. Uh -- the claimants that I have seen information on so far, none have affirmatively expressed a -- a willingness to go for a full ten years; but many have expressed a willingness to do some sort of payment plan. That being said, the discretion to award that payment plan is vested in the Administrator, considering the claimant's financial circumstances and the other items delineated in the statute, such as health and things like that. But it is -- remains vested in the Administrator regardless.

REP. LEISHMAN: There's one --

ATTORNEY GENERAL FORMELLA: I would just add that we're in very early days for the new -- sort of the new provision that allows the Administrator to award these or make these awards in installments. So I think we'll be -- we'll be in a better place to -- to give you feedback on that in the months ahead.

REP. LEISHMAN: One final question, if I could, Mr. Chairman? Thank you. I know we're all sickened by what happened, you know, here with the decades and I looked at like the guidelines for the payouts for particular types of assault. Where did those guidelines -- I know we've talked about this in the past, and I think some suggestion was made, other states were looked at. Are these new baseline award amounts, are these new numbers that you've come up with or are they based on numbers that we've seen in the past?

ATTORNEY RAYMOND: So I can speak with respect to the new award values that were assigned in the guidelines themselves, which is the next document up on the discussion.

So for those dollar amounts, we did do some research into things like what claims for similar type of conduct have settled for in other states, within this state, and tried to, you know, develop a -- a baseline award amount that seemed appropriate in light of the conduct being alleged versus the conduct in the remainder of the guidelines, the dollar values for which had already been approved by the Committee. So it was sort of trying to, you know, place it in that matrix which already existed, considering a wide range of factors, including, you know, how often it occurred, the severity, all of those factors were considerations. And, in fact, those dollar figures were part of what was open to negotiation with claimants' counsel. And we did have many conversations, both with the Nixon-Peabody law firm about those values and what would be appropriate, as well as counsel for other claimants, too. So that was achieved with a broad measure of consensus, I would say.

REP. LEISHMAN: Thank you. Thank you, Mr. Chairman.

CHAIRMAN WEYLER: Other members? Senator Soucy.

SEN. SOUCY: Thank you, Mr. Chairman. Just one, if I may? I just wanted to clarify. The 632 number is all inclusive, so some of those may be withdrawn or deemed not worthy of following through the process. So 632 is everything presented to you?

ATTORNEY FOLEY: That's true, and some -- some have been resolved by now as well.

SEN. SOUCY: Great. Thank you.

ATTORNEY RAYMOND: Without any additional questions on the process, I would be happy to turn more fully to the guidelines. We've just begun discussing them; but, again, just to give you an overview of the major proposed changes to those documents.

The first was to address the new categories of abuse added by the Legislature in the most recent Amendments, specifically those were unlawful restraint, both isolated confinement and placement in physical, mechanical, or pharmaceutical restraints, both of those are defined as unlawful restraint under the new statute.

Also, unlawful strip search, intentional infliction of emotional distress, reckless conduct, criminal threatening, and invasion of privacy. So we slotted all of those new categories of compensable abuse into the existing framework of the guidelines per the mandate in the new statute. There's also a mandate in that amended statute to provide compensation for egregious sexual abuse. So we included that definition in the guidelines as well and explained the standard for compensation there.

Finally, the other major change was just to update the aggravating factors that are found near the end of the guidelines that can increase an award if certain things take place. The statute added a couple new categories of aggravating factors, mainly a greater impact of the abuse on the claimant as

compared to others similarly situated, subjection to multiple forms of sexual and other abuse simultaneously, and participation by more than one actor physically in an act of sexual or other abuse.

So those were the main changes to those guidelines there. Again, would be happy to take any additional questions from the Committee Members about those.

CHAIRMAN WEYLER: I think you really opened the door or at least the Legislature did by adding this other and including solitary confinement. This opens the door for the Secure Housing Unit and the Prison where all of the people there are in solitary confinement 23 hours a day. If we think that's compensable through a lawsuit, we're really in trouble. All those people could go and get these same lawyers and come back and sue us saying, oh, I -- I was really tortured by the four years I spent in solitary confinement. This -- this really opens the door.

