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Replacement Page

State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street – Room 120
Concord, New Hampshire 03301

VICKI V. QUIRAM
Commissioner
(603)-271-3201

JOSEPH B. BOUCHARD
Assistant Commissioner
(603)-271-3204

July 14, 2016

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

Approved by Fiscal Committee 8/3/16 Date

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 14:30-a, VI and RSA 21-I:30-c, authorize the Department of Administrative Services (DAS), Risk Management Unit (RMU), to reduce Retiree Health Benefit Reserve Funds from 5% to 4%, a reduction in the amount of $800,000 of projected annual claims and administrative expenses upon the date of Fiscal Committee and Governor and Executive Council Approval.

EXPLANATION

DAS requests authorization for the release of $800,000 from the Retiree Health Benefit Statutory Reserve Fund to pay for a Long Term Retiree Health Benefit Study and the projected FY17 retiree health benefit budget shortfall. In addition, DAS requests that the Fiscal Committee to provide notice to the public and schedule a public hearing for review and determination of changes to the Retiree Health Benefit plan design and the premium contribution percentage paid for by Under 65/non-Medicare retirees.

Background

The attached companion **DAS Informational Item dated July 14, 2016** details the history of a projected deficit for this biennium in the amount of $550,000. DAS recently updated the projected deficit from $700,000 to $550,000 based on the Fiscal Committee's approval of the transfer of $50,000 from the FY 16 DAS utility budget to the Retiree Health Benefits account (FIS 16-106) and based on the anticipated approval of a companion item to this Requested Actions item that requests the transfer of $100,000 from the FY 17 DAS utility budget. This deficit includes an adjusted projected health care claims shortfall of $250,000 plus an additional $300,000 to pay for a Retiree Health Benefits Long Term Study. Requested action #1 above also asks that an additional $250,000 be released into available Retiree surplus should operating expenses fluctuate necessitating the temporary use of additional funding.

In addition, in order to meet the health care needs of retirees in the FY 18/19 biennium, DAS projects it will require an additional $30 million ($18 million General Funds/$12 million other funds) in its budget, assuming that there are no changes to the Retiree Health Benefit plan. This $30 million includes filling the budget deficit or hole created by this biennium's use of one-time surplus funds in the amount of $5.4 million, and cost and head count growth in FYs 18/19.

As DAS has discussed with the Fiscal Committee and the legislature for more than one year, there are several options available to the legislature to pay for the projected deficit in this biennium as well as for the projected $30 million dollar increase in the FY18/19 biennium. At the most simple level, those options distill to: (1) increasing the budget or otherwise making funds available to pay for the increased Retiree Health Benefits needs, or (2) making premium contribution percentage and/or plan design changes using the existing tools available to DAS and the Fiscal Committee by increasing deductibles, copays, maximum out-of-pocket amounts and coinsurance amounts or other elements of plan design, or (3) passing laws to make new tools available to DAS and the Fiscal Committee, such as an Over 65/Medicare eligible premium contribution to balance the need for increased funding with providing the best possible health benefits to retirees should the budget not cover the Retiree Health benefit need.

There is also a tool that can reduce the impact of changes to retirees that is available to DAS and the Fiscal Committee that is not found in the law: time. The sooner changes are made to plan design (deductibles, copays etc.) and premium contribution percentages, the less drastic those changes need to be because the changes can be spread out over more months. There is also an option to wait and see how claims experience actually develops, an option that could prove to be risky should claims experience turn out to be negative. Delaying plan design or premium contribution changes costs time and results in deeper cuts for retiree health benefit plan members.

The attached flow charts (**See attached Long Term Study Flow Chart and Retiree Health Benefits Budget FY18/19 Flow Chart**) are intended to assist DAS and the Fiscal Committee with the analysis of the options available to manage the challenges to the Retiree Health Benefit plan and budget. With respect to funding the important long term study ($300,000) and claims deficit ($250,000 assuming approval of the FY 17 transfer mentioned above), the options are to meet these needs by paying for them now by using health care reserves or waiting to see how health care claims experience develops. If claims experience proves to be better than projected, then the problem resolves itself. If claims experience proves to be as projected ($250,000 projected claims deficit) or worse than projected, then the options are to fund the FY 17 deficit through the FY 18/19 budget, or approve transfer(s) of budget funding, or approve future plan design and premium contribution changes.

With respect to the increased need for $30 million, the options are to fund Retiree Health Benefits needs fully in the FY 18/19 budget or to make changes to plan design and premium contribution percentages. Premium contribution percentages can be changed at any point during a calendar year. A decision to change the premium contribution percentage requires adequate time to notify retirees about the change and time to implement the change through the New Hampshire Retirement System that withholds premiums from retiree's pension checks. Plan design changes that involve changes to the coverage provided, or to out-of-pocket costs such as deductibles, copays, coinsurance and other maximums, must be made on a calendar year basis beginning on January 1st of a year and must take into account federal requirements for adequate notice of change to retirees. This means that decisions need to be made no later than mid-October for changes to be effective on January 1 of a calendar year.

