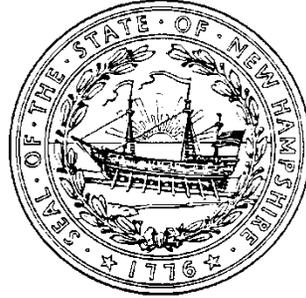


# The State of New Hampshire



## INFORMATION STATEMENT

This Information Statement, including Exhibit A, which is included herein by reference, contains certain financial and economic information concerning the State of New Hampshire (the "State") that has been furnished by the State and the other sources indicated herein. The information is authorized by the State to be distributed to prospective purchasers in connection with bonds or notes offered for sale by the State or debt securities offered by its authorities, agencies or political subdivisions guaranteed by the State, or for the payment of which the State may otherwise be directly or contingently liable, and to the Municipal Securities Rulemaking Board for purposes of Rule 15c2-12 of the Securities and Exchange Commission. The Information Statement may not be reproduced or used in whole or in part for any other purpose without the express written consent of William F. Dwyer, State Treasurer, State House Annex, Concord, New Hampshire.

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This Information Statement contains forecasts, projections and estimates that are based on current expectations. In light of the important factors that may materially affect the financial condition of the State of New Hampshire generally and other economic and financial matters, the inclusion in this Information Statement of such forecasts, projections and estimates should not be regarded as a representation by the State that such forecasts, projections and estimates will occur. Such forecasts, projections and estimates are not intended as representations of fact or guarantees of results.

This Information Statement contains certain forward-looking statements that are subject to a variety of risks and uncertainties that could cause actual results to differ from the projected results, including without limitation general economic and business conditions, conditions in the financial markets, the financial condition of the State of New Hampshire and various state agencies and authorities, receipt of federal grants, litigation, arbitration, force majeure events and various other factors that are beyond the control of the State and its various agencies and authorities. Because of the inability to predict all factors that may affect future decisions, actions, events or financial circumstances, what actually happens may be different from what is set forth in such forward-looking statements. Forward-looking statements are indicated by use of such words as "may," "will," "should," "intends," "expects," "believes," "anticipates," "estimates" and other.

**STATE OF NEW HAMPSHIRE**

William F. Dwyer  
State Treasurer

March 27, 2019

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**STATE OF NEW HAMPSHIRE**

**Governor**

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**Executive Council**

Michael J. Cryans  
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Andru Volinsky

**State Treasurer**

William F. Dwyer

**Secretary of State**

William M. Gardner

**Attorney General**

Gordon J. MacDonald

**Commissioner of Administrative Services**

Charles M. Arlinghaus

**Comptroller**

Dana M. Call

**Budget Director**

Michael R. Zelle

## STATE GOVERNMENT

### Executive Branch

The executive officers of the State consist of the Governor, the State Treasurer, the Secretary of State and the five-member Executive Council (the “Council”). The Governor, who holds office for a two-year term, is responsible for the faithful execution of all laws enacted by the Legislature and the management of the executive departments of the State. The State Treasurer and the Secretary of State are elected by joint ballot of the House and Senate for two-year terms. The Council is elected by the people biennially, one Councilor for each of the five Councilor districts in the State. The Council’s chief function is to provide advice and consent to the Governor in the executive function of government. The Governor and Council can negate each other in nominations of and appointments to executive positions in the judicial and executive branches.

The executive branch is organized into a number of departments, each headed by a Commissioner. Major departments of the executive branch include: Health and Human Services, Transportation, Education (including departments for primary and secondary education, higher education and the university system), Natural and Cultural Resources, Business and Economic Affairs, Corrections, Environmental Services, Revenue Administration, Safety and Administrative Services. The agencies and authorities which have borrowing authority are discussed in more detail in the section entitled “STATE INDEBTEDNESS-Agencies, Authorities and Bonded or Guaranteed Indebtedness.” In addition, a State liquor commission manages the sale and distribution of beer and alcohol statewide. A lottery commission operates various games, the net proceeds of which are restricted for appropriation to primary and secondary education. A number of other boards and commissions regulate licensing and standards in areas such as public accounting, real estate, sports and medicine.

### Legislative Branch

The legislative power of the State is vested in the General Court (the “Legislature”) consisting of the 400-member House of Representatives and the 24-member Senate, both meeting annually. Members of the House are elected biennially from districts apportioned among cities and towns of the State on the basis of population. Senate members are elected biennially from single-member Senate districts.

Money bills originate in the House, but the Senate may propose or concur in amendments. Every bill which passes both houses of the Legislature is presented to the Governor for approval or veto. If a bill is vetoed by the Governor, that veto may be overridden by a vote of two-thirds of the members of each chamber of the Legislature. If the Governor fails to act within five days (except Sundays) on a bill presented for approval, the bill automatically becomes law unless the Legislature is not then in session.

### Judicial Branch

The judicial branch of the government consists of a Supreme Court, Superior Court with 11 sites, and a Circuit Court with three divisions (probate, district, and family) with 32 sites. Administrative support is provided by staff at the Administrative Office of the Courts and at the Trial Court Center. All justices and judges are appointed by the Governor and Council and may serve until seventy years of age.

## STATE DEMOGRAPHIC AND ECONOMIC DATA

### General

New Hampshire is located in the New England census region and is bordered by the states of Maine, Massachusetts and Vermont and the Province of Quebec, Canada. The State is 9,304 square miles in area and has 18 miles of general coastline on the Atlantic Ocean and 131 miles of tidal shoreline.

## Population

New Hampshire experienced an increase in population between 2008 and 2018, with more rapid growth between 2016 and 2018. The State's population was 1,356,458 in 2018 according to the U.S. Census Bureau. Population has increased by 3.1% since 2008 and 2.3% since 2013. The table below shows New Hampshire's resident population and the change in its population relative to New England and the nation.

### Population Trends (In Thousands)

<u>Year</u>	<u>New Hampshire</u>	<u>Change During Period</u>	<u>New England</u>	<u>Change During Period</u>	<u>United States</u>	<u>Change During Period</u>
2008	1,316	0.3%	14,340	0.4%	304,094	1.0%
2009	1,316	0.0%	14,404	0.4%	306,772	0.9%
2010	1,317	0.1%	14,470	0.5%	309,326	0.8%
2011	1,320	0.2%	14,530	0.4%	311,580	0.7%
2012	1,324	0.3%	14,590	0.4%	313,874	0.7%
2013	1,326	0.2%	14,645	0.4%	316,058	0.7%
2014	1,333	0.5%	14,704	0.4%	318,386	0.7%
2015	1,336	0.2%	14,730	0.2%	320,743	0.7%
2016	1,342	0.5%	14,759	0.2%	323,071	0.7%
2017	1,350	0.6%	14,803	0.3%	325,147	0.6%
2018	1,356	0.5%	14,853	0.3%	327,167	0.6%
Percent Change:						
2008-2018		3.1%		3.6%		7.6%
2013-2018		2.3%		1.4%		3.5%

Source: U.S. Census Bureau.

In 2017, populations of New Hampshire, New England, and the United States were distributed by age as follows:

### Age Distribution 2017

<u>Age</u>	<u>New Hampshire</u>	<u>New England</u>	<u>United States</u>
Under 5 years	4.8%	5.1%	6.1%
5 through 17 years	14.5%	14.8%	16.5%
18 to 44 years	33.0%	35.0%	35.9%
45 to 64 years	30.2%	28.2%	25.9%
65 years and over	<u>17.6%</u>	<u>16.9%</u>	<u>15.6%</u>
	<u>100.0%*</u>	<u>100.0%*</u>	<u>100.0%*</u>

Source: U.S. Census Bureau.

\* Totals may not add due to rounding.

## Personal Income

The State's per capita personal income increased 33.0% between 2007 and 2017 (as contrasted with an increase of 29.6% in the per capita personal income for the United States and a 30.8% increase for the New England region). The State's per capita personal income ranked 7th in 2017 with \$59,668 or 115.5% of the national average. The State's total personal income for 2017 was \$80.12 billion. The following table sets forth information on personal income for New Hampshire, New England and the United States since 2007.

**Comparisons of New Hampshire Personal Income  
to New England and United States, 2007-2017**

<u>Year</u>	<u>New Hampshire Total Personal Income (In Millions)</u>	<u>Per Capita Personal Income</u>			<u>Percent Change</u>			<u>New Hampshire Per Capita Personal Income Ranking<sup>(1)</sup></u>
		<u>New Hampshire</u>	<u>New England</u>	<u>United States</u>	<u>New Hampshire</u>	<u>New England</u>	<u>United States</u>	
2007	\$58,904	\$44,878	\$49,161	\$39,844	3.5%	5.3%	4.5%	7
2008	60,396	45,897	51,012	40,904	2.3%	3.8%	2.7%	8
2009	59,597	45,283	50,158	39,284	(1.3%)	(1.7%)	(4.0%)	7
2010	62,306	47,320	52,152	40,545	4.5%	4.0%	3.2%	7
2011	65,443	49,640	54,138	42,727	4.9%	3.8%	5.4%	8
2012	68,558	51,901	55,853	44,582	4.6%	3.2%	4.3%	9
2013	68,117	51,501	55,555	44,826	(0.8%)	(0.5%)	0.5%	9
2014	70,506	53,065	57,963	47,025	3.0%	4.3%	4.9%	9
2015	73,430	55,205	60,631	48,940	4.0%	4.6%	4.1%	9
2016	76,247	57,114	62,033	49,831	3.5%	2.3%	1.8%	7
2017	80,122	59,668	64,303	51,640	4.5%	3.7%	3.6%	7

Source: U.S. Department of Commerce, Bureau of Economic Analysis.

<sup>(1)</sup> Does not include the District of Columbia.

**Civilian Labor Force, Employment and Unemployment**

Average annual employment growth rate in New Hampshire was lower than the national and regional growth rates from 2008 to 2018. The following table sets forth the level of employment in New Hampshire, the other New England states and the United States.

**Employment in New Hampshire, New England States and the United States**

	<u>Employment (In Thousands)</u>		<u>Average Annual Growth</u>
	<u>2008</u>	<u>2018<sup>(1)</sup></u>	<u>2008-2018</u>
New Hampshire .....	712	742	0.42%
Connecticut.....	1,775	1,828	0.30%
Maine.....	666	674	0.12%
Massachusetts .....	3,246	3,689	1.36%
Rhode Island.....	520	537	0.33%
Vermont.....	336	337	0.03%
New England .....	7,255	7,807	0.76%
United States.....	145,092	155,761	0.74%

Source: U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics Division.

<sup>(1)</sup> Preliminary

In the last ten years, New Hampshire's annual unemployment rate was lower than the rates for New England and the United States. As of December 2018, the non-seasonally adjusted unemployment rate in the State was 2.1%, a decline from 2.4% in December 2017 and significantly lower than 2.9% in the New England region and 3.7% nationally. The table below sets forth information on the civilian labor force, employment and unemployment statistics since 2008.

<u>Year</u>	<b>Labor Force Trends (Not Seasonally Adjusted)</b>			<b>Unemployment Rate</b>		
	<b>New Hampshire Labor Force</b>			<b>New Hampshire</b>	<b>New England</b>	<b>United States</b>
	<b>Civilian Labor Force</b>	<b>Employed</b>	<b>Unemployed</b>			
	<b>(In Thousands)</b>					
2008	743	714	29	3.9	5.5	5.8
2009	744	698	46	6.2	8.0	9.3
2010	738	695	43	5.8	8.4	9.6
2011	736	697	40	5.4	7.7	8.9
2012	741	700	41	5.5	7.2	8.1
2013	741	704	38	5.1	6.9	7.4
2014	743	712	32	4.3	5.9	6.2
2015	745	720	25	3.4	4.9	5.3
2016	751	730	21	2.9	4.1	4.9
2017	754	734	20	2.7	3.9	4.4
2018	762	743	19	2.5	3.5	3.9
<b><u>Month</u></b>						
Dec. 2017	753	735	18	2.4	3.4	3.9
Dec. 2018	760	744	16	2.1	2.9	3.7

Source: U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics Division.

### ***Composition of Employment***

The service sector was the largest employment sector in New Hampshire in 2018, accounting for 46.3% of nonagricultural employment, as compared to 42.0% in 2008. This sector surpassed retail and wholesale trade as the primary economic activity of New Hampshire in 1991. This upward trend in service sector employment parallels the shift in the national economy, where services was the largest employment sector, accounting for 46.7% of employment in 2018, up from 43.0% in 2008.

The second largest employment sector in New Hampshire during 2018 was wholesale and retail trade, accounting for 18.3% of total employment as compared to 14.5% nationally. In 2008, wholesale and retail trade accounted for 19.2% of total employment in New Hampshire.

Manufacturing remains an important economic activity in New Hampshire although the percentage has dropped in recent years. Manufacturing accounted for 10.4% of nonagricultural employment in 2018, down from 11.7% in 2008. For the United States as a whole, manufacturing accounted for 8.5% of nonagricultural employment in 2018, versus 9.8% in 2008. The following table sets out the composition of nonagricultural employment in the State and the United States.