And another thing that disturbs me, and it supposedly is left to the Attorney General, is why we don't more widely use lie detectors. My friends in law enforcement really put a lot of faith in them, and you might eliminate a whole bunch of these people if they couldn't pass a lie detector test and that would be a lot quicker than the three hours that you're going to -- might spend on all these questions on all the people involved. It seems like it ought to be an automatic review that everybody goes through this. And I -- and supposedly it's left to your authority to do this, and I wondered why you haven't asked for it.

ATTORNEY GENERAL FORMELLA: So I'll respond to both of those points, Mr. Chair. The first, just to sort of opening the door to solitary confinement or intentional infliction of emotional distress and other incarceration settings like the Prison, I just point out a couple things.

One, you know, this -- this is -- what we are talking about here, the cases we are talking about here are unique because when these things occurred these individuals were kids. So kids, yes, they were in a juvenile detention facility, but they were kids for whom, you know, the State was not -- we weren't just -- the intention was not just to lock them up, but to also to rehabilitate them, to get them services, get them treatment. So I would point out that first.

Second, the -- the compensable solitary confinement for purposes of this process, it's only compensable if there wasn't some legitimate basis or reason or it was -- or it's only compensable if it was excessive. So it's not to say that any time someone might have been placed in solitary confinement that would be compensable. It's -- if there wasn't -- I mean, I'm paraphrasing. So -- so I want to be a little careful, but basically it has to be that there wasn't a legitimate basis or some other -- some other good reason for the solitary confinement.

To your point on the lie detector test, I mean, it -- it really -- that is just part of the overall consideration of this process in balancing the -- the need to, you know, have some level of verification and investigation of these claims with -- with the need to recognize that we're talking about individuals who -- who were victims of physical and sexual abuse when they were children. We certainly would never, if someone came to law enforcement and said that they had been abused as a child, I mean, not even as an adult but as a child, we certainly would not put them through a lie detector test. It's just not how we -- how we treat victims of sexual abuse especially. But we -- we absolutely would not do that if we're talking about child victims. And -- and we have other ways, especially in the law enforcement context, to look to verify whether someone's telling the truth. We have -- there's other interview techniques.

There's been a lot of study in work put into those techniques over -- over many years and decades in -- in -- in

the law enforcement community; but -- but we wouldn't use lie detector tests in that context. And I think, you know, in this context where we're trying to balance the need to -- to, you know, do some verification investigation with the need to respect the fact that these are -- these are victims of physical and sexual abuse and victims who suffered this abuse as kids, a lie detector test just isn't -- isn't something that I think would be appropriate, especially for a process like this.

It really wouldn't be appropriate in almost any context, but this is meant to be a process where it's not litigation. So we're not -- we're not doing the sort of in-depth type of discovery and investigation that would happen in litigation over a period of a couple years before you got to trial. It's -- it's -- it's a more streamline, simpler process, and the tradeoff is that while we may not do as much in-depth investigation and verification, there's a cap on the damages you can get. And, you know, I think the first YDC trial showed, and putting aside -- I won't get into the details -- putting aside all of the issues we're litigating this post-trial about what -- what the damages cap should be and how the law works on that, I mean, I think you saw where -- where a damages number can be, in a case like that, and I think that demonstrates the tradeoff we -- we're making in this process.

CHAIRMAN WEYLER: When you go to trial, I wish you'd emphasize to the jury where this money is coming from with some of these ridiculous claims. It's not coming from the actors who probably are still collecting pensions. Very few of them -- I think one has been up for trial so far and I think you got 11 people identified. They all should have been in trial by now and been charged with these abuses and should perhaps confront some of these people that they abused as youth.