The Study for Long Term Redesign of the Retiree Health Benefit Plan

Among the many pressures on the Retiree Health Benefits budget, one is that DAS must administer these benefits within the funds appropriated by the legislature. RSA 21-I:30. In FY 16/17, the budget for retiree health benefits was funded at 100% and 103% of FY 15, $5.5 million less than then projected expenses; increases in the pharmacy trend resulted in a further projected shortfall of $4.0 million and a $1 million reduction in a federal subsidy to the Medicare Part D Employer Group Waiver Program (EGWP) resulted in the projected $10.6 million deficit for this biennium. Additionally, the State faces a "silver tsunami" of retirees. Although there is no crystal ball to predict when employees will retire, 33% of state employees are eligible to retire today; 50% of state retirees are eligible to retire in five years. Even with the many cost saving measures that have been put into place, retiree health costs will continue to increase. DAS is projecting a need for an additional $30 million ($18 million General Funds/$12 million Other Funds) over and above the FY 16/17 funding levels. Over the long term, the current benefit structure is not sustainable.

As these facts were discussed during the 2015 Fiscal Committee process and during the 2016 legislative process, there was a sense of urgency and concurrence to begin a long term study of retiree health benefits options. It is essential for the State to research and examine its options for maintaining the best possible benefits for retirees. Pursuant to RSA 21-I:28, the DAS Commissioner has the authority to enter into contracts necessary to administer the health plan and studying options for the long term sustainability of the program falls squarely within this authority.

Pursuant to a contract approved by Governor and Council effective January 1, 2015, DAS has been working with The Segal Company (Segal), the medical consultant to the State's health benefit program to examine options for long term redesign of the retiree health benefit plan. DAS informed the legislature and the Fiscal Committee (FIS 15-280 and FIS 16-033) that work on the long term study was underway. In fact, during the legislative session, several legislators who are members of the Fiscal Committee expressed interest in completion of the long term study and DAS, assuming passage of legislation funding the study, projected the study could be completed as early as September, 2016. However, after the retiree health bills authorizing the payment of the study from the Retiree Health Benefits account failed, DAS directed Segal to cease all work on the study until funding to pay for the study is identified. DAS has already paid Segal approximately $109,000 to fund its work on the study; DAS estimates that a completed study will cost approximately $300,000.

Options to pay for the study include paying for it out of Retiree Health Benefits reserve funds, funds that are available to DAS now. In the alternative, DAS could wait to see how claims experience develops and if funding becomes available within the existing budget, or in the future budget, or by making changes to the plan design and/or premium contribution.

DAS' recommendation is to authorize funding from the Retiree Health Reserve to pay for the study now. The study will be an extremely important tool available to the governor, legislature and DAS as the future of Retiree Health Benefits is discussed.

Health Fund Reserves

Pursuant to RSA 21-I:30-b, DAS is required to maintain a minimum reserve fund in the amount of 3% of the projected claims and administrative expenses for health benefits for a fiscal year. Chapter 276:164(a) of HB 2

(Laws of 2015), reduced this minimum reserve from 5% to 3%. As previously reported to the Fiscal Committee, See FIS 16-085, DAS applied this reserve reduction to 3% to the Active, Trooper and Dental accounts only, and DAS made the determination to maintain the Retiree Health Benefit reserve at 5% while still meeting the requirements of the FY 16 surplus statements.

Additionally, because of the volatility in pharmacy costs, after complying with the requirements of the Surplus Statements, DAS reported its decision to restore the reserve level for Actives, a group of approximately 28,000 members, to 5%. DAS also reported the restoration of the Trooper reserve to 100% because the Trooper group of approximately 900 total members is relatively small compared to the Active group and therefore it is more sensitive to adverse claims experience. See FIS 16-033 and FIS 16-085.

DAS determined that it was prudent to maintain the Retiree Health Benefit reserve at the 5% level given the volatility of prescription drug costs and uncertainty about the numbers of individuals who may retire. The 5% Retiree Health Benefit reserve equals approximately $4 million at this time.

Use of the Retiree Health Benefit Reserves

During the 2016 legislative session, as retiree health bills were being debated, including discussions about how DAS might obtain funds to address the projected deficit in the FY 16/17 Retiree Health Benefits budget (**See attached DAS Informational Item dated July 14, 2016**), DAS obtained an opinion from the Department of Justice (DOJ) and reported in several legislative hearings that DAS has the authority under RSA 21-I:30-c to use the Retiree Health Benefit Statutory Reserve to cover the projected claims shortfall. RSA 21-I: 30-c states:

> "In the event that the medical and surgical benefits under RSA 21-I: 30 are provided using a self-funded alternative, a reserve fund shall be established to protect the state from unexpected losses and self-insured losses and related expenses incurred in the provision of such a plan. Such reserve fund shall be administered by the commissioner of administrative services and shall be nonlapsing."

Thus, the purposes for which the reserves may be used are quite broad, ranging from unexpected losses to expenses related to administration of the health benefit plan, such as the long term study.

After the 2016 legislative session ended without the passage of any of the bills that contained important proposed tools (such as the long term retiree health study, funding to support the projected retiree health deficit, and a premium contribution for Over 65/Medicare eligible retirees) to manage the Retiree Health Benefits budget in the near and long term,(**See attached DAS Informational Item dated July 14, 2016**), DAS requested a DOJ opinion to determine whether DAS could use reserve funds pay for the study. At that point in time, the DOJ reviewed RSA 21-I: 30-c and communicated to DAS that the reserves could properly be used to pay for the long term retiree study. However, the DOJ opinion distinguished between the proper use of reserve funds and the mechanism to employ reserve funds

This refined DOJ opinion was based on an analysis of RSA 21-1:30-b, RSA 21-1:30-c, and RSA 21-1:30-e, and advises DAS that the Statutory Reserve Fund, while nonlapsing, is not continually appropriated. ***See attached Letter from the Department of Justice dated July 18, 2016.*** As previously reported to the Fiscal Committee, DAS complied with the Surplus Statements by reducing Actives, Troopers and Dental reserves, See FIS 16-033.