### **Composition of Nonagricultural Employment in New Hampshire and the United States**

	<b>New Hampshire</b>		<b>United States</b>	
	<b><u>2008</u></b>	<b><u>2018<sup>(1)</sup></u></b>	<b><u>2008</u></b>	<b><u>2018<sup>(1)</sup></u></b>
Manufacturing	11.7%	10.4%	9.8%	8.5%
Durable Goods	8.9	7.7	6.2	5.3
Nondurable Goods	2.8	2.6	3.6	3.2
Nonmanufacturing	88.3	89.6	90.2	91.5
Construction & Mining	4.2	4.3	5.8	5.4
Wholesale and Retail Trade	19.2	18.3	15.4	14.5
Service Industries	42.0	46.3	43.0	46.7
Government	14.7	13.1	16.4	15.1
Finance, Insurance & Real Estate	5.9	5.2	6.0	5.7
Transportation & Public Utilities	2.3	2.4	3.7	4.0

Source: U.S. Department of Labor, Bureau of Labor Statistics.

<sup>(1)</sup> Preliminary

## ***Largest Employers***

The following table lists the twenty largest employers in the State (based on number of employees) and their approximate number of employees presented in the New Hampshire Business Review Book of Lists 2019.

### **Largest Employers (Excluding Federal, State and Local Governments)**

<u>Company</u>	<u>Employees</u>	<u>Primary New Hampshire Site</u>	<u>Principal Product</u>
1. Dartmouth Hitchcock.	9,790	Lebanon	Acute Care Hospital
2. DeMoulas & Market Basket	9,000	Nashua	Supermarket
3. Wal-Mart Stores Inc.	7,886	Bedford	Retail Department Store
4. BAE Systems Electronic Systems	6,000	Nashua	Aerospace, Defense & Information Security
5. Hannaford (Delhaize Group)	5,300	Manchester	Supermarket
6. Fidelity Investments	5,200	Merrimack	Financial Services
7. Liberty Mutual - Northern N.E. Division	5,058	Bedford	Insurance
8. Elliot Hospital	4,000	Manchester	Acute Care Hospital
9. Dartmouth College	3,741	Hanover	Private College
10. Concord Hospital	3,492	Concord	Acute Care Hospital
11. Catholic Medical Center	3,050	Manchester	Acute Care Hospital
12. Southern New Hampshire Medical Center	2,723	Nashua	Acute Care Hospital
13. Shaws Supermarkets Inc.	2,619	Stratham	Supermarket
14. Home Depot	2,571	Manchester	Hardware Store
15. Connection	2,505	Merrimack	Technology
16. Wentworth-Douglass Hospital	2,500	Dover	Acute Care Hospital
17. Genesis HealthCare	2,378	Concord	Long-Term Health Care
18. Southern New Hampshire University	2,093	Manchester	Private College
19. Eversource	1,800	Manchester	Electric Utility
20. SIG Sauer Inc.	1,800	Portsmouth	Firearms Manufacturer

Source: *New Hampshire Business Review, Book of Lists 2019.*

## **State and Local Taxation**

The State finances its operations through a combination of specialized taxes, user charges and revenues received from the State liquor sales and distribution system. The most important taxes are the business profits and business enterprise taxes and a meals and rooms tax. The State does not levy any personal earned income tax or general sales tax but does impose a tax on interest and dividends. The State believes its tax structure has played an important role in the State's economic growth.

New Hampshire has generally been the highest among all states in local property tax collections per \$1,000 of personal income, as local property taxes remain the single largest principal source of funding for primary and secondary education.

## **Housing**

According to the 2017 American Community Survey 1-Year estimates, housing units in the State numbered 634,689, of which 83.3% were occupied. The composition of occupied housing units in the State was 69.8% owner occupied and 30.2% renter occupied.

According to the New Hampshire Housing Finance Authority's latest housing data release, the median purchase price of all homes sold in 2017 was \$240,000, an increase of 4.3% from 2016. The median price for non-condominium homes sold in 2017 was \$255,000, an increase of 5.2% from 2016.

The table below sets forth housing prices, rents and foreclosures in recent years.

	Owner- Occupied Non- Condominium Housing Unit Median Purchase Price	Percent Change	Renter- Occupied Housing Unit Median Gross Rent <sup>(1)</sup>	Percent Change	Foreclosure Deeds
2004	\$252,660	10.1%	\$896	4.9%	403
2005	270,000	6.9	901	0.6	462
2006	265,000	(1.9)	928	3.0	1,057
2007	269,900	1.8	946	1.9	2,071
2008	250,000	(7.4)	969	2.4	3,563
2009	217,000	(13.2)	969	-	3,467
2010	223,500	3.0	980	1.1	3,953
2011	214,400	(4.1)	983	0.3	3,863
2012	212,500	(0.9)	1,005	2.2	3,659
2013	227,500	7.1	1,018	1.3	2,702
2014	229,933	1.1	1,037	1.9	2,074
2015	233,500	1.6	1,069	3.1	1,724
2016	242,000	3.8	1,113	4.1	1,555
2017	255,000	5.2	1,143	2.7	1,305
2018 <sup>(2)</sup>	267,500	4.9	1,177	3.0	483

Source: New Hampshire Housing Finance Authority.

<sup>(1)</sup> Includes utilities.

<sup>(2)</sup> Purchase Price data is January-July 2018. Foreclosure Deeds are January-June 2018.

According to data from the Warren Group that is compiled by the New Hampshire Housing Finance Authority, the cumulative total of foreclosure deeds for 2017 was 16.1% below the total for 2016, and the lowest annual total since 2006. Foreclosure deeds for the first six months of 2018 numbered 483. This is 68.7% fewer foreclosure deeds issued during the first six months of 2017.

### Building Activity

The pattern of building activity in New Hampshire in recent years, as evidenced by the issuance of residential building permits, has generally paralleled that of the New England region, with some exceptions. The number of permits and dollar value had increased significantly from 2013 to 2015, along with the nation. The New England region experienced an actual drop in dollar value from 2013 to 2014 but rebounded significantly in 2015. Building permits and value totaled 3,780 and \$759 million respectively in 2018, a slight increase from 2017. Set out in the following table are the number and value of building permits issued for housing units in New Hampshire, New England and the United States.

**Building Permits Issued  
By Number of Units and Value  
(Value in millions)**

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018<sup>(1)</sup></u>
<b>New Hampshire</b>							
Single Family	1,682	2,136	2,190	2,424	2,680	2,711	2,552
Multi-Family	614	652	1,215	1,339	1,116	914	1,228
Total.....	2,296	2,788	3,405	3,763	3,796	3,625	3,780
Value.....	\$426	\$566	\$654	\$737	\$760	\$758	\$759
<b>New England</b>							
Single Family	14,186	16,670	16,765	16,412	17,935	18,106	17,645
Multi-Family	8,923	11,965	12,193	17,547	14,660	15,144	13,543
Total.....	23,109	28,635	28,958	33,959	32,595	33,160	31,188
Value.....	\$4,675	\$6,567	\$6,191	\$7,228	\$7,232	\$7,437	\$7,129
<b>United States</b>							
Single Family	518,695	620,802	634,597	695,998	750,796	819,976	852,856
Multi-Family	310,963	370,020	411,766	486,584	369,868	462,001	465,039
Total.....	829,658	990,822	1,046,363	1,182,582	1,120,664	1,281,977	1,317,895
Value.....	\$140,425	\$177,656	\$194,349	\$223,611	\$237,102	\$258,505	\$268,678

Source: U.S. Census Bureau.

<sup>(1)</sup> Preliminary

**Transportation**

New Hampshire has more than 4,600 miles of State and federal highways. In 1986, the State Legislature enacted a highway plan to serve as a guideline for highway development in the State. A major component of the 1986 highway plan legislation as amended to date provides for continued development of the State's Turnpike System. Since December 2009, the State has issued \$306 million of its Turnpike System revenue bonds to finance capital improvements to the Turnpike System. The State has also issued \$178.25 million of Federal Highway Grant Anticipation ("GARVEE") Bonds since November 2010 to finance a portion of the costs of improvements to Interstate 93 from the Massachusetts border to Manchester. Effective July 1, 2014, State law authorized the use of a 4.2 cent increase in motor vehicle fuel fees (referred to as a "road toll" in New Hampshire law) to fund \$200 million in general obligation bonds or revenue bonds or both to complete the I-93 Salem to Manchester widening project. The State entered into a \$200 million Federal Transportation Infrastructure Finance and Innovation Act (TIFIA) loan in May, 2016. The TIFIA loan, which has a favorable 1.09% interest rate, will allow the Department to perform additional bridge repair and pavement maintenance and completion of the I-93 project within the time frame of the law. The road toll increase will expire once all debt service payments for the I-93 project have been made or 20 years after the initial issuance of such bonds, whichever is earlier. The TIFIA financing is scheduled to fully amortize by June 2034. See "STATE INDEBTEDNESS – Debt Statement."

There are twenty-five airports open to the public in the State, of which three have scheduled air service (Manchester, Portsmouth, and Lebanon), and twenty-two serve general aviation. Manchester-Boston Regional Airport, the State's largest commercial passenger and air cargo airport, has grown from 427,657 enplanements in fiscal year 1994 to 978,216 enplanements in fiscal year 2018. The airport experienced a 0.7% decrease in enplanements in fiscal year 2018 as compared with fiscal year 2017. Manchester-Boston Regional Airport is the third largest cargo airport in New England. Air cargo activity remained strong in fiscal year 2018, with the airport processing approximately 180 million pounds of air cargo.

During the past two decades, Manchester-Boston Regional Airport has undertaken a number of expansion, improvement and renovation projects. The new terminal project in 1992 was financed with bonds guaranteed by the State (and subsequently refunded and paid in 2002), while other projects have been financed by the City of

Manchester through the issuance of airport revenue bonds both for new money and refunding purposes. These projects were designed to keep airport facilities and infrastructure updated and to enhance the airport’s capacity for increased passenger and freight traffic in the future. In June 2018, Chapter 287, Laws of 2018, made changes to aircraft registration fees effective January 1, 2019. The revised registration fees are currently anticipated to reduce General Fund revenue by \$350,000 in fiscal year 2019 and \$700,000 in fiscal year 2020. The State expects to have a better understanding of the decrease in aircraft registration revenue at the end of calendar year 2019, the first full year of aircraft registrations with the revised fees.

Rail freight service is provided by eight railroads. The Portsmouth Harbor is an important commercial shipping center that can accommodate deep-draft vessels. The State Port Authority Marine Terminal is located on Noble’s Island in Portsmouth Harbor.

The New Hampshire Rail Transit Authority (“NHRTA”) was created by the Legislature pursuant to Chapter 360, Laws of 2007, for the purpose of establishing regular commuter rail or other passenger rail service between points within and adjacent to the State. Chapter 291, Laws of 2018 (HB 267), which became effective August 24, 2018, repealed the legislation that created the NHRTA and further repurposed the NHRTA into the New Hampshire Transportation Council. The Council’s purpose is to study and evaluate alternative modes of transportation including but not limited to new technologies, bus, rail, highway, marine, and air transportation. As currently established, the New Hampshire Transportation Council does not have authority to issue bonds.

## Education

New Hampshire provides a mix of public and private educational opportunities. The education function of the State is carried out through the State Board of Education, the Department of Education and the University System of New Hampshire. The State Board and the Department of Education provide curriculum guidance and administrative support to 176 public school districts ranging in grades from kindergarten through grade twelve. In addition to public education, there are numerous private preparatory schools in the State, including Phillips Exeter Academy in Exeter and St. Paul’s School in Concord.

At the university level, the State offers undergraduate and graduate programs in liberal arts and various sciences through the University System of New Hampshire, which includes the University of New Hampshire, Keene State College, Plymouth State University and Granite State College. Through the Community College System of New Hampshire, the State also supports a network of seven community colleges located throughout the State. The Community Colleges offer a two-year associates degree and a variety of certificates in approximately 100 different industrial, business and health programs. In addition to the state-supported University System of New Hampshire and Community College System of New Hampshire, twenty (17 non-profit and 3 private for-profit) higher educational institutions are also located in New Hampshire, including Dartmouth College in Hanover. Since 1983, over 50% of New Hampshire high school graduates have continued their education beyond the high school level.

For an overview of educational initiatives being undertaken during the 2018-2019 biennium, see “Operating Budget Fiscal Years 2018 and 2019”.

As the following table indicates, as of 2017, the educational level of New Hampshire residents over the age of 25 was higher than that of the nation as a whole.

<b><u>Level of Education</u></b>	<b><u>2007</u></b> <sup>(1)</sup>		<b><u>2017</u></b> <sup>(2)</sup>	
	<b><u>New Hampshire</u></b>	<b><u>United States</u></b>	<b><u>New Hampshire</u></b>	<b><u>United States</u></b>
9-11 years	97.1%	93.6%	98.1%	94.9%
12 years	90.5	84.5	93.0	88.0
1-3 years post-secondary	59.5	54.4	65.0	60.9
4 or more years post-secondary	32.5	27.5	36.9	32.0

<sup>(1)</sup> Source: U.S. Census Bureau, 2007 American Community Survey Estimates

<sup>(2)</sup> Source: U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates

## STATE FINANCES

### General

Responsibility for financial management of the State is vested in several State officials. The State Treasurer is responsible for investment, debt, and cash management. The Commissioner of the Department of Administrative Services (“DAS”) is responsible for managing statewide administrative and financial reporting functions including general budget oversight, maintaining the State’s accounting system, and issuing the State’s Comprehensive Annual Financial Report (“CAFR”).