And you should also make the point that a person who worked hard all their life and kept their nose clean and prepared themselves for a good career at the end of a career might have \$2 million that they earned in their lifetime. You're giving \$2 million to people who didn't obey the rules, probably didn't

have a -- a good career, and yet they're being rewarded to some extent for suffering, which many people have suffered without being able to get compensated in family situations and so on. It just seems way out of line with what these juries are reward -- are rewarding, and I'm wondering if you're bringing any semblance of truth to them that this money is coming out of you folks, because it's coming out of the taxes that the government collects. It's not coming out of the actors, and we are giving these huge awards. What do they prove? The lawyers get rich and the person wastes the money. And I think that -- that point should be made a little more. Thank you.

ATTORNEY GENERAL FORMELLA: I can just assure you, Mr. Chair, for the cases that do go to trial, you know, we certainly are doing everything we can to defend them. And -- and I would -- I -- I feel pretty confident in saying that I don't think we've gotten -- to the extent the office has gotten criticism for the cases that we're litigating, it has not been that we haven't been pushing hard enough to defend them. If the cases go to trial, we are thinking long and hard about what the best way is to defend them and the most effective way is to defend them and what the best argument and presentation -- arguments and presentations we can make to -- to a jury are. So I -- I can assure you of that.

CHAIRMAN WEYLER: Thank you. Further from the Committee?

SEN. GRAY: Mr. Chair.

CHAIRMAN WEYLER: Senator Gray.

SEN. GRAY: I'm kind of uncomfortable in some of the things that we've said here. Okay. We've passed legislation and right now we're -- has that legislation been truthfully and, you know, fulfilled in -- in the documents and for us. Okay. So, again, you know, we may want to do some other changes in legislation, but right now is not the time to -- to do that. Right now we should be looking at the document, does it fulfill the

requirements that we put in the legislation and then move forward.

CHAIRMAN WEYLER: Further questions from the Committee Members? Senator Bradley.

\*\* SEN. BRADLEY: Uh -- yes. Thank you. First of all, I'd like to move both items and then speak to them, if I can.

SEN. GRAY: Second.

CHAIRMAN WEYLER: Motion and a second. Further discussion? Representative Bradley. Senator Bradley.

SEN. BRADLEY: Thank you. So I think kudos to John, all of the attorneys that are here, to the Governor, to our friend Karen Umberger who sponsored House Bill 1677. This is a very difficult, sad, and awful chapter in New Hampshire history. The trial, the *Meehan* trial showed how bad the abuse was. A jury, you know, found a settlement of a huge amount of money. Um -- the problems existed.

Both pieces of legislation, 591 and 1677, worked assiduously to protect victims because there are real victims here; victims of abuse in the State care. And as the Attorney General's Office and Attorney Broderick and his capable staff have worked through the 200 cases that have been settled, we've actually learned quite a bit, and the legislation that I believe we all voted for, certainly in the Senate we did, and I believe in the House it was passed on a voice vote, also has a responsibility to protect the long-term financial viability of the state.

So the point that Representative Leishman earlier made about structured settlements, I think it's important to remember that there's a 5% interest payment for any structured settlement is -- is left in the authority of admin -- Administrator Broderick. And I think the whole process has tried to balance those issues, protecting the victims and a victim centric

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approach, but at the same time the long-term viability for the State. This is likely to be a 7 to 10-year process at -- at \$75 million a budget year in every Fiscal Year. I think this is a long-term issue that we're trying to make the best out of a very bad situation for doing what's right for victims, but also protecting the State. And I think all of you deserve a lot of credit for that.

You know, the letter that, John, you didn't have in front of you that I have from, you know, Rus Rilee and Dave Vicinanza does talk about, you know, the collaboration, the consensus and not everybody got everything they wanted. It was the same thing in Senate Bill 591, but people came together because it just -- it has to be done, I guess, is the best way of saying it.