DAS also informed the Fiscal Committee that it had subsequently restored reserve levels to 5% for Actives and 100% for Troopers. See FIS 16-085. Although the DOJ letter states that the recently passed HB 2 (Laws of 2016) authorized DAS to reduce the reserve to 3% and that DAS could use reserve funds in excess of 3% without further action from the Fiscal Committee, DAS believes that further communication with the Fiscal Committee is warranted given its present understanding of reserve levels.

Because it is important for DAS to maintain communication with the Fiscal Committee about the Retiree Health Benefits fund status, DAS is requesting Fiscal Committee and Governor and Executive Council release Retiree Health Benefit Reserve Funds (21-I:30-c) in the amount of $800,000. This request if approved would reduce the reserve level from 5% to 4% of annual projected claims and administrative expenses and would make these reserve funds available to DAS to provide the flexibility to pay for the long term study in addition to the projected and potentially unexpected claims shortfall. See attached DAS Informational Item dated July 14, 2016.

Public Hearing

SB 388 (Chapter 123, Laws of 2016) amended RSA 21-I:30, II provides that "any change in [the Retiree Health Benefits] plan [must be]approved by the fiscal committee of the general court, **after a duly noticed public hearing on any proposed changes to the plan is held before the fiscal committee.**"

In light of the $30 million increase required to meet the retiree health benefits need in FY 18 and FY 19 based on the current design, DAS believes it is important for the Fiscal Committee to plan for possible plan design and premium contribution changes by considering holding a duly noticed public hearing. The attached flow chart outlines different options available to the Fiscal Committee. Scheduling and conducting a public hearing will allow the Fiscal Committee to hear the retirees' concerns and ideas and position the Fiscal Committee to make decisions about changing the retiree health benefit plan design and premium contributions, taking into consideration the timing of those changes.

Should the Fiscal Committee decide to schedule a public hearing on proposed changes, DAS will be prepared at that hearing to offer options for changing the premium contribution percentage for Under 65/non-Medicare retirees, plan design changes such as out-of-pockets expenses associated with deductibles, copays, coinsurance and maximum out-of-pockets as well as other fundamental changes to the plan design such as implementing a defined contribution plan and changing the scope of coverage.

I am available to address any questions you may have.

Respectfully Submitted,

Vicki V. Quiram

Vicki V. Quiram
Commissioner

Attachments:

1. **DAS Informational Item dated July 14, 2016**

2. **Long Term Study Flow Chart**

3. **Retiree Health Benefits Budget FY18/19 Flow Chart**

4. **Letter from Department of Justice Dated July 18, 2016**

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July 14, 2016

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

Dear Representative Kurk:

INFORMATIONAL ITEM

In accordance with Chapter 319:32, Laws of 2003, State Employee Health Insurance; Administrative Services Reporting, I respectfully submit this report regarding the State's self-funded Health Benefits Plan (HBP).

A. **Program Activity:**

Cash Basis: The beginning Cumulative Cash Fund Balance as of July 1, 2015 was $51.2 million. To this balance subtract $11.4 million, which represents Revenue less Expenditures from July 1, 2015 through June 30, 2016. The Ending Cumulative Cash Fund Balance at June 30, 2016 is $39.9 million.

	FY 2016 (000's)
Cumulative Cash Fund Balance *(July 1, 2015)*	$ 51,240
Plus: Program Revenue Collected	$243,258
Less: Total Expenditures	$254,640
Revenue less Expenditures *(July 1 – June 30, 2016)*	$(11,382)
Cumulative Cash Fund Balance *(June 30, 2016)*	$39,858

Source: NH FIRST

Accrual Basis: The above amounts are cash basis only and do not take into consideration IBNR, statutory reserve, accounts payable or receivables. To arrive at a true fund balance as of June 30, 2016, we must start with the Cumulative Cash Fund Balance as of that date and add outstanding receivables earned and realized or realizable and payables incurred as of June 30, 2016. Then we must subtract the IBNR (Incurred but not Reported) reserve and the statutory reserve.

	FY2016	
Line Item	**Description**	***Total (000's)***
1	**Cumulative Cash Fund Balance *(June 30, 2016)***	**$ 39,858**
2	Add: Program Revenue Earned *(estimate as of June 30, 2016)*	$ 9,873
3	Less: Program Expenses Incurred *(estimate as of June 30, 2016)*	($ 8,190)
4	**Subtotal: Cumulative Accrual Fund Balance *(June 30, 2016)***	**$ 41,541**
5	Less: IBNR	($ 14,990)
6	Less: Statutory Reserve*	($ 17,066)
	**(Actives & Retiree Plans = 5% of FY16 Projected Expenses, Troopers Plan = 100% of FY16 Projected Expenses)*	
8	**Cumulative Accrual Fund Balance: Net of IBNR and Reserves *(June 30, 2016)***	**$ 9,485**

As indicated above, the HBP's cumulative accrual fund balance, net of IBNR and statutory reserves, as of June 30, 2016 is $9.5 million and encompasses surplus for actives and retirees.

It is important to note that working rates are set on a calendar year basis based on an average rate for the midpoint of the year. Accordingly, working rates are expected to generate a surplus at the beginning of the calendar year that may be spent down in the last six months of the year.