The Department of Administrative Services prepares the State’s CAFR in accordance with U.S. generally accepted accounting principles (“GAAP”). The State has contracted with KPMG LLP to provide audit services since fiscal year 1997 and has a current audit contract through completion of the fiscal year 2019 audit. The audited financial statements for fiscal year 2018, together with the unqualified report thereon of KPMG LLP, are incorporated herein by reference, copies of which have been provided to the Municipal Securities Rulemaking Board, through its Electronic Municipal Market Access (“EMMA”) system, as directed by SEC Rule 15c2-12. See “FINANCIAL STATEMENTS.” The audited financial statements for fiscal year 2018 are also available as part of the State’s fiscal year 2018 CAFR (pages 16 through 103 of the CAFR) at the website of the State’s Department of Administrative Services, Bureau of Financial Reporting at <https://das.nh.gov/accounting/reports.asp>.

For information relating to management letters and federal single audit results delivered to the State for fiscal years 2014 through 2017, see “FINANCIAL STATEMENTS.” The management letters and federal single audit report results for June 30, 2018 are currently expected to be completed by March 31, 2019.

The CAFR includes comparisons to budgetary basis accounting and is presented as Required Supplementary Information (RSI). Accounting on a GAAP basis differs from accounting on a budgetary basis by recognizing revenues and related assets when earned rather than when cash is received and by recording expenditures and related liabilities when incurred rather than when cash is paid. For example, GAAP accounting calls for full recognition of accounts payable, accrued payroll and pension costs incurred at the close of a fiscal year even though those items are appropriated and paid in the following fiscal year under budgetary accounting. Reconciliation of the budgetary basis with GAAP appears in a Note to the RSI in the CAFR.

The State budget (the overall financial plan for the two years of the biennium) is enacted through a series of bills that establish appropriations and estimated revenues for each subunit (department, division, bureau, section and commission) within State Government. Appropriations are also established by supplemental and special legislation during annual legislative sessions.

The State controls expenditures against appropriations through an enterprise resource planning system. Under this system, accumulated total expenditures and encumbrances are compared with the amount of remaining available appropriations, prior to creating an expenditure (a charge against an appropriation which generates a payment) or an encumbrance (a charge against an appropriation pending payment). In general, when the appropriated amount is fully expended or encumbered, no further obligations are incurred or paid until additional appropriations are made available.

By State law, unexpended and unencumbered balances of appropriations lapse to unassigned fund balance in the applicable fund at fiscal year-end, with certain exceptions. Generally, revenues in excess of official estimates, unless appropriated by supplemental appropriation legislation, also lapse to unassigned fund balance in the applicable fund. Such amounts, whether unexpended or unencumbered appropriations or unappropriated revenue, are known as lapses. Lapses constitute a credit to unassigned fund balance at the end of each fiscal period and may become available for subsequent appropriation by the Legislature.

### Fund Types

The budgets and operations of State departments and their subunits are accounted for in a number of funds fitting into three types: Governmental, Proprietary and Fiduciary.

## **Governmental Funds**

*General Fund.* The General Fund is the principal fund and includes all State activities and functions not allocated by law to other funds. By law, all revenues received by any department or agency of the State (other than revenues allocated by statute directly to specific agencies or other funds) are paid at least weekly into the State Treasury. All such revenues are credited to the General Fund, and expenditures for all State activities and functions not allocated by law to other funds are charged to the General Fund. Revenues that are dedicated to fund specific activities including federal grants are recorded as restricted revenue and are subtracted from total appropriations to arrive at appropriations net of estimated revenues as shown on the fund balance schedules.

*Highway Fund.* Under the State Constitution, all revenues in excess of the necessary cost of collection and administration accruing to the State from motor vehicle registration fees, operator's licenses, motor vehicle fuel fees or any other special charges or taxes with respect to the operation of motor vehicles or the sale or consumption of motor vehicle fuels are appropriated and used exclusively for the construction, reconstruction, and maintenance of public highways within the State, including the supervision of traffic thereon, and for the payment of principal and interest on bonds issued for highway purposes. All such revenues, together with federal grants-in-aid received by the State for highway purposes, are credited to the Highway Fund. Although the principal of and interest on State highway bonds are paid from the Highway Fund, the assets of the Fund are not pledged to such bonds.

*Fish and Game Fund.* The operations of the State Fish and Game Department, including the operation of fish hatcheries, inland and marine fisheries and wildlife areas and related law enforcement functions, land acquisition, and wildlife management and research, and the payment of principal and interest on bonds issued for fish and game purposes, are financed through the Fish and Game Fund. Principal revenues to this Fund include fees from fish and game licenses, the marine gas tax, a portion of off-highway vehicle registration fees, penalties and recoveries and federal grants-in-aid related to fish and game management, all of which are appropriated annually by the Legislature for the use of the Fish and Game Department.

*Capital Projects Fund.* The State credits to the Capital Projects Fund appropriations for certain capital improvements, primarily those that are funded by the issuance of State debt (other than debt for turnpike purposes), or by the application of certain federal matching grants.

*Education Trust Fund.* The Education Trust Fund is established in RSA 198:39. Adequate education grants to school districts are appropriated from this fund, as is kindergarten and charter school aid and low and moderate income homeowner property tax relief. Pursuant to RSA 198:39, certain revenues are dedicated to this fund including portions of the State's business, cigarette, real estate transfer, and rental car taxes. In addition, lottery revenues and up to \$40 million in tobacco settlement revenues are dedicated to the Education Trust Fund as are utility property tax and excess statewide education tax revenues.

## **Proprietary (Enterprise) Funds**

*Liquor Commission.* By statute, all liquor sold in New Hampshire must be sold through a sales and distribution system operated by the State Liquor Commission. By statute, effective September 22, 2013, the Commission is under the direction of a liquor commissioner, known as the chairman of the liquor commission, appointed by the Governor with the consent of the Council. The liquor commissioner nominates a deputy commissioner for appointment by the Governor with the consent of the Council. The Commission is directed by statute to set liquor prices at levels sufficient to pay all costs of liquor purchased and operating expenses of the Commission and the State stores and to impose additional charges for overhead and a profit for the State.

*Lottery Commission.* The State conducts daily and weekly lotteries and instant games through tickets sold by or on behalf of the State Lottery Commission in State liquor stores, race tracks and at authorized retail outlets in the State. Monthly net profit from lotteries is transferred to the Education Trust Fund for distribution to school districts in the form of adequate education grants.

*Turnpike System.* The State constructs, maintains and operates transportation toll roads and bridges. The State has covenanted in the General Bond Resolution authorizing the issuance of Turnpike System revenue bonds

that it will establish and collect tolls and charges for the use of the Turnpike System adequate at all times, with other available funds, to provide for the proper operation and maintenance of the System and for the timely payment of principal of and interest on Turnpike System revenue bonds and all other required payments in connection with the System. Under RSA 237-A any funds established in connection with the issuance of Turnpike System revenue bonds thereunder are kept separate from other funds of the State.

*State Revolving Fund.* Under a program with the U.S. Environmental Protection Agency to improve cleanliness and potability of the State's water supplies, the State Revolving Loan Fund lends funds to municipalities and qualified private water organizations for the purpose of constructing and upgrading wastewater and drinking water treatment facilities. The loans are repaid by the debtors on fixed terms, and, based on specific federal criteria, may allow for forgiveness of portions of the loans. Loans are repaid with fixed rates of interest that include an administrative fee paid to the State. Repayments are credited to special accounts and then used to lend additional funds to communities and qualified private water organizations.

*Unemployment Trust Fund.* This fund is used to account for contributions from employers and to pay benefits to eligible claimants. When necessary, in accordance with the provisions of Section 1201 of the Social Security Act, the State has applied for, received and repaid advances from the Federal Unemployment Account to the State's Unemployment Trust Fund. For example, these advances were required on an intermittent basis in both calendar years 2010 and 2011. The advances were necessary in order to continue the payment of unemployment compensation to eligible individuals. No advances are currently outstanding.

Since October 1, 2014, the Trust Fund has consistently grown and maintained balances sufficient to trigger statutory solvency reductions to employer tax rates. Effective with wages paid October 1, 2014 for which taxes were due the following quarter, all employers received a 0.5% reduction in their unemployment compensation tax rate. Employers then received a 1.0% reduction in their unemployment tax rate with wages paid in the quarter starting January 1, 2015; a 0.5% reduction with wages paid in the quarter starting April 1, 2015 as well as with wages paid in the quarter starting July 1, 2015; a 1.0% reduction with wages paid in the quarters starting October 1, 2015 through July 1, 2018; and a 1.5% reduction for wages paid in the quarter starting October 1, 2018 through January 1, 2019. Employers in New Hampshire had not experienced the full 1.5% reduction, which is the highest reduction available under State law, since 2003.

The New Hampshire Department of Employment Security expects the Unemployment Compensation Trust Fund to have adequate reserves for the short term. However, if unemployment levels were to rise to those experienced during the Great Recession of 2007-2009, during which the New Hampshire annual unemployment rate peaked at 6.2%, the State might need to borrow from the Federal government, as was done in 2010 and 2011.

*Internal Service Fund.* The Employee Benefit Risk Management Fund was created to account for the State's self-insurance program and to pool all resources to pay for the cost associated with providing employee benefits for active State employees and retirees including medical, pharmacy, and dental (active employees) and medical and pharmacy (retirees). See also "HEALTH CARE COVERAGE FOR RETIRED EMPLOYEES."

## **Fiduciary Funds**

Transactions related to assets held by the State in a trustee or agency capacity are accounted for in Fiduciary Funds. The State's Pension Funds are also included in this category.

## **Investment Policy**

The State Treasury is entrusted with the fiduciary responsibility of managing State funds to ensure cash is available when required to ensure the efficient financial operation of the State while employing prudent and statutorily-compliant investment policies and procedures. The State Treasury has in place investment policies and procedures for the safekeeping and prudent management of various State assets. Certain trust and custodial funds are subject to very specific investment guidelines in order to meet objectives or income targets consistent with stated donor requests as well as state and federal law. General operating funds of the State are invested primarily to preserve the value and safety of the principal, maintain liquidity appropriate for short-term cash needs, and optimize

the return on these investments consistent with the goals of safety and liquidity and in accordance with state and federal law. Investment decisions are made within the context of several risk categories, including custodial risk, concentration risk, and interest rate risk. Investment policies are developed, implemented, and reviewed at least annually to ensure best practices are followed and to incorporate strategies to reduce risk that may arise or become magnified due to current events. Additional information is available at <http://www.nh.gov/treasury/cash-investment-management/operating-funds.htm>.

## **Budget and Appropriation Process**

The Legislature meets annually but adopts a State budget on a biennial basis. Prior to the beginning of each biennium, all departments of the State are required by law to transmit to the Commissioner of the Department of Administrative Services (the “Commissioner”) requests for capital expenditures and estimates of operating expenditures, including personnel, equipment and program expenditures, for each fiscal year of the ensuing biennium.

Capital budget requests are summarized by the Commissioner and submitted to the Governor. After holding public hearings and evaluating additional information, the Governor prepares a capital budget for submission to the Legislature.

Operating budget requests and revenue estimates for each fiscal year of the ensuing biennium submitted by State agencies are also summarized and submitted to the Governor. Following public hearings, analysis of the requested operating budget, and consultation with the various department heads, the Governor prepares the final operating budget proposal, setting forth the financial program for the following two fiscal years.

By February 15th of each odd numbered year, the Governor must submit both a capital budget and an operating budget to the Legislature for its consideration. The Governor’s budget message sets forth, among other things, a program for meeting the expenditure needs of the State for the next biennium. Using the Governor’s budgets as a starting point, the House prepares and approves its own budgets, which are then submitted to the Senate. The Senate prepares and approves its budgets based on the House proposals. A legislative Conference Committee comprised of members from both chambers forges the final budget drafts to be approved by both chambers. After final budget bills are approved by the Legislature, they are presented to the Governor to be signed into law, allowed to pass into law after 5 days without signature, or vetoed. The State Constitution does not provide for a line item veto of appropriation bills by the Governor. If the Governor vetoes a budget bill, it is returned to the Legislature for an override vote or further legislative action. Once the budget bills become law, they represent the authorized operating and capital appropriation spending for each State department during each of the next two fiscal years.

Although there is no constitutional requirement that the Governor propose or the Legislature adopt a balanced budget, there is a statutory requirement that the Governor propose and the Legislature adopt a balanced budget. In addition, if there is a budget deficit from a prior biennial budget, the Governor’s budget proposal must address how this deficit will be eliminated in the current budget proposal. The Legislature has a similar statutory responsibility to approve a plan for addressing any past year’s budget deficit in the budget it adopts for the ensuing biennium. If there is a budget deficit, the Governor is required by statute to make recommendations to the Legislature as to the manner in which the deficit shall be eliminated.