And so I think it's important that those of us that are, you know, that voted for the legislation recognize this. I went through, you know, the 50 or so pages of, you know, the new guidelines. It really means a lot to know that the Administrator, the Attorney General's Office and, you know, the lead counsels have all come together on it in the same way that 591 did. So that's why I think we should move forward, approve these guidelines, get back to, you know, dealing with the at least 432 other cases that are in front of you and probably, hopefully, the vast majority of the other ones and do your job, and we should trust the process. And this is why I know there's been questions about, you know, the extent of the cost of administering this.

And the point that you, Mr. Chairman, raised is a very appropriate one of verification. And that's why it's important, in my opinion, that Attorney Broderick have the necessary staff to do what needs to be done to, A, protect the victims, but also vet the testimony. And I think so far so good. It is a very difficult situation, one that obviously none of us wish would have ever happened, totally needs to be prevented in the future, and try to put this very sad chapter of New Hampshire history behind us. Thank you, Mr. Chair.

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CHAIRMAN WEYLER: Further discussion from Committee Members? We have a motion and a second to adopt the items 261 and 262. There being no further discussion, all in favor say aye? Opposed no? Those items are adopted.

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

CHAIRMAN WEYLER: And we're moving on to --

ATTORNEY GENERAL FORMELLA: Thank you.

**(11) RSA 362-F:10, I, Renewable Energy Fund:**

CHAIRMAN WEYLER: Thank you. Item 11, Renewable Energy Fund, Department of Energy. Tab 11, Item 24-242. Are there any questions on this item?

(Inaudible).

CHAIRMAN WEYLER: Motion by Representative Leishman to approve, second by Senator D'Allesandro. Further discussion? Seeing none. All in favor say aye? Opposed no? The item is adopted.

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

**(12) Miscellaneous:**

**(13) Informational Materials:**

CHAIRMAN WEYLER: Okay. Do we have anything else on the agenda that needs a vote? Mr. Kane.

MR. KANE: Yes, you have two late items --

CHAIRMAN WEYLER: Yes.

MR. KANE: -- that need action and then one informational item. The first late item being 24-273, request Department of Health and Human Services to accept \$6 million in ARPA funds.

\*\* SEN. GRAY: Move to approve.

SEN. BRADLEY: Second.

REP. EDWARDS: Questions?

CHAIRMAN WEYLER: Motion by Senator Gray, second by Senator Bradley to approve the Item 273. Question from Representative Edwards? Is there someone here that can answer? Representative Edwards.

REP. EDWARDS: I -- I may have spoke too -- too quickly. I'm interested in one -- the new late item that has the \$6 million of ARPA money. Is this it?

CHAIRMAN WEYLER: This is it.

REP. EDWARDS: Okay. So -- um -- so hi. So my question on this is that we had established, I think - by we I mean the Governor and the Royal We from there -- the principle that we should take one-time money and spend it on one-time investments. And my simple reading of this is that we're -- we're taking this money and augmenting sort of an operational capability. And if that's -- if that's wrong, I just need to be told I'm wrong. And -- and, two, if I'm not wrong, I'd like to know if -- if we're setting ourselves up for failure because this money won't be available, isn't presumed to be available in the future budget cycles. Are we -- are we inflating the -- the budgets of the -- of our Federally Qualified Health Facilities and we're not going to be able to sustain it? So those -- it's kind of a conversational question.

PATRICIA TILLEY, Associate Commissioner, Department of Health and Human Services: Good morning. Trish Tilley. I'm the Associate Commissioner at the New Hampshire Department of

Health and Human Services. Thank you so much for that question, Representative Edwards.

So you're right, that has been the policy moving forward is one-time money for one-time events. It has also been the practice to use some of these ARPA dollars to fill the holes for operational losses experienced during the COVID-19 pandemic. And so the Federally Qualified Health Centers have demonstrated that they have had some operational impacts and these funds will help fill those losses.