B. Retiree Health FY16/17 Budget Update:

As the Department of Administrative Services (DAS) has discussed with the Fiscal Committee at several meetings and in prior Informational Items, running a health benefit plan is complicated and unpredictable from month to month. Every month, the health benefit plan brings in revenue and every month it must pay the claims expenses based on the health services and prescription drugs required by our plan members. From month to month, the plan fund surplus goes up and down depending on claims experience, the number of enrolled members, and estimated revenues, including federal subsidies and rebates. The ideal position for the health benefit plan is to run just enough of a surplus to cover expenses should they rise above an average amount in a given month.

DAS is projecting a deficit in the Retiree Health Benefits budget for the biennium FY 16/17. In 2015, DAS projected a $10.6 million deficit in the Retiree Health Benefits budget and worked with the Fiscal Committee to make changes to the plan to assist with managing the budget. In November 2015, the Fiscal Committee approved prescription drug plan design changes totaling $2 million and also approved an increase in the Non-Medicare eligible retiree premium contribution totaling $2.8 million, addressing $4.8 million of a projected $10.6 million budget shortfall. When approving the plan design and premium contribution changes, the Fiscal Committee was aware there was a $5.4 million surplus in the Retiree Health Benefits account that was available to DAS to use toward the deficit. This left DAS with a projected deficit of $400,000 for claims expenses plus a $300,000 expenditure for a Long Term Retiree Health Study for a total projected deficit of $700,000. The below chart provides background on the FY16/17 biennium projected Retiree Health budget shortfall.

FY16/17 Retiree Health Budget	
Projected Expense	$153,300,000
Total Retiree Health Budget	$142,749,000
Retiree Health Budget Shortfall	**$10,600,000**
Rx Plan Design Changes	-$2,000,000
Retiree Premium Contribution (Increase to 17.5%)	-$2,800,000
Updated Retiree Health Budget Shortfall	$5,800,000
Long Term Study	$300,000
Total Biennium Projected Deficit	$6,100,000
Surplus	-$5,400,000
Projected Retiree Health Deficit	$700,000

In June 2016, of the projected $5.4 million in surplus to be used over the biennium, the retiree health account used $574,000 in retiree health surplus to fund normal monthly claims and administrative expenses. This was because in FY 16 DAS exhausted the General Funds appropriation in the Retiree Health Benefits budget and accordingly used $574,000 of surplus. Effective July 1, 2016, FY 17 funds are available to pay regular Retiree Health operating expenses. DAS expects to use Retiree Health Benefits surplus funds toward the end of FY 17 to pay for retiree health care.

The below chart details the DAS FY16 Retiree Health Budget and the actual FY16 Retiree Health Budget revenue and expenses. The Retiree Health Fund accounted for $69.9M in FY16 from all funding sources, but needed approximately $70.4M in funds in FY16 to break even during the fiscal year. Therefore, in June 2016 there was a decrease in the surplus in the retiree health account by $574,000 due to the budget shortfall. DAS is projecting to use the remaining $4.8M ($5.4M - $574,000) in surplus in May and June of FY17.

DAS Retiree Health FY16 Budget - AU 2903		
Revenue Sources	**FY16 Budget**	**Total FY16 Actual**
Other Funds (Self-Funded Agencies, NHRS Medical Subsidy, Retiree Prem. Cont. (17.5%)	$37,420,000	$37,390,000
General Funds	$32,412,000	$32,412,000
DAS Transfer from Utility Savings (GF)	$50,000	$50,000
Total Retiree Health FY16 Expense to AU2903	**$69,882,000**	**$69,852,000**
Use of Surplus		$574,000
Total Retiree Health FY16 Budget Need		**$70,426,000**

DAS recently updated the Retiree Health Benefits budget deficit projection from $700,000 to $650,000. This is because on June 24, 2016 the Fiscal Committee approved the transfer of $50,000 from the DAS utility budget to the Retiree Health Benefits budget. In further commitment of its support of Retiree Health Benefits, DAS is submitting a companion item to transfer $100,000 from the DAS utility budget to the Retiree Health Benefits budget. Assuming this transfer request is approved by the Fiscal Committee, this would lower the projected FY 17 Retiree Health Benefits deficit to $550,000.

C. Retiree Health Benefits Update: 2016 Legislation

There were multiple bills introduced or amended during the 2016 legislative session that addressed retiree health benefits. Of those bills, only one became law: SB 388.

Public Hearing Requirement

SB 388 (Chapter 123, Laws of 2016) amended RSA 21-I:30, II now provides that "any change in [the Retiree Health Benefits] plan [must be]approved by the fiscal committee of the general court, **after a duly noticed public hearing on any proposed changes to the plan is held before the fiscal committee.**"

Other Retiree Health Legislation

The following Retiree Health Benefits bills failed at various stages of the legislative process: SB 414, HB 1592, HB 1591 and SB 495. SB 485 was amended toward the end of the session to include the retiree health provisions but it too failed to pass. These bills, separately and in combination, contained three different but important proposed tools to manage Retiree Health Benefits and its budget: (1) a requirement that DAS complete a study long term options for the Retiree Health Benefit plan, (2) funding to assist DAS in paying the projected $700,000 deficit over the biennium, and (3) authority for DAS to request the Fiscal Committee approve a premium contribution for the Over 65/Medicare eligible retirees. As previously discussed, given that there are more than 9000 Over 65/Medicare eligible retirees, a premium contribution would be an important tool to balance future increases in deductibles, copays, coinsurance and maximum out-of-pocket expenses in a way that would best serve retirees, should budget allocations not cover the entire retiree health benefit need.