## **Financial Controls**

All bills and obligations of the State are paid from the State Treasury. Under the State Constitution all payments except debt obligations made from the State Treasury must be authorized by a warrant signed by the Governor with advice and consent of the Council. Debt obligations of the State are exempt from the warrant requirement and are paid by the State Treasurer under statutory authority to pay principal and interest on all loans which may at any time come due. (RSA 6:10)

Financial control procedures in the State are maintained by both the executive and legislative branches. In the executive branch, the Commissioner of the Department of Administrative Services is directed by statute to

conduct a continuous study of the State's financial operations, needs and resources and to install and operate a system of governmental accounting.

The Comptroller, within the Department of Administrative Services, is directed by statute to maintain the State's accounting system in accordance with generally accepted accounting principles and report monthly to each State agency its total dollars expended, total encumbrances outstanding and appropriation balances then available for each agency through the previous month of the fiscal year. When it appears that a State department or agency is incurring operating expenditures at levels that will deplete its available appropriation prior to the close of the fiscal year, the Comptroller is required to report this fact to the Governor who shall investigate and may, if necessary, order the department head to reduce expenditures in proportion to the balance available and time remaining in the fiscal year. The Comptroller issues statement of appropriation reports daily that comply with the monthly reporting requirements; instances of spending that may deplete appropriations are rare.

Legislative financial controls involve the Office of Legislative Budget Assistant (the "Office"), acting under the supervision of the Fiscal Committee, and the Joint Legislative Capital Budget Overview Committee. The Office has post-audit responsibility for all entities that expend State funds as well as review of the budgetary process on behalf of the Legislature. This responsibility involves conducting selected departmental audits and program result audits including, but not limited to, examinations as to whether the results contemplated by the authorizing body are being achieved by the department and whether such results could be obtained more effectively through other means. The Joint Legislative Capital Budget Overview Committee reviews the status of capital budget projects, and each State agency with capital budget projects is required to submit to the committee a status report on projects every sixty days.

### **Revenue Stabilization Reserve Account**

Legislation was enacted in 1986 to establish a Revenue Stabilization Reserve Account (the "Revenue Stabilization Reserve Account" or "Rainy Day Fund") within the General Fund as of July 1, 1987. Pursuant to RSA 9:13-e, in the event of a General Fund operating budget deficit at the close of a fiscal biennium resulting from a shortfall in revenue (as compared with the official budget), the Comptroller shall notify the Fiscal Committee and the Governor of such deficit and request to transfer from the Revenue Stabilization Reserve Account, to the extent available, an amount equal to the lesser of the deficit or the revenue shortfall. No monies in the Revenue Stabilization Reserve Account (except for interest earnings, which are deposited as unrestricted General Fund revenue) can be used for any purpose other than deficit reduction or elimination except by specific appropriation approved by two-thirds of each house of the Legislature and by the Governor.

Chapter 158:41 of the Laws of 2001 amended RSA 9:13-e regarding funding the Revenue Stabilization Reserve Account. At the close of each fiscal biennium, any surplus, as determined by the official audit, shall be transferred by the Comptroller to the Revenue Stabilization Reserve Account. The maximum amount permitted in the account is equal to 10% of General Fund unrestricted revenue for the most recently completed fiscal year. Chapter 237 of the 2016 legislative session repealed a law which had capped the transfer in a single year to one half of the total potential maximum balance allowable for the Revenue Stabilization Reserve Account.

Chapter 143 of the Laws of 2009, the operating budget for fiscal years 2010-2011, assumed \$69 million would be drawn from the Revenue Stabilization Reserve Account at June 30, 2009 leaving a balance of \$20 million at June 30, 2009. The actual draw on the Revenue Stabilization Reserve Account at June 30, 2009 was \$79.7 million leaving a balance of \$9.3 million. The balance remained at \$9.3 million until the budget for fiscal years 2016-2017, which projected an unassigned fund balance of \$72.8 million as of June 30, 2015. The Legislature set forth in Chapter 276:43, Laws of 2015 that the then-projected unassigned general fund equity balance of approximately \$49 million was to be carried forward in the General Fund to be used in fiscal year 2016. In addition, the Revenue Stabilization Reserve Account balance was projected to be increased to \$23.8 million by a \$14.5 million transfer into the fund. The actual total General Fund unassigned fund balance at June 30, 2015 was \$71.3 million, comprised of a Revenue Stabilization Reserve Account balance of \$22.3 million and an unassigned fund balance of \$49 million.

In May 2016 the United State Supreme Court issued a final decision upholding a \$236 million verdict in favor of the State related to the *State v. Exxon* for MtBE water contamination. The total award is approximately

\$307.2 million, which amount includes interest. As required by RSA 7:6-e,I, 10 percent of the award, or \$30.7 million, was credited to the State's Rainy Day Fund.

Additionally, Chapter 264, Laws of 2016 established that to the extent the audited, combined unrestricted general and education trust fund revenues for the fiscal year ending June 30, 2016 exceeded the official estimates, an amount not to exceed \$40 million of said excess would be transferred to the Revenue Stabilization Reserve Account. The State's audited financial statements for fiscal year 2016 issued on January 31, 2017 reported revenues approximately \$151 million in excess of plan; therefore the full \$40 million authorized by law was transferred at the conclusion of the audit, bringing the total Rainy Day Fund balance to \$93 million for June 30, 2016.

As noted above, the statutory capacity of the Rainy Day Fund is set at 10% of General Fund unrestricted revenue for the June 30, 2016 audited fiscal year, which is \$153 million. However, this statutory limit was revised by Chapter 156, Laws of 2017. To the extent the audited, combined unrestricted general and education trust fund revenues for the fiscal year ending June 30, 2017 exceeded the official estimates, less any amounts deposited pursuant to RSA 7:6-e,I, the excess was to be transferred to the Revenue Stabilization Reserve Account, up to \$100 million. Any excess, after the transfer of sufficient funds to bring the Revenue Stabilization Reserve Account to \$100 million, was to be transferred to the Public School Infrastructure Fund established pursuant to RSA 198:15-y.

The General Fund unassigned fund balance at the close of fiscal year 2017 was \$118.7 million, consisting of \$24.7 million of unassigned fund balance and \$94.0 million in the Rainy Day Fund, which includes a \$1.0 million transfer from the consumer protection escrow account that is designated for the Rainy Day Fund. As a result of legislative designations, the remaining operating surplus was transferred as follows: \$6.0 million to the Revenue Stabilization Reserve Account balance and the remainder of \$18.7 million to the public school infrastructure fund. This brought the Revenue Stabilization Reserve Account balance to \$100.0 million for fiscal year 2017, as compared to \$93.0 million in the prior fiscal year.

The General Fund audited unassigned fund balance at the close of fiscal year 2018 was \$184.4 million, consisting of \$74.4 million of unassigned fund balance and \$110.0 million in the Rainy Day Fund which includes \$10.0 million transferred from unrestricted General Fund excess revenues over plan as required by Chapter 162, Laws of 2018. This brought the Revenue Stabilization Reserve Account balance to \$110.0 million for fiscal year 2018, as compared to \$100.0 million in the prior fiscal year. In addition, the \$18.7 million transferred to the public school infrastructure fund in the prior fiscal year was completely committed to various State public schools during fiscal year 2018.

## **State Revenues**

The State derives most of its revenues from a combination of specialized taxes, user charges and the operation of a statewide liquor sales and distribution system. The State of New Hampshire is the only state that imposes neither a personal income tax on earned income nor a statewide general sales or use tax.

Unrestricted revenues may be appropriated by the Legislature for any State purpose, including the payment of debt service on outstanding bonds of the State, without constitutional limitations (or program limitations, as in the case of federal grants).

The following are the principal sources of unrestricted revenues of the State. Except as otherwise noted below, such revenues are credited to the General Fund:

*Meals and Rooms Tax.* Effective July 1, 2009, a tax is imposed equal to 9% of the charges for (i) hotel, motel and other public accommodations, (ii) meals served in restaurants, cafes and other eating establishments, and (iii) rental cars. Prior to July 1, 2009, the meals and rooms tax rate was 8%. The portion taxed on rental cars is designated as revenue to the Education Trust Fund. Effective July 1, 2009, this tax was extended to cover campsites, however, Chapter 6 of the Laws of 2010 repealed the extension of the meals and rooms tax to campsites effective May 3, 2010. Chapter 144 of the Laws of 2009 prescribed that the funding necessary to pay debt service on general obligation bonds issued to fund school building aid grants shall come from the meals and rooms tax. The amounts of the annual debt service on bonds issued for this purpose for fiscal years 2010 through 2019 are shown below:

<u>Fiscal Year</u>	<u>Amount (in thousands)</u>
2010	\$ 366
2011	5,030
2012	14,580
2013	14,424
2014	14,001
2015	13,576
2016	13,152
2017	12,728
2018	12,311
2019	11,903

In addition, 3.15% of net meals and rooms tax collections is designated for travel and tourism development. The distribution of meals and rooms taxes to the Division of Resources and Economic Development for travel and tourism development was suspended for the biennium ending June 30, 2013 and again for the biennium ending June 30, 2017. Chapter 156 of the Laws of 2017 transferred the functions of the Division of Travel and Tourism from the former Department of Resources and Economics Development to the Department of Business and Economic Affairs. Chapter 156 of the Laws of 2017 also suspended the distribution of meals and rooms taxes to the Department of Business and Economic Affairs for the biennium ending June 30, 2019. The reorganization is intended to refocus the divisions of Economic Development and Travel & Tourism Development into the Department of Business and Economic Affairs to better coordinate the State's economic development efforts.

Beginning with fiscal year 1995, a portion of the revenue derived from the meals and rooms tax was distributed to the cities, towns and certain unincorporated subdivisions of the State, eventually increasing to 40% of such revenue annually. For fiscal years 1997 and thereafter, the amount to be distributed must be the sum of the prior year's distribution plus an amount equal to 75% of any increase in the income received from the tax for the preceding fiscal year, not to exceed \$5 million. However, since 2009 various chapter laws have capped the distribution to cities and towns as shown in the table below, presenting the percentage of the previous year's tax collections for fiscal years 2009 through 2018. Most recently, Chapter 156, Laws of 2017 capped the fiscal years 2018 and 2019 distribution at the 2017 level.

<u>Fiscal Year</u>	<u>Amount Distributed</u>	<u>% of Previous Year's Total Meals and Rooms Tax Collection</u>
2009	\$58,805,057	28.5%
2010	58,805,057	28.9
2011	58,805,057	25.8
2012	58,805,057	25.7
2013	58,805,057	23.2
2014	58,805,057	22.4
2015	63,805,057	23.2
2016	63,805,057	21.8
2017	68,805,057	22.0
2018	68,805,057	21.0
2019	68,805,057	20.0

*Business Profits Tax ("BPT")*. Chapter 274, Laws of 2015 reduced the rate of the business profits tax to 8.2% for taxable periods ending on or after December 31, 2016. For taxable periods ending before December 31, 2016, the business profits tax rate is 8.5%. The tax is imposed on the taxable business profits of business organizations deriving gross business profits from activities in the State, or both in and outside of the State. Business profits subject to the tax but derived from activities conducted outside the State are adjusted by the State's apportionment formula to allocate to the State a fair and equitable proportion of such business profits.

For taxable periods ending on or after December 31, 2018, the business profits tax rate is reduced to 7.9%. Chapter 156, Laws of 2017 further reduces the rate of the business profits tax to 7.7% for taxable periods ending on or after December 31, 2019 and 7.5% for taxable periods ending on or after December 31, 2021.

Chapter 300, Laws of 2016 repeals and reenacts RSA 77-A:4, XIV relative to how a business organization treats the sale or exchange of an ownership interest which results in an increase in basis of assets under Federal law. Under previous law, when an interest in a business organization is sold or exchanged, the business must make an addition to gross business profits of an amount equal to the net increase in the basis of all underlying assets transferred or sold. Chapter 300 eliminated the requirement to make an addition to gross business profits, but also established an election whereby a business organization may choose to recognize the increase in basis and make an addition to gross business profits. If an election is made, the business organization may then deduct against gross business profits any annual depreciation or amortization attributable to the increased basis. If an election is not made, the business organization must add back to gross business profits any depreciation or amortization attributable to the increase in basis that is recognized federally. The fiscal impact of this change is indeterminable.

*Business Enterprise Tax (“BET”).* Chapter 274, Laws of 2015 also reduced the rate of the business enterprise tax to 0.72% for taxable periods ending on or after December 31, 2016. For taxable periods ending before December 31, 2016, the business enterprise tax rate was 0.75%. The tax is assessed on wages paid to employees, interest paid on debt and dividends paid to shareholders. Businesses with less than \$217,000 in gross receipts and an enterprise value base of less than \$108,000 are exempt from the business enterprise tax. Every business enterprise is required to make estimated tax payments due on the fifteenth day of the fourth, sixth, ninth and twelfth months of its taxable year. The business enterprise tax may be used as a credit against the business profits tax under RSA 77-A:5. Any unused portion of the credit may be carried forward and allowed against the business profits tax for ten (10) taxable periods from the taxable period in which the business profits tax was paid.