To your forward thinking question around like, okay, so we fill the bucket, what happens next, is a part of these funds will be used by the Federally Qualified Health Centers to determine the sustainability plan for financing moving forward. They had some hits in the way that the entire health care system were -- had impacts during the pandemic; but, in particular, because the FQHCs are open to all, they have -- their charge is to serve the uninsured, the underinsured, all comers who walk in the door. They had a disproportional impact. They are also having some other structural issues from some federal constraints around things like 340-B funding and some other pieces. And, of course, they've been impacted by staffing in the way that every organization, especially every health care organization has been impacted.

So these funds will be awarded to them on a need basis, looking at their losses in a very similar way that we did with the Community Mental Health Centers, which again is another one of our safety net services. So we want to be able to have them keep their doors open. That's -- that's good business for all of us here. We have to have the FQHCs sustained within the state or else it would have a catastrophic effect on our entire health care systems. We want to keep the doors open. We also want them looking forward to figuring out what's the best path moving from this day forward in terms of their sustainability plans and their finance plans.

REP. EDWARDS: Follow-up.

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CHAIRMAN WEYLER: Follow-up.

REP. EDWARDS: All right. So I remain concerned that we're spending long-term money on operational items. The -- the pandemic has been over for a while and I don't know how much longer we can justify trying to repair that, but -- but -- but you're working it.

My -- my other -- my other question is, is this -- is this \$6 million the result of a top down? This is the money we have, let's put it out there. Or is it the result of a bottoms-up needs assessment to determine what the -- what the requirement is for the \$6 million? It looks more like top down, let's spend what is available.

MS. TILLEY: Thank you. I'll take that question as well. So we didn't propose this. Again, this request came directly from the Federally Qualified Health Centers to GOFERR. They put forward a proposal. They put forward their budgets. They put forward their financial needs, and this was determined the amount of money that was needed.

So I -- I'm sure that there was other and, you know, Commissioner Caswell can talk more about that process; but they put -- the Federally Qualified Health Centers put a proposal forward saying these are our needs and this is our plan to address those needs.

REP. EDWARDS: Oh, okay. So one last one. So I guess it's Mr. Caswell's question. It just seems to me that you all are allocating the \$6 million, and it strikes me that we have all of these open construction projects that are probably doing cost overruns, and I'm just -- I'm just wondering if how confident you are that this is the best way to allocate \$6 million?

MS. TILLEY: I am confident that by investing in our Federally Qualified Health Centers we will save money in the

long-term from Uncompensated Care, in other areas of our health care system.

CHAIRMAN WEYLER: Yes. If there's no questions for these people, we'll ask Mr. Caswell to come forward and comment on this. Director Caswell.

TAYLOR CASWELL, Commissioner, Department of Business and Economic Affairs: Good morning. Taylor Caswell. Representative Edwards, I can jump right into your question. So this is a request that's been pending at GOFERR for several months. We haven't had the ability to put the money that they had initially requested, which I believe is closer to \$8 million was the total request from the health centers. Our staff working with HHS did do an assessment of the need of this program, and I think Commissioner Tilley spoke very well to the outcomes of that in terms of when we determine the need for these operational investments, which you are correct, we have avoided at great -- at great effort. But in this instance it is definitely related to Covid impacts for the health centers themselves. And I think that our -- my understanding is that there are other accommodations on the federal side that should be coming in the future that will help offset these long-term impacts. So these are one-time operational impacts that we felt were necessary to make an investment in at this time.

REP. EDWARDS: So thank you for that.

CHAIRMAN WEYLER: Follow-up.

**\*\*** REP. EDWARDS: It looks like Senator Bradley may have a question; but if there's no other commentary, I'd move the item.

SEN. BRADLEY: Oh.

CHAIRMAN WEYLER: Yeah, we already have a motion and a second. All right. If there's no further discussion, the question is to adopt item 24-273.

SEN. BRADLEY: Move the item.

REP. ERF: It's already been moved and seconded.

CHAIRMAN WEYLER: We have a motion and a second. So I'm just -- is -- is there any further discussion? Seeing none. If you're ready for the question, all in favor say aye? Opposed no? Item 24-273 is adopted.