DAS and the Fiscal Committee emerge from the legislative session with limited tools to solve the funding problems within Retiree Health Benefits for FY17 as well as for FY 18/19 biennium, should budget allocations not cover the expected costs. Based on the current law, DAS has 3 options to bring to the Fiscal Committee for approval 1) increase the premium contribution of Under 65/Non-Medicare retirees (2) change the plan design of the medical and pharmacy benefits, including increases in copays and maximum out-of-pocket expenses, and (3) spend funds from the Retiree Health Benefits reserve to cover any shortfall in the retiree health benefits account for claims or other expenses such as the long term study.

I am available to address any questions you may have.

Respectfully Submitted,

Vicki V. Quiram

Vicki V. Quiram
Commissioner

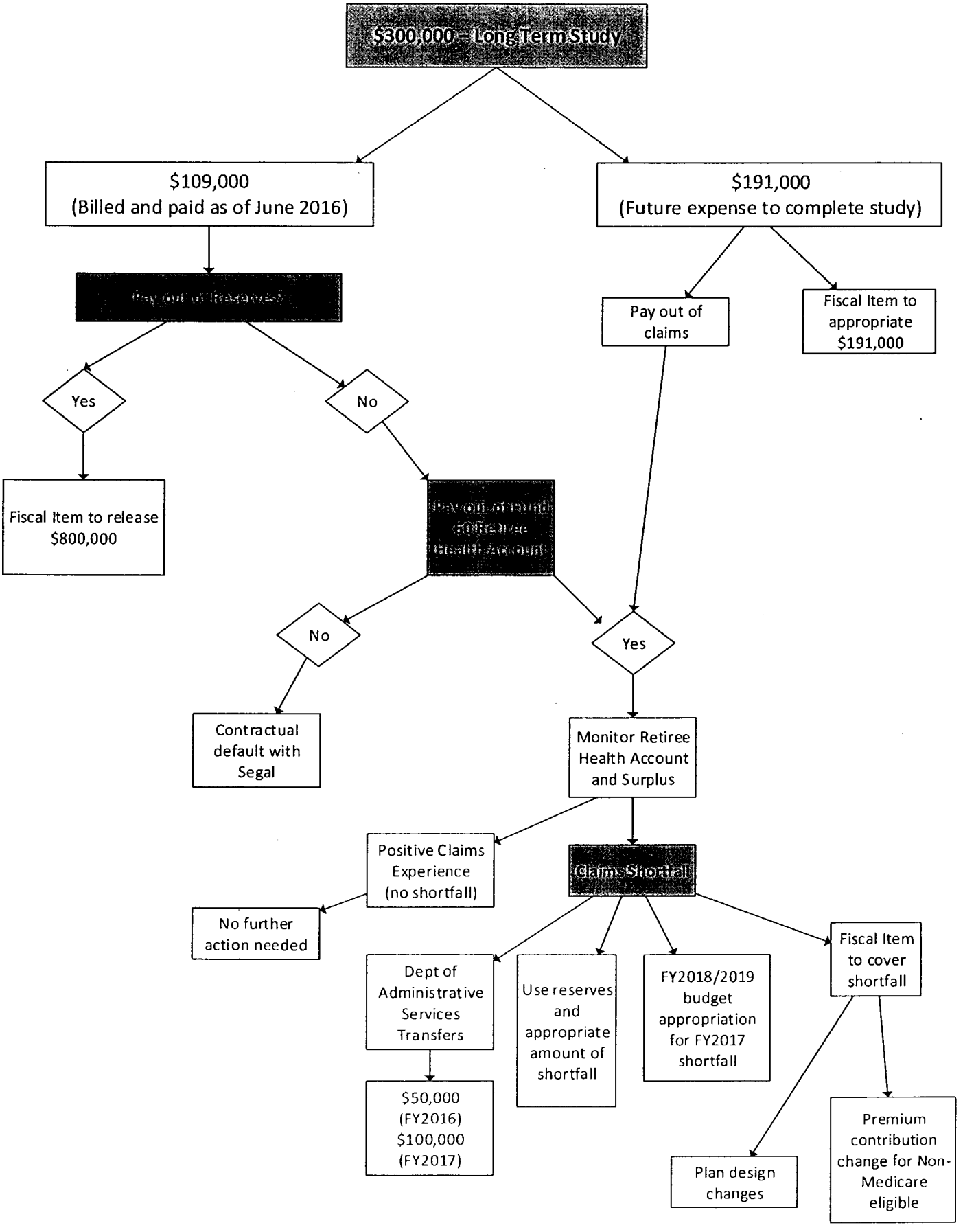
Attachment: Appendix A: Health and Dental Employee and Retiree Benefit Fund Detail