For taxable periods ending on or after December 31, 2018, the business enterprise tax rate is reduced to 0.675%. Chapter 156, Laws of 2017 further reduces the business enterprise tax rate to 0.6% for taxable periods ending on or after December 31, 2019 and to 0.5% for taxable periods ending on or after December 31, 2021.

Several pieces of legislation adopted since 2011 were projected to significantly reduce business tax revenue beginning in fiscal year 2014. In performing its work for the 2014-2015 operating budget, the Consensus Revenue Estimating Panel (“CREP”), created by Executive Order, reconsidered each of the legislative changes. The DRA worked with the CREP to refine the estimated impacts from worst case to what were believed to be more realistic impacts in developing budgeted revenue for the 2014-2015 biennium. More recently, to assist with revenue estimating for the 2018-2019 biennium, the DRA began analyzing the actual impact of the tax law changes on fiscal year 2015 revenues in order to attribute what changes may be driving trends in revenues. To date, the predicted revenue declines due to recent legislative changes have been more than offset by overall growth in Business Tax revenues.

- Chapter 224:363, Laws of 2011 and Chapter 71, Laws of 2012 increased the amount of Net Operating Loss (NOL) that can be generated in a tax year from \$1 million to \$10 million, effective January 1, 2013. The initial 2011 DRA estimates were based on data from tax year 2009. The DRA has analyzed tax year 2013 data and estimated a potential maximum reduction in BPT revenue for fiscal year 2015 to be \$36 million based on an unlikely worst case scenario because it is largely affected by a business’ future profits, a business’ decision to use an NOL deduction and by a business’ future apportionment factor.
- Chapter 225, Laws of 2011 and Chapter 192, Laws of 2014 increased the BET credit against BPT carry forward period from 5 to 10 taxable periods, effective July 1, 2014 and applicable for taxable periods ending on or after December 31, 2014. Chapter 192, Laws of 2014 clarified the applicability of the increased carry forward and ensured there would be no fiscal impact until tax year 2020.
- Chapter 287, Laws of 2012 established the Education Tax Credit (ETC) against BPT and BET, effective June 27, 2012 with the first program year beginning January 1, 2013. The total amount of ETCs available in 2013 was \$3.4 million. However, the total amount of ETCs awarded by the scholarship organization in 2013 was \$117,590, all of which was used in tax year 2013. The total amount of ETCs available in 2014 was \$5.1 million. However, the total amount of ETCs awarded by the scholarship organization in 2014 was \$49,725, of which \$49,474 was used in tax year 2014. The total amount of ETCs available for tax year 2015 was \$5.1 million. However, the total amount of

ETCs awarded in 2015 was \$184,619 of which \$156,884 was used in tax year 2015. The total amount of ETCs available for tax year 2016 was \$5.1 million. However, the total amount of ETCs awarded in 2016 was \$386,062 of which \$339,632 was used in tax year 2016. The total amount of ETCs available for tax year 2017 was \$5.1 million. However, the total amount of ETCs awarded in 2017 was \$879,326 of which \$697,759 has been used through March 4, 2019. Chapter 63, Laws of 2017 extends the due date of the ETC application from June 15, 2017 to November 15, 2017 and extends the due date to make a donation under the ETC program from not later than July 15, 2017 to not later than December 15, 2017. Chapter 357, Laws of 2018 makes various changes to the administration of the ETC program, including the definition of “program year” from a calendar year to a fiscal year beginning July 1 and ending June 30, and its application procedures. Additional changes include allowing a business organization or business enterprise to carry forward any unused portion of the ETC amount granted by the DRA for five succeeding years, but not more than \$1.0 million in any given tax year.

- Chapter 279, Laws of 2012 increased the BET filing thresholds effective for taxable periods ending on or after December 31, 2013 and was originally estimated to result in \$3 million annual revenue reduction in fiscal years 2014 and 2015. In analyzing more recent data, the DRA estimated a reduction in BET revenue for fiscal year 2015 in the range of \$1.7 million to \$3.2 million. The BET filing threshold tax law change has not been further analyzed, as once a taxpayer no longer meets the threshold they no longer have a filing requirement.
- Chapter 116, Laws of 2012 changed the prospective repeal date for the Research and Development Tax Credit from July 1, 2013 to July 1, 2015 and was estimated to result in \$1 million annual revenue reduction in fiscal years 2014 and 2015. Chapter 5, Laws of 2013 increased the Research and Development Tax Credit from \$1 million per year to \$2 million per year, and made the credit permanent. Chapter 276, Laws of 2015 increased the Research and Development Tax Credit to \$7 million effective July 1, 2017. This change is expected to reduce revenue by \$5 million per year beginning in fiscal year 2018.
- Chapter 279:1, Laws of 2012 increased the Internal Revenue Code §179 expense deduction from \$20,000 to \$25,000, effective June 21, 2012 and applicable for equipment placed in service on or after January 1, 2012. Chapter 295:4, Laws of 2016 increased the Internal Revenue Code §179 expense deduction from \$25,000 to \$100,000, effective January 1, 2017 and applicable for property placed in service on or after January 1, 2017. In analyzing tax year 2013 data, the DRA estimated a minimum reduction of BPT revenue for fiscal year 2015 of \$7.6 million, which would occur starting in fiscal year 2017, with the bulk of the impact occurring in fiscal year 2018. Chapter 156, Laws of 2017 increased the Internal Revenue Code §179 expense deduction from \$100,000 to \$500,000 for property placed in service on or after January 1, 2018. In analyzing tax year 2014 data, the DRA estimated a reduction of BPT revenue beginning in fiscal year 2018 of \$9.7 million per year.
- Chapter 144:124, Laws of 2013 excluded gratuitous tips from the definition of compensation under BET, effective May 20, 2013 and applicable to taxable periods beginning on or after January 1, 2013. The DRA, however, has no data or information specific to tip reporting and, therefore, was unable to determine the associated reduction in revenue.
- Chapter 207, Laws of 2011 and Chapter 71, Laws of 2013 shifted the burden of proof with respect to the BPT compensation deduction, effective June 25, 2011 and applicable to taxable periods beginning on or after January 1, 2011, and increased the recordkeeping safe harbor from \$50,000 to \$75,000, effective July 1, 2013. The DRA is unable to determine the reduction in revenue with respect to the burden of proof shift. The fiscal impact of the increased recordkeeping safe harbor is nominal.

The federal Tax Cuts and Jobs Act (“TCJA”) signed on December 22, 2017, represents the most expansive package of federal tax law changes enacted since the 1986 overhaul of the Internal Revenue Code (“IRC”). Most states, including New Hampshire, use federally reported income as a starting point for the calculation of taxable income at the State level. As a result, federal tax law changes may materially impact State revenues depending on

the version of the IRC to which the State conforms. New Hampshire BPT is currently tied to the IRC as of December 31, 2016 for tax periods ending on or after December 31, 2018, and thus the State law no longer conforms to the current IRC. For practical purposes, this means that NH BPT returns starting with Line 28 from the federal return, will calculate Line 28 using the IRC that was in effect on December 31, 2016, thus the TCJA will not apply and will therefore not impact State BPT revenues directly. However, the TCJA has and will continue to alter the various costs and incentives impacting businesses decisions in a way that will impact that State tax landscape regardless of whether or not New Hampshire is tied to the IRC as amended by the TCJA. This is evidenced by a significant increase in revenue in fiscal year 2018 as compared to fiscal year 2017. Business Tax revenues (BPT and BET combined) for fiscal year 2018 were \$781.1 million as compared to \$637.8 million in fiscal year 2017. The additional revenue in fiscal year 2018 is likely attributable to a combination of strong underlying economic growth as well as an increase in taxable transactions for New Hampshire purposes resulting from the TCJA. The DRA believes that a portion of the additional revenue in fiscal year 2018 was due to one-time or temporary impacts from the TCJA, and therefore, similar increases are not expected in subsequent fiscal years. The DRA cannot yet determine how much of the 2018 increase is attributable to the TCJA, as additional information regarding the reasons for the increased revenue in fiscal year 2018 will be available as final tax year 2017 returns are filed on extension over the next few months and tax year 2018 return filing season begins in the spring of calendar 2019.

Business Tax revenues remain strong to date in fiscal year 2019. At the end of February, 2019, Business Tax revenues were \$151.2 million, or 48.3%, ahead of fiscal year 2019 plan. Similar to fiscal year 2018, much of this additional revenue is likely attributable to a combination of strong underlying economic growth as well as one-time revenue from the TCJA for transactions occurring during the 2018 tax year. The DRA cannot yet determine how much of the additional revenue is attributable to one-time or anomalous payments. Some of this information will start to become available as tax year 2018 returns are filed in the spring of calendar year 2019, with additional information becoming available with returns filed on extension in the fall of calendar year 2019.

*Board and Care Revenue.* These revenues are payments primarily from health insurers and the federal government to reimburse the State for costs of health and mental care services and board provided at State institutions, including the New Hampshire Hospital. Beginning with the budget for the 2014-2015 biennium, this revenue has been re-characterized from unrestricted to restricted within the Department of Health and Human Services (“DHHS”).

*Liquor Sales and Distribution.* The Liquor Commission is overseen by the Chairman of the Liquor Commission as well as a Deputy Commissioner, appointed by the Governor with the consent of the Council. Pursuant to RSA 176:3, the Commission is required to optimize profitability, maintain proper controls, and provide an efficient operation for the service of its customers. The Commission makes all liquor purchases directly from the manufacturers and importers and operates State liquor stores in cities and towns that accept the provisions of the local option law. The Commission is authorized to lease and equip stores, warehouses and other merchandising facilities for liquor sales, to supervise the construction of State-owned liquor stores at various locations in the State, and to sell liquor at retail and to licensed restaurants, hotels and other organizations. Revenues from the State Liquor Commission are credited to the Enterprise Fund for accounting purposes and the cash flow from operations is unrestricted and deposited into the State’s pooled bank accounts.

Chapter 342, Laws of 2018 amends RSA 176:16, III requiring that 5% of the previous fiscal year gross profits derived by the commission from the sale of liquor shall be deposited into the alcohol abuse prevention and treatment fund established by RSA 176-A:1.

Holders of off-premises retail licenses with annual wine purchases of less than \$350,000 continue to receive the discount of 15% less than the regular retail price at New Hampshire Liquor and Wine Outlets and 20% less than the regular F.O.B. price at the warehouse. Holders of off-premises retail licenses with annual wine purchases exceeding \$350,000 receive a discount of 15% less than the regular F.O.B. price at the warehouse.

*Tobacco Tax.* Effective July 6, 1999, the cigarette tax rate increased by 15 cents to a rate of 52 cents per package of 20 cigarettes. The increase was dedicated to the Education Trust Fund. Effective July 1, 2005, the tax was increased to 80 cents per pack, and effective July 1, 2007 the tax was increased to \$1.08 per pack. Smokeless and loose tobacco is generally taxed at a rate proportionate to the cigarette tax, but was not subject to the tax increase effective July 1, 2007. Effective July 1, 2008, the definition of a cigarette was changed to include any roll

of tobacco wrapped in any substance containing tobacco, weighing not more than 3 lbs. per thousand, which would include the taxation of some little cigars. Effective October 15, 2008, the rate increased to \$1.33 per package of 20 cigarettes. Effective July 1, 2009, the tax rate increased by 45 cents to \$1.78 per package of 20 cigarettes. Chapter 144:257 of the Laws of 2009 provides that the revenue produced in excess of \$1.00 per pack shall be deposited in the Education Trust Fund. Pursuant to Chapter 224:377-381 of the Laws of 2011, effective July 1, 2011, the tobacco tax rate for each pack containing 20 cigarettes was decreased from \$1.78 to \$1.68 per pack, the rate for each pack containing 25 cigarettes was decreased from \$2.23 to \$2.10 per pack, and the rate for all other tobacco products, except premium cigars, was decreased from 65.03% to 48.0% of the wholesale price.

The 2011 law decreasing the tax had a contingency provision requiring the DRA to report, on or before July 15, 2013, the amount of tobacco tax revenue received for the period of July 1, 2011 through June 30, 2013. If the DRA reported that the amount of tobacco tax revenue received for the period was below the amounts received for the period of July 1, 2009 through June 30, 2011, then, effective August 1, 2013, the tax rate for each pack containing 20 cigarettes would revert to \$1.78 per pack, the tax rate for each pack containing 25 cigarettes would revert to \$2.23 per pack, and the tax rate for all other tobacco products, excluding premium cigars, would revert to 65.03% of the wholesale sales price. The DRA did report that tobacco tax revenues for the period July 1, 2011 through June 30, 2013 were below revenues for the period July 1, 2009 through June 30, 2011. Accordingly, as of August 1, 2013 tobacco tax rates reverted to rates in effect on June 30, 2011; the rate remains at \$1.78 per pack. An estimated increase of \$10 million in tobacco tax revenue in fiscal year 2014 was expected to result from the reversion to \$1.78 per package of 20 cigarettes. In fact, tobacco tax revenues increased \$14.1 million from fiscal year 2013 to fiscal year 2014, from \$205.9 million to \$220.0 million. Tobacco tax revenues remained steady at \$221.3 million in fiscal year 2015 and \$227.1 million in fiscal year 2016. Tobacco tax revenues fell in fiscal year 2017 to \$218.6 million and decreased again in fiscal year 2018 to \$211.6 million.