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

CHAIRMAN WEYLER: We are moving on to Item 24-274, Department of Corrections.

**\*\*** REP. LEISHMAN: Move the item.

CHAIRMAN WEYLER: Senator Leishman moves the item. Is there a second?

REP. EDWARDS: Second.

CHAIRMAN WEYLER: Is there any further discussion? Seeing none, are you ready for the question? All in favor say aye? Opposed no? That item is adopted.

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

CHAIRMAN WEYLER: Next late item was 275. Again, we're back to Mr. Caswell, Emergency Relief and Governor's Office of Emergency Relief and Recovery. This is telling where the money's going and reallocations. It's quite extensive and it's an informational item so we do not need to have any vote. Are there any questions on the item? No questions, and there's no need to vote on that.

So we are moving along to the last page. And we've already planned for the next meeting of September 13th at 10:00 a.m. Is there any problem with that? Senator Birdsell.

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REGINA BIRDSELL, State Senator, Senate District #19: On the informational materials.

CHAIRMAN WEYLER: Yes, any questions?

SEN. BIRDSELL: Can I still have a question from the Commissioner Caswell?

CHAIRMAN WEYLER: Okay.

SEN. BIRDSELL: On items 243 and 244, and that's on tourism.

MR. CASWELL: Sorry. I thought we were still doing GOFERR. Sorry.

SEN. BIRDSELL: No. I just have a question. Now I know that we've kind of been through this before. We have the Irish -- Irish New Hampshire Trade Council. And in the legislation they were -- you were authorized to try and do some fund raising to support that? Have you been able to do that?

MR. CASWELL: Not to date, ma'am, no. We don't have the resources available for -- for any -- anything related to that Council at this point.

SEN. BIRDSELL: So anyone who's assigned and going to the caucus will not get monetary support?

MR. CASWELL: I'm not sure I know what the -- what you're referring to.

SEN. BIRDSELL: There's a legislative caucus next week, and there are members that are planning on attending. Is there any funds available to reimburse them for their travels?

MR. CASWELL: Not -- not in my budget, ma'am. No.

SEN. BIRDSELL: Thank you.

CHAIRMAN WEYLER: Okay. Representative Wallner had a question on -- was it item FIS 24-260?

MARY JANE WALLNER, State Representative, Merrimack County, District #19: Yes, thank you. Thank you, Mr. Chairman. Maybe Mr. White could help me with this. So this was the item that was withdrawn. And -- um -- I just wondered if we will see this item come before us again. And if it does, will it have the same purpose as the item that was withdrawn?

MR. WHITE: Sure. So we're currently reviewing that item just to make -- just to review some potential technical changes. There are no impacts to services. I just want to make that very clear. And we'll determine in the future if we'll need to bring that back. But there are no impact to services. I just want to make that abundantly clear as possible.

REP. WALLNER: Thank you.

MR. WHITE: Of course.

**(14) Date of Next Meeting and Adjournment:**

CHAIRMAN WEYLER: Any further questions from the Committee on informational items? Seeing none. Are we ready to discuss the next meeting as I brought up September 13th at 10:00 a.m.? Any problems with that? Okay. That will -- will be our plan to meet on September 13th at 10 o'clock. Anything else, Mr. Kane?

MR. KANE: No.

CHAIRMAN WEYLER: I'll entertain a motion to adjourn.

**\*\*** SEN. BIRDSELL: So move.

CHAIRMAN WEYLER: Motion to adjourn and a second. All in favor say aye? Opposed no? We are adjourned.

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

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CHAIRMAN WEYLER: Thank you all for your attendance and for listening to all these removals.

(Committee meeting adjourned.)

**C E R T I F I C A T E**

I, Cecelia A. Trask, a Licensed Court Reporter, do hereby certify that the foregoing is a correct transcript from the YouTube audio/video recording of the proceeding in the above-entitled matter to the best of my professional skill and ability.

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Cecelia A. Trask  
N.H. Licensed Court Reporter - #00047

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