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1															
2	***PLAN***	**FY 2016**													
3	***Actives***	**Fund Balance**	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	**ALL FUNDS (FYTD)**
4	**Revenue**														
5	**Total Revenue**		$ 10,855,064	$ 13,390,410	$ 13,574,963	$ 20,233,268	$ 13,459,257	$ 13,578,996	$ 13,514,292	$ 13,546,482	$ 8,357,107	$ 20,121,336	$ 13,601,291	$ 13,627,577	$ 167,860,042
6															
7	**Expenditures**														
8	**Total Expenditures**		$ 17,540,840	$ 12,485,160	$ 11,302,519	$ 15,488,227	$ 14,408,479	$ 13,622,014	$ 15,588,899	$ 14,165,557	$ 17,115,644	$ 11,600,425	$ 12,713,806	$ 15,109,274	$ 171,140,847
9	**Net Plan Activity**		$ (6,685,777)	$ 905,250	$ 2,272,443	$ 4,745,041	$ (949,223)	$ (43,018)	$ (2,074,607)	$ (619,075)	$ (8,758,537)	$ 8,520,910	$ 887,485	$ (1,481,698)	$ (3,280,805)
10	**Cumulative Plan Activity**	$ 29,780,537	$ 23,094,760	$ 24,000,010	$ 26,272,454	$ 31,017,495	$ 30,068,272	$ 30,025,254	$ 27,950,646	$ 27,331,571	$ 18,573,034	$ 27,093,944	$ 27,981,429	$ 26,499,732	$ 26,499,732
11															
12	***Troopers***														
13	**Revenue**														
14	**Total Revenue**		$ 251,747	$ 273,679	$ 274,480	$ 406,974	$ 273,964	$ 272,793	$ 265,839	$ 272,442	$ 269,186	$ 402,117	$ 165,000	$ 268,017	$ 3,396,236
15															
16	**Expenditures**														
17	**Total Expenditures**		$ 318,157	$ 219,268	$ 273,515	$ 215,038	$ 231,018	$ 291,856	$ 253,857	$ 321,639	$ 349,961	$ 164,595	$ 192,396	$ 403,850	$ 3,235,150
18	**Net Plan Activity**		$ (66,410)	$ 54,411	$ 965	$ 191,936	$ 42,946	$ (19,063)	$ 11,982	$ (49,197)	$ (80,775)	$ 237,522	$ (27,396)	$ (135,834)	$ 161,086
19	**Cumulative Plan Activity**	$ 4,097,210	$ 4,030,800	$ 4,085,210	$ 4,086,175	$ 4,278,111	$ 4,321,057	$ 4,301,994	$ 4,313,976	$ 4,264,779	$ 4,184,004	$ 4,421,526	$ 4,394,131	$ 4,258,297	$ 4,258,297
20															
21	***Retiree - U65***														
22	**Revenue**														
23	**Total Revenue**		$ 2,188,157	$ 2,781,872	$ 2,748,985	$ 2,750,080	$ 20,558	$ 5,502,076	$ 18,756	$ 5,465,813	$ 2,811,285	$ 2,724,888	$ 2,699,113	$ 2,416,254	$ 32,127,836
24															
25	**Expenditures**														
26	**Total Expenditures**		$ 3,364,974	$ 2,491,801	$ 2,476,523	$ 3,167,095	$ 2,812,120	$ 3,068,822	$ 3,463,355	$ 2,744,481	$ 3,533,257	$ 2,732,011	$ 2,222,131	$ 2,663,121	$ 34,739,690
27	**Net Plan Activity**		$ (1,176,818)	$ 290,070	$ 272,463	$ (417,015)	$ (2,791,562)	$ 2,433,254	$ (3,444,598)	$ 2,721,332	$ (721,971)	$ (7,123)	$ 476,982	$ (246,867)	$ (2,611,854)
28	**Cumulative Plan Activity**	$ 14,858,564	$ 13,681,746	$ 13,971,817	$ 14,244,280	$ 13,827,264	$ 11,035,702	$ 13,468,956	$ 10,024,357	$ 12,745,689	$ 12,023,718	$ 12,016,595	$ 12,493,577	$ 12,246,710	$ 12,246,710
29															
30	***Retiree - O65***														
31	**Revenue**														
32	**Total Revenue**		(117,745)	3,125,886	3,364,798	3,195,278	302,710	6,849,564	262,854	7,562,700	3,688,731	3,603,304	4,825,457	3,210,555	39,874,092
33															
34	**Expenditures**														
35	**Total Expenditures**		4,404,185	3,628,320	2,688,694	4,217,136	5,170,118	3,366,594	4,056,906	3,467,534	4,421,030	3,438,953	2,626,603	4,038,313	45,524,385
36	**Net Plan Activity**		(4,521,930)	(502,434)	676,105	(1,021,858)	(4,867,408)	3,482,970	(3,794,052)	4,095,166	(732,300)	164,352	2,198,854	(827,758)	(5,650,293)
37	**Cumulative Plan Activity**	2,503,216	(2,018,714)	(2,521,148)	(1,845,043)	(2,866,901)	(7,734,309)	(4,251,339)	(8,045,391)	(3,950,225)	(4,682,525)	(4,518,173)	(2,319,319)	(3,147,077)	(3,147,077)
38	**Total Retirees**	$ 17,361,780	$ 11,663,032	$ 11,450,669	$ 12,399,236	$ 10,960,363	$ 3,301,393	$ 9,217,617	$ 1,978,966	$ 8,795,464	$ 7,341,193	$ 7,498,422	$ 10,174,257	$ 9,099,633	$ 9,099,633