*Medicaid Enhancement Tax (“MET”) Revenues.* Effective July 1, 1993, the State lowered the MET rate from 8% to 6%, and effective July 1, 2007, the State lowered such tax to 5.5%. Previously, the tax was assessed against the gross patient services revenue of hospitals operating in the State. “Gross patient services revenue” was defined as the amount that a hospital records at the hospital’s established rates for patient services, regardless of whether full payment of such amounts is expected or paid. As of July 1, 2005, the tax was assessed against net patient services revenue, which means the “gross charges of the hospital, less any deducted amount for bad debts, charity care and payor discounts.” As of July 1, 2011, Chapter 224 of the Laws of 2011 amended the definition of “hospital” under RSA 84-A:1, III to mean general hospitals and special hospitals for rehabilitation required to be licensed under RSA 151 that provide inpatient and outpatient hospital services, but not including government facilities. The definition of “net patient services revenue” under RSA 84-A:1, IV-a was amended to include revenues received from the State’s uncompensated care account and revenues received from all payers of inpatient and outpatient patient care. Effective July 1, 2014, Chapter 158 of the Laws of 2014 clarified the taxable services under the MET, declared the intent of the MET, removed the application of the MET to special hospitals for rehabilitation, provided for a tax rate reduction beginning for the taxable period ending June 30, 2016 and changed the payment and return date. Further, all revenue collected pursuant to the tax is now credited to the Uncompensated Care Fund and restricted to fund medical care for the Medicaid population. The tax payment and tax return are now due on April 15 within the taxable period.

From inception of the tax until June 30, 2010, hospitals often received payment from the State to reimburse for the provision of uncompensated care in the amount that they paid to the State in MET. The source of uncompensated care reimbursements to hospitals was approximately one-half of the MET receipts and the balance was federal disproportionate share hospital (“DSH”) Medicaid funds. The other half of the tax paid by the hospitals was credited as General Fund unrestricted revenue. In fiscal year 2011, the uncompensated care payments were made under a redesigned calculation formula. However, one-half of the total tax paid by hospitals continued to be used to match federal dollars and, in the aggregate, hospitals received uncompensated care payments equal to the total tax received by the State. The operating budget for fiscal years 2012 and 2013, Chapters 223 and 224 of the Laws of 2011, kept the tax rate at 5.5% of net patient services revenue but significantly decreased the State’s commitment to reimburse hospitals for uncompensated care. Certain hospitals challenged a number of legislative and agency actions since 2005 that reduced the reimbursement rates for certain Medicaid services and related payments.

Beginning in June of 2011, DRA received requests for refund or credit of the MET from 20 of the 28 hospital taxpayers for prior fiscal periods ending June 30, 2008 through June 30, 2013, totaling \$109 million, and received additional refund requests from all hospitals for the fiscal year 2014 receipts of approximately \$165.6 million. DRA denied \$20 million of those requests related to fiscal year 2008 as being outside the statute of limitations and additionally denied \$7 million in requests related to fiscal year 2012. The DRA also issued tax notices for fiscal year 2012 for \$13 million.

During fiscal year 2013, the DRA reached agreements with over half of the hospitals to resolve all outstanding issues between them relating to approximately \$67.6 million of the \$89 million in MET refund and credit requests and \$11 million of the \$13 million in tax notices for fiscal years 2009 through 2013, leaving \$14.4 million in refund requests and \$2 million in tax notices outstanding as of June 30, 2013. As a result of the settlement agreements reached in fiscal year 2013 for fiscal years 2009 through 2013, the State received approximately \$5.4 million of MET revenue and granted \$3.6 million in credits to be applied in fiscal year 2014 and \$3.6 million in credits to be applied in fiscal year 2015. See “MEDICAID PROGRAM.”

In fiscal year 2014, the State reached an agreement with 26 New Hampshire hospitals’ outstanding challenges to: the constitutionality of the MET, to the majority of the claims that the hospitals had filed for refunds on their fiscal year 2014 tax payments and what remained outstanding related to fiscal years 2013 and prior years, and to Medicaid rate reductions made in previous years. The Legislature approved this agreement and Senate Bill 369 was signed into law on June 30, 2014 (Chapter 158, Laws 2014). See “LITIGATION – *Catholic Medical Center et al v. DRA.*” Under the agreement, the State will provide DSH payments to critical and noncritical access hospitals. Critical access hospitals will be reimbursed 75 percent of their uncompensated care costs, and noncritical care access hospitals will receive no more than 50 percent of their individual uncompensated care costs in fiscal years 2016 and 2017. The State’s liability will be capped at \$224 million in total payments that are shared with the federal government. In fiscal years 2018 and 2019, critical access hospitals would continue to be reimbursed 75 percent of their uncompensated care costs. Other acute care hospitals would receive no more than 55 percent of their uncompensated care costs, up to a cap of \$241 million. The hospitals are guaranteed at least \$175 million a year in DSH payments, subject to additional reductions based on MET revenue shortfalls and tax rate reductions.

Senate Bill 369 (Chapter 158, Laws of 2014) lowered the tax rate from 5.5 percent to 5.45 percent for taxable periods beginning after July 1, 2015, then down to 5.4 percent for taxable periods beginning after July 1, 2016. Senate Bill 369 also provided that beginning on or after July 1, 2017 and for every year thereafter, the rate would remain 5.4 percent, unless total uncompensated care for all hospitals fell below \$375 million, in which case the rate will be reduced to 5.25 percent. However, House Bill 1817 (Chapter 162, Section 34, Laws of 2018) amended the MET statute to eliminate the possibility of a future rate reduction based upon total aggregate uncompensated care, thereby making the rate of 5.4 percent permanent. Payments to hospitals are contingent on MET revenues reaching agreed upon estimates: \$220.5 million in State fiscal year 2016 and \$228.1 million in State fiscal year 2017. In State fiscal years 2018 and 2019, those thresholds will depend upon whether the tax rate is lowered. If the rate remains at 5.4 percent, the thresholds will be \$235.9 million in State fiscal year 2018 and \$243.4 million in State fiscal year 2019. If the rate is reduced to 5.25 percent, the thresholds will be \$229.4 million in State fiscal year 2018 and \$235.7 million in State fiscal year 2019. If revenues fall short of these estimates, State payments to the disproportionate share pool for noncritical access hospitals will be reduced by the amount of the shortfall plus FMAP. MET revenue is currently budgeted at the higher estimate of \$235.9 million for State fiscal year 2018; however, if no injunction requires the State to interpret UCC without consideration of third-party liability revenue, it is likely total UCC will fall below the \$375 million threshold.

The State agreed to credit all money raised from the MET as restricted revenue and use those funds exclusively to support Medicaid services, including funding DSH payments, hospital provider payments, and other Medicaid costs. The agreement eliminates certain freestanding rehabilitation hospitals from the MET base, and also precludes them from receiving uncompensated care payments. Through the agreement, the participating hospitals agreed they will not challenge the MET on constitutional grounds as long as the terms of the agreement are met. Additionally, the participating hospitals agreed to drop their claims for tax refunds in fiscal years 2014 and 2015 and drop their participation – and claims – in lawsuits challenging the constitutionality and application of the MET. They also agreed to drop claims in state and federal court cases challenging rate reductions made beginning in fiscal year 2008. If future Legislatures choose to cut funding, the hospitals retain the right to re-launch their litigation and the State retains all of its defenses.

As a result of the settlement reached in fiscal year 2014, the remaining refund requests outstanding as of June 30, 2014 from fiscal years 2014 and prior years are not considered material. St. Joseph's Hospital did not agree to the settlement, and on October 15, 2014, St. Joseph Hospital filed a new lawsuit challenging the constitutionality of both the 2014 changes to the MET and the previous law. The plaintiff also claimed that the revisions to the law do not apply because it paid the tax before the changes went into effect, and seeks a full tax refund for its fiscal year 2014 MET of \$9,379,356. The parties entered into a settlement agreement in October 2015 under essentially the same terms as the global settlement agreement the State entered into with the other hospitals. As a result, St. Joseph has dismissed this case with prejudice. In addition, under the settlement agreement St. Joseph is barred from bringing any new claim in state or federal court or at the DRA related to the constitutionality of the MET unless the Legislature fails to appropriate the requested funds agreed to in the global agreement. See also "MEDICAID PROGRAM" and "LITIGATION – *Frisbie Memorial Hospital et al v. Toumpas*," "– *Frisbie Memorial Hospital et al v. Sebelius*," and "– *Catholic Medical Center et al v. DRA*."

**Medicaid Enhancement Tax Estimates and Uses For Fiscal Years 2014-2019**  
(millions)

	FY 2014 (Actual)	FY 2014 (Budget)	FY 2015 (Actual)	FY 2015 (Budget)	FY 2016 (Actual)	FY 2016 (Budget)	FY 2017 (Actual)	FY 2017 (Budget)	FY 2018 (Actual)	FY 2018 (Budget)	FY 2019 (Budget)
Medicaid Enhancement Tax Revenues	\$180.5	\$184.8	\$198.5	\$190.3	\$212.5	\$220.5	\$226.6	\$228.1	\$242.9	\$235.9	\$242.9
To hospitals for uncompensated care	26.6	30.9	34.5	26.3	103.6	95.9	107.8	95.1	112.4	83.1	82.4
To General Fund	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
To medical providers	\$153.9	153.9	164.0	164.0	108.5	124.7	118.7	133.0	130.5	152.8	160.5

Fiscal year 2014 MET payments from hospitals were due on October 15, 2013, but no interest or penalties were assessed if the tax were received by the State on or before October 31, 2013. The Commissioner of the DRA granted an extension to seven hospitals to make payments by December 2013. For fiscal year 2014, the State received \$180.5 million in MET. The fiscal year 2014 MET collections resulted in a shortfall of \$4.3 million from the \$184.8 million estimated when the budget was adopted. As with fiscal year 2013, some hospitals used a definition of net patient services revenue that varied from the definition used in previous years and excluded certain hospital services. For the current status of litigation concerning MET, see "LITIGATION – *Frisbie Memorial Hospital et al v. Toumpas*," "– *Frisbie Memorial Hospital et al v. Sebelius*" and "– *Catholic Medical Center et al v. DRA*."

For taxable periods ending June 30, 2015 and prior, the MET was assessed at a rate of 5.5%. For the taxable period ending June 30, 2016, the MET was assessed at a rate of 5.45%. For the taxable period ending June 30, 2017, the MET was assessed at a rate of 5.4%. For the taxable period ending June 30, 2018, and going forward, the MET will be assessed at a rate of 5.4%.

**Insurance Tax.** Prior to fiscal year 2008, the State imposed a tax on licensed insurance companies equal to 2% of net premiums written in the State (5% of taxable underwriting profit in the case of ocean marine insurance companies). Chapter 277 of the Laws of 2006, reduced such tax to 1.75% effective July 1, 2007, 1.5% effective January 1, 2009, and 1.25% effective January 1, 2010, and would have reduced it to 1% effective January 1, 2011 but for Chapter 1 of the Laws of 2010 Special Session which repealed the provision bringing the tax to 1%. The tax rate remains at 1.25%. This applies to all lines of insurance except accident and health insurance (RSA 401:1, IV), and insurers licensed as Health Service Corporations (RSA 420-A), Health Maintenance Organizations (RSA 420-B), and Delta Dental Plan Of NH, Inc. (RSA 420-F) which remains at 2%. Prior to 2011, ocean marine insurance was taxed on an underwriting profit basis. The purpose of the legislation was to stimulate economic growth by retaining current domestic insurers and recruiting other insurance companies to incorporate in the State. Effective for calendar year 2007, the new legislation also changed the collection of the tax from quarterly to annually on or before March 15 of each year. Under an insurance retaliatory statute, the State collects the greater of premium tax calculated by the effective New Hampshire premium tax rate or premium tax calculated by the effective tax rate of the state of which each insurer is domiciled. As of December 31, 2017, companies of 38 states having a higher premium tax rate in their domiciliary states were licensed in the State. Premium tax on unlicensed companies ranges from 2% to 4% of premiums written.

*Interest & Dividends Tax.* A tax of 5% is imposed on income in excess of \$2,400 received from interest and dividends on stocks, bonds and other types of investments. Chapter 163 of the Laws of 1998 allows for a deduction from taxable interest and dividend income an amount equal to any cash distributions made to a qualified investment capital corporation. Chapter 341, Laws of 2018 expands the use of the education tax credit (“ETC”) program to allow individuals to apply for, and if granted by the DRA, use an ETC against the Interest and Dividends Tax. The ability to use ETC against the Interest and Dividends Tax is expected to increase utilization of the ETC program (which has seen low utilization in previous years). However, the ETC program is capped at \$5.1 million in tax credits per year, thereby limiting the potential increase in tax credit usage.

Chapter 144 of the Laws of 2009 amended the Interest & Dividends Tax to treat distributions from limited liability companies, partnerships and associations as dividends subject to the tax to the same extent that distributions to corporate shareholders are taxable as dividends. This change was effective for calendar tax years beginning on or after January 1, 2009. A distribution that is a return of capital is not subject to taxation. This change in the tax was estimated to generate an additional \$15 million in each of fiscal years 2010 and 2011. However, Chapter 1, Laws of the 2010 Special Session, repealed the inclusion of distributions from limited liability companies, partnerships and association as dividends subject to the Interest & Dividends Tax effective January 1, 2010, leaving such distributions received during the 2009 tax year subject to the tax.

Chapter 286 of the Laws of 2012 amended the Interest & Dividends Tax to eliminate the taxation of trusts. Under the new law, interest and dividend income received by estates held by trustees treated as grantor trustees under Section 671 of the United States Internal Revenue Code shall be included in the return of their grantor, to the extent that the grantor is an inhabitant or resident of New Hampshire. Income reported by, and taxed federally as interest or dividends to, a trust beneficiary who is an individual inhabitant or resident of New Hampshire with respect to distributions from a trust that is not treated as a grantor trust under Section 671 of the United States Internal Revenue Code shall be included as interest or dividends in the return of such beneficiary and subject to taxation in accordance with the provisions of RSA Chapter 77. This change in the tax was originally estimated to result in a reduction in revenue of \$4 million to \$5 million. Fiscal year 2014 Interest & Dividends Tax revenues were below those for fiscal year 2013 by approximately \$13 million. In addition to the difference between the amount of tax paid by trusts (\$5.1 million in tax year 2012) and the amount of tax currently paid by beneficiaries of those trusts (which is affected by a possible reduction in distributions to beneficiaries), additional exemptions and exceptions available to beneficiaries, and the exclusion of previously taxable income, other possible factors impacting the reduction of revenue include: lower interest rates; the acceleration of 2013 dividends into 2012; and non-taxable distributions resulting from conversions of S-corporations to limited liability companies. As a result, the actual impact of the 2012 Interest & Dividends Tax law change on the fiscal year 2014 and fiscal year 2015 revenues remains unknown at this time. Interest and Dividends Tax revenue increased \$17.1 million from fiscal year 2014 to fiscal year 2015, from \$79.8 million to \$96.9 million. In fiscal year 2016, revenue declined to \$89.3 million and then increased in fiscal year 2017 to \$94.3 million and increased again in fiscal year 2018 to \$105.8 million.

*Communications Tax.* For the 2002-03 biennium, the communications tax was increased to a 7% aggregate tax applicable to the gross charges collected for most retail communication services. The 7% tax rate was made permanent pursuant to Chapter 319 of the Laws of 2003. Chapter 279 Laws of 2012 amended RSA 82-A to exclude internet access from the definition of communication services effective June 21, 2012. This resulted in a shortfall of \$28.5 million in communication services tax revenue for fiscal year 2013. The revenue decrease caused by the elimination of internet access from the definition of communication services was factored into the determination of the revenue plan for the 2014-2015 biennium. Communications Tax revenue stabilized at \$57.3 million in fiscal year 2015, the same annual total as fiscal year 2013, but substantially less than \$79.3 million in fiscal year 2012, prior to the law change. In 2016, revenue continued its recent slide to \$52.4 million, declined again in fiscal year 2017 to \$47.1 million and declined again in fiscal year 2018 to \$43.4 million.

*Real Estate Transfer Tax.* The real estate transfer tax was first enacted in 1967. Chapter 17 of the Laws of 1999 increased the permanent tax rate assessed on the sale, granting, and transfer of real estate and any interest in real estate from \$.50 per \$100 to \$.75 per \$100, or fractional part thereof, of the price or consideration effective July 1, 1999. The increase has been dedicated to the Education Trust Fund. This rate is assessed on both the buyer and the seller for the combined tax rate of \$1.50 per \$100. Where the price or consideration is \$4,000 or less, there is a minimum tax of \$20 assessed on both the buyer and seller. Pursuant to Chapter 179 of the Laws of 2011, the

buyer and seller must each file a separate Declaration of Consideration (Form CD-57) with the DRA. Effective July 1, 2008, an additional \$25 fee was legislated to be assessed for the recording of each deed, mortgage, mortgage discharge, or plan. This assessment is recorded with the Land and Community Heritage Investment Program (“LCHIP”) stamp. Chapter 144 of the Laws of 2009 requires that 50% of the revenue received from the \$25 LCHIP stamp in fiscal year 2011 be credited to the General Fund. Chapter 224:3, Laws of 2011, provides that \$120,000 in each of fiscal years 2012 and 2013 are credited to the LCHIP administrative fund. The balance of all recording surcharge fees collected shall be credited to the General Fund. For the 2014-2015 biennium, all revenues from the \$25 fee were again dedicated to the LCHIP program. In fiscal year 2016, real estate transfer tax revenue was \$134.5 million, an increase of \$16.9 million from \$117.6 million in fiscal year 2015. In fiscal year 2017, real estate transfer tax revenue increased to \$141.7 million. Real estate transfer tax revenue increased again in fiscal year 2018 to \$149.1 million.

*Court Fines and Fees.* The Unified Court System was established during the 1984-1985 biennium. Prior to July 1, 2009 fines and fees collected by the various components of the court system were credited to the General Fund. Effective July 1, 2009, pursuant to Chapter 144 of the Laws of 2009, motor vehicle fines collected at the court are credited as unrestricted revenue to the Highway Fund, while fines collected through the plea by mail program are credited as restricted Highway Fund revenue. Effective July 1, 2013, pursuant to RSA 262:44-I, fines collected through the plea by mail program are credited as restricted agency income to the Department of Safety. All fines, fees and surcharges imposed and collected by the various components of the court system are credited to various funds depending upon the law involved. Approximately 59% of revenues collected are credited to the General Fund, 25% to the Highway Fund and 16% to restricted funds.

*Statewide Education Property Tax.* The State imposes an education property tax at the rate on each \$1,000 of the equalized value of real estate in order to raise \$363.0 million. The statewide education property tax was established in 1999 in response to litigation challenging the State’s method of financing public schools. Since 1999, when the tax rate was established at \$6.60 per \$1,000, the State has periodically reduced the tax rate as real property valuations have risen. In addition, for fiscal years after June 30, 2004, the law requires the Commissioner of the DRA to set the education property tax rate at a level sufficient to generate \$363.0 million.

*Utility Property Tax.* Chapter 17 of the Laws of 1999 also established a statewide tax on utility property. A tax is imposed upon the value of utility property at the rate of \$6.60 on each \$1,000 of such value. The proceeds from this tax have been dedicated to the Education Trust Fund.

*Electric Consumption Tax.* The franchise tax on electric utilities was replaced in fiscal year 2001 with a tax on electricity consumption. A tax is imposed on the consumption of electricity at the rate of \$.00055 per kilowatt hour. Consumers who are customers of municipal providers are exempt from the tax. Chapter 156 of the Laws of 2017 repeals the electricity consumption tax effective January 1, 2019. This tax historically generates approximately \$6 million in annual revenue.

*Beer Tax.* The State Liquor Commission charges permit and license fees for the sale of beer through manufacturers, wholesalers and retailers plus a tax on beer sold by such manufacturers and wholesalers for resale and by manufacturers at retail at the rate of 30 cents per gallon. If a mandatory beverage container deposit requirement is enacted, the current statute requires the beer tax to be reduced to 18 cents per gallon.

*Securities Revenue.* Broker dealers and investment advisors are required to pay various registration, license or annual fees to conduct business in the State. Additionally, fees are charged for registrations of securities and mutual funds to be offered in the State.

*Racing and Charitable Gaming Revenue.* The operation of Bingo, Lucky 7 and games of chance in the State are licensed and regulated by the Lottery Commission. On games of chance, the State receives a blended rate between 3% and 10% of revenues depending on the type of game being conducted. The State receives a fixed fee of 7% of Bingo revenues and a \$15 flat fee for each Lucky 7 “deal” purchased by a charitable organization. Live dog racing is now prohibited in the State. Any harness racing or thoroughbred racing would also be supervised by the Lottery Commission; however, no such racing is currently conducted in the State. The State imposes a tax ranging from 1% to 1.25% of the contributions plus one-quarter of the breakage of all simulcast harness and thoroughbred

racing pari-mutuel pools. For simulcast greyhound racing pari-mutuel pools, the tax is 1.5% of contributions plus one-quarter of the breakage.

*Other.* This revenue category includes over 200 individual types of fees, fines, assessments, taxes and income. These revenues are reported in the following seven broad subcategories: reimbursement of indirect costs; interest on surplus funds; corporate filing fees; escheatment of abandoned property; corporate record fees; agricultural fees; and miscellaneous.

The State also derives substantial revenues from federal grant programs and certain independent divisions or activities of State government which operate in whole or in part from revenues collected from users. In some cases these revenues are restricted by statute for use by specific agencies. The following are the principal sources of restricted revenues derived by the State:

*Lottery Receipts.* The State conducts daily and weekly lotteries and instant games throughout the State through tickets sold by or on behalf of the Lottery Commission at authorized retail locations. In addition, the State together with the states of Maine and Vermont offer instant and draw based games under the Tri-State Lotto Compact. The State is also a participant in the Multi State Lottery Association and offers national draw based games Powerball and Mega Millions through that association. In December of 2017, the Lottery Commission began operation of KENO, an online game that has continuous drawings from 11:00 a.m. through 1:00 a.m. and is offered in “pouring establishments” in towns which have authorized the game. In September 2018, the Lottery Commission began offering instant games and limited draw based games through an online platform. Revenues from all of these games are initially recorded in the Lottery Enterprise Fund and are netted with expenses and transferred monthly to the Education Trust Fund.

*Turnpike System Tolls.* The State collects tolls and charges for the use of the Turnpike System. Toll revenues are credited to the Turnpike System Enterprise Fund with the restriction that these revenues be used to pay expenses of operation and maintenance of the Turnpike System and debt service on bonds or notes issued for Turnpike System purposes.

*Fuel Tax.* The State imposes a user fee upon the sale of each gallon of motor fuel sold in the State at the rate of \$0.222 per gallon (the “road toll”), 4 cents per gallon for aviation fuel, 2 cents per gallon for private jet fuel, and 0.5 cents for jet fuel Part 121. The proceeds of the road toll are credited to the Highway Fund for highway purposes and uses. Of this amount, \$0.0264 of the road toll is allocated to a separate account in the Highway Fund, the Highway and Bridge Betterment Account. Effective July 1, 2014, Chapter 17 of the Laws of 2014 increased the road toll by \$0.042 from \$0.18 to \$0.222 per gallon. All revenue associated with the increase in rate, projected to generate approximately \$34 million annually, is restricted for paving and bridge work, municipal block grant aid, municipal bridge aid, and funding to pay debt service on bonds to be issued to complete the I-93 Salem to Manchester widening project. Chapter 17 of the Laws of 2014 and as amended by Chapter 276:210 and 276:211, Laws of 2015 authorized \$200 million in general obligation bonds for this purpose. Subsequent legislation specifically authorized a federal Transportation Infrastructure Finance and Innovation Act (“TIFIA”) loan as an alternative to a traditional general obligation bond issue including, without limitation, a pledge of the revenue collected from adjustments under RSA 260:32-a for rates that exceed \$0.18 per gallon less required distributions under RSA 235:23, I, on said revenues. On May 24, 2016, the State entered into the TIFIA financing agreement to fund the construction of the remaining portions of the I-93 project. The loan, established with a very favorable 1.09% rural interest rate, will fund \$200 million in projects on the I-93 corridor from Salem to Manchester, New Hampshire. The debt service payments are funded by a portion of the revenue collected from the increase in the road toll that was effective July 1, 2014. The road toll increase pursuant to Chapter 17 of the Laws of 2014 will expire once all debt service payments for the I-93 project have been made and the financing is fully amortized (June 2034). See “STATE INDEBTEDNESS – Debt Statement.”

*Federal Receipts.* The State receives funds from the federal government which represent reimbursement to the State for expenditures for various health, welfare, transportation and educational programs and distribution of various restricted or categorical grants-in-aid. Federal grants-in-aid and reimbursements are normally conditioned to some degree on matching resources by the State. The largest categories of federal grants and reimbursements are made for the purposes of providing medical assistance payments for the indigent and medically needy, temporary assistance for needy families, and transportation and highway construction programs. Transportation related match

resources by the State are primarily non-cash Turnpike toll credits. On December 4, 2015, President Obama signed into law the Fixing America's Surface Transportation Act, or "FAST Act" - the first Federal law in over ten years to provide long-term funding certainty for surface transportation. The FAST Act authorizes \$305 billion over federal fiscal years 2016 through 2020 for the US Department of Transportation's highway, highway and motor vehicle safety, public transportation, motor carrier safety, hazardous materials safety, rail, research, technology and statistics programs. The federal fiscal year 2019 distribution of obligation limitation for the period beginning on October 1, 2018, and ending September 30, 2019 pursuant to the Department of Transportation Appropriations Act, 2019, title I of division G, Public Law (Pub. L.) 116-6 is \$158.4 million. The State has sought to mitigate the risks associated with the uncertainty of the continued funding of the HTF by monitoring and potentially deferring federally funded infrastructure projects.