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
2		Fund Balance	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	ALL FUNDS (FYTD)
3	**Plan Summary Information:**														
4	**Total Program Revenue**														
5	**001 State Agency Revenue**		16,695,431	16,783,848	16,969,938	23,336,744	12,725,589	21,224,028	12,725,887	21,373,785	12,448,117	23,479,827	17,181,716	16,556,574	$ 211,501,484.21
6	**005 Cobra/NHRS Subsidy**		1,421,985	1,419,909	1,440,824	1,415,150	16,898	2,879,130	1,523	3,015,287	1,599,520	1,570,884	1,547,929	1,575,407	$ 17,904,445.51
7	**006 Rx Rebate/EGWP Subsidies**		(5,948,418)	255,032	415,738	217,846	219,420	953,628	182,798	1,314,846	361,622	185,625	1,446,043	182,950	$ (212,870.77)
8	**007 Interest Earned**							-	-	-	-	-	-	-	$ -
9	**008 Employee Contributions**		831,772	825,563	823,095	1,236,023	821,343	820,684	825,802	824,314	516,068	1,233,790	825,298	826,063	$ 10,409,813.80
10	**009 Statutorily Authorized Groups**		176,451	287,495	313,631	379,837	173,239	325,960	264,454	319,205	193,933	335,294	289,875	380,826	$ 3,440,199.95
11	**Performance Guarantees/Recov**		-	-	-	-	100,000	-	61,276	-	7,051	46,224	-	582	$ 215,133.08
12	**Total Combined Revenue**		13,177,222	19,571,846	19,963,226	26,585,600	14,056,489	26,203,429	14,061,742	26,847,436	15,126,309	26,851,644	21,290,861	19,522,402	$ 243,258,205.78
13															
14	**Total Program Expenditures**														
15	**HB Employee Salary Costs**		-	-	-	188,777	-	-	220,557	-	-	207,158	-	234,338	$ 850,831
16	**HB Employee Benefit Costs**		-	-	-	94,484	-	-	111,623	-	-	104,619	-	118,165	$ 428,891
17	**Medical Claims**		19,223,759	12,309,375	12,395,631	16,310,898	12,979,868	12,758,755	16,195,439	13,937,266	16,841,013	10,777,261	13,774,205	17,751,055	$ 175,254,525
18	**Medical Administration**		580,788	638,060	624,344	560,689	599,798	616,733	609,263	663,842	610,105	714,113	609,075	670,156	$ 7,496,965
19	**Exercise Incentive**		-	-	-	-	-	-	-	288,222	-	-	-	-	$ 288,222
20	**Consulting**		73,547	10,147	69,282	-	131,975	-	27,550	-	89,717	-	73,477	104,557	$ 580,251
21	**Pharmacy Claims**		5,458,246	5,543,311	3,439,375	5,725,639	8,555,865	5,656,310	5,881,061	5,558,756	7,523,994	5,767,321	2,965,729	2,892,060	$ 64,967,667
22	**Pharmacy Administration**		89,590	96,352	80,595	80,897	87,593	80,796	80,852	80,211	81,311	81,718	83,430	82,255	$ 1,005,600
23	**HRA Claims**		124,539	160,060	109,681	117,444	251,882	197,810	221,526	153,671	208,078	206,155	179,700	222,785	$ 2,153,331
24	**HRA Administration**		11,198	10,622	10,925	10,394	10,513	10,713	10,854	5,688	7,560	8,663	9,227	9,531	$ 115,888
25	**Other Expenses**		66,491	709	8,573	(2,963)	211	11,372	3,012	10,251	306	9,598	2,018	898	$ 110,476
26	**ACA Taxes and Fees**							1,016,797						68,973	$ 1,085,770
27	**Vaccination Assessment Fees**		-	1,282	2,844	1,236	4,031	-	1,282	1,303	57,808	59,377	58,076	59,785	$ 247,024
28	**Contracts for Program Svcs**		-	54,632	-	-	-	-	-	-	-	-	-	-	$ 54,632
29	**Total Combined Expenses**		25,628,157	18,769,917	16,741,250	23,087,496	22,621,735	20,349,286	23,363,017	20,699,211	25,419,892	17,935,983	17,754,936	22,214,559	$ 254,640,072
30															
31	**Net Plan Fund Activity**		(12,450,935)	801,929	3,221,976	3,498,104	(8,565,247)	5,854,143	(9,301,276)	6,148,225	(10,293,583)	8,915,661	3,535,925	(2,692,156)	(11,381,866)
32															
33	**Cumulative Net Fund Activity**	51,239,527	38,788,592	39,590,521	42,812,497	46,310,601	37,745,354	43,599,497	34,298,221	40,446,446	30,152,863	39,068,524	42,604,449	39,912,293	39,857,661
34															
35									**Add Receivables as of 6/30/16**						$9,923,898
36									**Less Payables as of 6/30/16**						($8,181,590)
37									**Cumulative Accrual Fund Balance**						$41,599,970
38									**Less:**						
39									**IBNR**						($14,990,000)
40									**Statutory Reserve (≥5%)**						
41									**Actives**						($9,159,000)
42									**Troopers**						($3,844,000)
43									**Retirees**						($4,063,000)
44									**Total Statutory Reserve**						($17,066,000)
45															
46									**Cumulative Accrual Fund Balance: Net of IBNR & Stat Reserve**						$9,543,970

Appendix A: Health and Dental Employee and Retiree Benefit Fund Detail

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
2		Fund Balance	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	ALL FUNDS (FYTD)
3	**DENTAL**														
4	**Revenue**														
5	**Total DENTAL Revenue - PLAN**		800,256	820,018	816,940	1,215,749	814,547	829,815	893,470	899,279	659,285	1,330,740	876,627	885,266	10,841,992
6															
7	**Expense**														
8	**Total DENTAL Expense - PLAN**		772,782	803,197	740,290	803,465	987,112	756,192	1,091,452	1,067,594	1,276,618	1,023,023	673,584	1,162,555	11,157,865
9															
10	**Net Plan Fund Activity - PLAN**		**27,474**	**16,821**	**76,649**	**412,284**	**(172,565)**	**73,623**	**(197,982)**	**(168,315)**	**(617,333)**	**307,717**	**203,043**	**(277,289)**	**(315,872)**
11	**Cumulative Fund Balance**	**1,035,123**	**1,062,597**	**1,079,418**	**1,156,067**	**1,568,351**	**1,395,787**	**1,469,409**	**1,271,428**	**1,103,112**	**485,779**	**793,496**	**996,539**	**719,251**	**719,251**
12															
13									**Add Receivables as of 6/30/16**						**$38,188**
14									**Less Payables as of 6/30/16**						**($393,973)**
15															**$363,466**
16															
17									***Less:***						
18									**IBNR**						**($352,000)**
19									**Statutory Reserve (≥5%)**						**($352,000)**
20									**Cumulative Accrual Fund Balance**						**($340,534)**


$300,000 – Long Term Study
$109,000
(Billed and paid as of June 2016)
$191,000
(Future expense to complete study)
Pay out of claims
Fiscal Item to appropriate $191,000
Yes
No
Fiscal Item to release $800,000
No
Yes
Contractual default with Segal
Monitor Retiree Health Account and Surplus
Positive Claims Experience (no shortfall)
No further action needed
Dept of Administrative Services Transfers
$50,000 (FY2016) $100,000 (FY2017)
Use reserves and appropriate amount of shortfall
FY2018/2019 budget appropriation for FY2017 shortfall
Fiscal Item to cover shortfall
Plan design changes
Premium contribution change for Non-Medicare eligible

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOSEPH A. FOSTER
ATTORNEY GENERAL

ANN M. RICE
DEPUTY ATTORNEY GENERAL

July 18, 2016

Vicki Quiram, Commissioner
Department of Administrative Services
25 Capitol Street
Concord, NH 03301

Dear Commissioner Quiram:

This letter addresses the use of the two funds related to the health benefit program – the "Reserve Fund" established by RSA 21-I:30-b and c, and the "Management Fund" established by RSA 21-I:30-e.

There are two issues: 1) the appropriate use of reserve funds; and 2) the mechanism by which those funds can be spent.

Appropriate Use of Reserve Funds

RSA 21-I:30-b requires a reserve of three percent of claims and administrative costs as well as "the unpaid portion of ultimate expected losses, including incurred but not reported claims, and related expenses incurred in the provision of benefits for eligible participants..." (RSA 21-I:30-b, I(b)). The Reserve Fund is established in RSA 21-I:30-c which states, in pertinent part, "a reserve fund shall be established to protect the state from unexpected losses and self-insured losses and related expenses incurred in the provision of such a plan."

RSA 21-I:30-b, I(b) also states that "if the state self-insures for more than one employee group plan, a reserve meeting the requirements of this paragraph must be maintained for each plan." You have indicated that a reserve is accounted for separately for each of the following groups – active employees, troopers, retirees and dental benefits. The trooper and dental accounts are for "active" benefits.

The primary function of a self-insured health benefit plan is the payment of medical claims. As discussed below, these claims are typically paid from the Management Fund. However, if the Management Fund could not cover claims it would be appropriate to use the Reserve Fund, as this would be an unexpected or self-insured loss and an expense incurred in the provision of a self-insured plan.

You have also specifically inquired about the funding of a study focused on the long term status (financial and otherwise) of the retiree health plan. As this study would be done with the

objective of identifying options to maintain a financially viable plan for the benefit of retirees, it is our opinion that it would constitute a related expense incurred in the provision of the plan.

Mechanism to Spend Funds

While RSA 21-I:30-b discusses the establishment and use of the fund, RSA 21-I:30-c establishes the fund itself and states:

"In the event that the medical and surgical benefits under RSA 21-I:30 are provided using a self-funded alternative, a reserve fund shall be established to protect the state from unexpected losses and self-insured losses and related expenses incurred in the provision of such a plan. Such reserve fund shall be administered by the commissioner of administrative services and shall be nonlapsing."

RSA 21-I:30-e establishes the Management Fund to pay for active and retiree health care expenses and any administrative costs related thereto. That fund is nonlapsing and continually appropriated (RSA 21-I:30-e(l)).

As you know, a fund that is nonlapsing does not have its contents revert back to the general fund at the end of the fiscal year or biennium. Both funds are nonlapsing. However, only the Management Fund is "continually appropriated." This language has been consistently interpreted by Administrative Services and the Legislative Budget Assistant to mean that the funds have been authorized by appropriation of the legislature to be spent even if in excess of estimated levels. The Reserve Fund is not continually appropriated and, thus, a request of the Fiscal Committee, and to the extent necessary the Governor and Executive Council, to transfer or expend the funds would be necessary.

As we have discussed, in 2015, the Legislature authorized a reduction in the Reserve Fund from five percent to three percent in House Bill 2. This was, in effect, legislative authorization to transfer the two percent excess out of the Reserve. I understand that a decision was made to keep the Active and Retiree Reserve Funds at five percent. The Dental and Trooper reserves are kept at three percent and 100 percent respectively. However, as House Bill 2 is so recent and we are in the biennium which it covers, if the Department now wishes to reduce those amounts below five percent and release the funds for use pursuant to RSA 21-I:30-b and c, you could reasonably do so without further permission, based on the House Bill 2 authorization. However, absent legislative approval such as House Bill 2, or for use of funds from a reserve account that is already maintained at three percent, it is our opinion that releasing those funds for use would require Fiscal Committee approval.

I hope this analysis is helpful in your administration of the health benefit plan. Please do not hesitate to contact me with further questions.

Sincerely,

Christen Lavers
Assistant Attorney General

Retiree Health Benefits Budget FY18/19