In addition to the taxes and activities described above, there are various taxes the revenues from which are available only to political subdivisions of the State. Such taxes are either collected by the political subdivisions directly or are collected by the State and distributed to the political subdivisions. Such taxes include a real and personal property tax, a resident tax, and a forest conservation tax based on the stumpage value of timber lands.

*Federal Sequestration.* Certain federal funding received by the State has been adversely impacted by implementation of certain provisions of the federal Budget Control Act of 2011 (the "Budget Control Act"). The Joint Select Committee on Deficit Reduction failed to reach an agreement on the deficit reduction actions as required by the Budget Control Act and, as a result, sequestration—a unique budgetary feature of the Budget Control Act—was triggered and began on March 1, 2013. Sequestration has and will adversely affect the availability of certain federal funds received annually by the State. Some of the largest sources of federal revenues for the State, however, such as Medicaid reimbursements and federal aid to highways, are generally exempt from sequestration. To date the State has not experienced any serious impact on its programs or financial condition resulting from sequestration. State agencies have managed to address reduced federal funding in a variety of ways - through delays in hiring for open positions, identification of alternative funding sources, reductions in program operating expenditures, and reductions in program grants and benefits awarded.

The State has five outstanding bond issues that are impacted by reduced interest subsidies received due to sequestration. The shortfall in annual interest subsidies has ranged from a high of \$511,112 in fiscal year 2014 to \$306,024 in fiscal year 2018.

The State cannot predict at this time what total impact sequestration will have on the State. The State may face reduced federal grant awards in future years as a result of overall efforts to control federal spending. Longer term, adverse effects may also arise due to the economic impacts of reduced federal spending in New Hampshire and New England, including reduced federal funds for research and defense related work and other activities that now receive federal funds, but these effects, if realized, cannot be determined at this time.

## **Expenditures**

Expenditures are charges against appropriations for the expenses related to specific programs of individual departments and related subunits of the State government. Expenditures are accounted for by specific classes of expenses, such as personnel, supplies and equipment, within those programs. Statewide expenditures are grouped into the six categories described below.

General Government includes the legislative branch, office of the Governor and executive staff departments.

Administration of Justice and Public Protection includes the judicial branch, correctional and State police activities and those expenses relating to regulatory boards established to protect persons and property.

Resource Protection and Development includes the operation of State parks, the promotion of economic development, environmental protection and the management of wildlife resources.

Transportation includes design, construction and maintenance of highways and bridges, the operation of the Turnpike System and the Public Works Department and management of other transportation activities.

Health & Social Services includes programs for individuals who are physically, mentally and/or economically unable to provide essential needs for themselves. Programs include those for institutional and community-based care and mental health, programs for troubled youth, programs for the elderly and programs to support economically disadvantaged and chemically dependent individuals.

Education includes management and administration of statewide primary and secondary education and support of public post-secondary educational institutions, both academic and technical.

## **Results of Operations**

### *Fiscal Year 2014*

The fiscal year 2014 budget as adopted in 2013 (the “Fiscal Year 2014 Budget”) assumed the State would start the year with an unassigned general fund surplus of \$56.9 million and a Rainy Day Fund balance of \$9.3 million. However, the State began fiscal year 2014 with an unassigned surplus of \$72.2 million, an increase of \$15.3 million, and a Rainy Day Fund balance of \$9.3 million. Accordingly, the unassigned general fund balance, comprising the Rainy Day Fund balance of \$9.3 million and other undesignated fund balance of \$72.2 million, ended fiscal year 2013 at \$81.5 million.

Unrestricted revenue for the General and Education Trust Funds received during fiscal year 2014 totaled \$2,173.2 million which was above the revised fiscal year 2014 budget by \$3.8 million and \$102.4 million lower than fiscal year 2013. Note: The original fiscal year 2014 unrestricted revenue budget as passed in 2013 (\$2,241.6 million) included \$72.2 million of MET revenue which was redirected to the DHHS as restricted revenue pursuant to Chapter 158, Laws of 2014, which passed in June 2014. The revised fiscal year 2014 Revenue budget was \$2,169.4 million.

- The net favorable results as compared to the revised fiscal year 2014 budget resulted from favorable and unfavorable changes within many of the revenue categories. Revenues that performed better than the revised budget included: Meals and Rooms Taxes by \$10.5 million (4%), Insurance Taxes \$8.1 million (9%), Tobacco Taxes \$5.4 million (3%) (Note: the tobacco tax rate increased on August 1, 2013 from \$1.68/pack of cigarettes to \$1.78/pack), and Real Estate Transfer Taxes \$3.9 million (4%). Revenues that performed below the revised budget included: Business Taxes by \$11.5 million (2%) and Interest and Dividends Taxes \$16.3 million (17%). The State’s other remaining revenue sources combined were approximately \$3.7 million above the revised fiscal year 2014 budget.
- The reported \$102.4 million (4.5%) revenue reduction as compared to fiscal year 2013 resulted primarily from one-time settlements received during fiscal year 2013 and changes made to the Fiscal Year 2014 Budget.
  - One-time revenues received in fiscal year 2013 included an additional \$20.8 million of Tobacco Settlement revenue was received during fiscal year 2013 resulting from the settlement of litigation with respect to the amounts received by the State under the Tobacco Master Settlement Agreement pursuant to which the tobacco companies are to make annual payments to all the States, as well as approximately \$9 million from the MtBE settlement.
  - The Fiscal Year 2014 Budget changed how the board and care revenue and certain drug rebate revenue was recognized by the DHHS from an unrestricted revenue to a restricted revenue (reduction of \$26.4 million for Board & Care and approximately \$6.2 million for drug rebates). Additionally, Chapter 158 Laws 2014 directed 100% of the fiscal year 2014 MET revenue to the DHHS whereas \$69.1 million had been recognized as unrestricted revenue in fiscal year 2013.

- Accordingly, excluding the significant one-time revenues received in fiscal year 2013 that were not received in fiscal year 2014 and excluding the Fiscal Year 2014 Budget changes to Board & Care, Drug Rebates and MET revenues, the remaining unrestricted revenues increased approximately \$29 million or 1.3%. Meals and Rooms Taxes increased \$13.3 million (5%), Tobacco Taxes increased \$14.2 million (7%), Real Estate Transfer Taxes increased \$7.4 million (8%), Interest & Dividends Taxes decreased \$13.2 million (14%), and all other variances were approximately \$7.3 million favorable (net).

Net General Fund and Education Fund appropriations included in the original fiscal year 2014 budget, \$2,271.1 million, were revised in June 2014 to \$2,198.9 million as a result of Chapter 158, Laws of 2014, which directed 100% of the MET to the DHHS as restricted revenue (\$72.2 million of MET revenue was changed from unrestricted to restricted). As compared to the revised fiscal year 2014 budget, net appropriations in fiscal year 2014 of \$2,205.3 million were approximately \$6.4 million unfavorable. Approximately \$4.3 million in net reductions under House Bills 1 and 2 were not achieved during the fiscal year and appropriations authorized after the passage of the Fiscal Year 2014 Budget via new legislation or existing laws were approximately \$11.6 million. However, lapses were approximately \$9.4 million higher than expected. Net appropriations are reported as approximately \$20 million lower than the fiscal year 2013 net appropriations of \$2,225.3 million; however, if fiscal year 2013 is reduced ('normalized') for the fiscal year 2013 board and care, drug rebates and MET revenues which were changed from unrestricted to restricted revenues in fiscal year 2014, net appropriations in fiscal year 2014 increased approximately \$81.7 million (3.8%) from approximately \$2,123.6 million in fiscal year 2013.

Total closing adjustments made in accordance with GAAP to bring the budgetary accounting basis to the modified accrual accounting basis totaled \$17.4 million for fiscal year 2014. GAAP and other adjustments were not budgeted in fiscal year 2014. The most significant GAAP and other adjustments affecting fiscal year 2014 were the result of an increase in the Medicaid liability required as of June 30, 2014. A General Fund GAAP adjustment of approximately \$17.5 million was required for unpaid liabilities to providers and managed care organizations as well as the incurred but not reported liabilities. The remaining GAAP and other adjustments totaled a net decrease (favorable) of \$0.1 million. The fiscal year 2014 GAAP and other adjustments were approximately \$25.5 million higher than fiscal year 2013 (\$8.1 million).

For information regarding the audit for fiscal year 2014, see "FINANCIAL STATEMENTS."

#### *Fiscal Year 2015*

The fiscal year 2015 budget as adopted in 2013 assumed the State would start the year with an unassigned general fund surplus of \$26.8 million and a Rainy Day Fund balance of \$9.3 million. The fiscal year 2015 budget also assumed the State would spend down that surplus during the year and end fiscal year 2015 with only the Rainy Day Fund balance of \$9.3 million.

In June 2015, the Legislature updated certain projections for fiscal year 2015. The unassigned General Fund balance at the start of fiscal year 2015 was updated to the actual fiscal year 2014 ending surplus of \$21.9 million. Revenue, expenditures and other estimates were also updated and the State was then projected to end fiscal year 2015 with an unassigned General Fund equity balance of approximately \$49 million, which was to be carried forward in the General Fund to be used in fiscal year 2016, as set forth in Chapter 276:43, Laws of 2015. In addition, the Rainy Day Fund balance was projected to be increased to \$23.8 million by a \$14.5 million transfer into the fund. The State ended fiscal year 2015 transferring \$13 million into the Rainy Day Fund. Thus the actual total General Fund unassigned fund balance, comprised of a Rainy Day Fund balance of \$22.3 million and another unassigned fund balance of \$49 million, at June 30, 2015 was \$71.3 million which was \$62 million above the fiscal year 2015 budget and \$1.5 million below the June 2015 estimate.

Unrestricted revenue for the General and Education Trust Funds received during fiscal year 2015 totaled \$2,266.7 million which was above the fiscal year 2015 budget by \$46.9 million and \$93.5 million higher than fiscal year 2014. Note: The original fiscal year 2015 unrestricted revenue budget as passed in 2013 (\$2,241.6 million) included \$73.7 million of MET revenue which was redirected to the DHHS as restricted revenue pursuant to Chapter 158, Laws of 2014, which passed in June 2014. The revised fiscal year 2015 Revenue budget was \$2,219.8 million.

- The net favorable (\$46.9 million) total revenue results as compared to the revised fiscal year 2015 budget resulted from favorable and unfavorable changes within many of the revenue categories. Revenues that performed better than the revised budget included: Meals and Rooms Taxes by \$16 million (6%), Insurance Taxes \$5.1 million (6%), Tobacco Taxes \$12.7 million (6%), Real Estate Transfer Taxes \$15.4 million (16%), and Utility Property Tax by \$5.6 million (16%). Revenues that performed below the revised budget included: Business Taxes by \$6.5 million (1%), Interest and Dividends Taxes \$1.1 million (1%) and Communications Tax by \$5.2 million (8%). The State's other remaining revenue sources combined were approximately \$4.9 million above the revised fiscal year 2015 budget.
- The reported \$93.5 million increase in revenue as compared to fiscal year 2014 resulted primarily from strong performances in taxes typically correlated with overall economic conditions in the State: Over the prior year, Business Taxes increased \$12.1 million (2%), Meals and Rooms Taxes increased \$19.5 million (8%), Real Estate Transfer Taxes increased \$16.8 million (17%), Interest & Dividends Taxes increased \$17.1 million (21%), Insurance Premium Taxes increased \$19.6 million (21%), and all other variances were approximately \$8.4 million favorable (net).

Net General Fund and Education Fund appropriations included in the original fiscal year 2015 budget, \$2,319.4 million, were revised in June 2014 to \$2,245.7 million as a result of Chapter 158, Laws of 2014, which directed 100% of the MET to the DHHS as restricted revenue (\$73.7 million of MET revenue was changed from unrestricted to restricted). As compared to the revised fiscal year 2015 budget, total net appropriations in fiscal year 2015 of \$2,205.2 million were approximately \$40.5 million favorable. This favorable variance was due to lapses that were approximately \$29.5 million higher than expected and final appropriations net of estimated revenues that were \$11 million lower than the revised budget. The lower appropriations net of estimated revenues were caused by executive order appropriation reductions of \$18.3 million and timing variances on recognition of budgeted reductions of \$9.3 million, which were partially offset by \$16.6 million of appropriations authorized after the passage of the fiscal year 2015 budget. Total net appropriations are reported as approximately \$0.1 million lower than the fiscal year 2014 net appropriations of \$2,205.2 million; however, lapses in fiscal year 2015 were \$22 million higher than in fiscal year 2014. Appropriations net of estimated revenues were \$21.9 million (1%) higher in fiscal year 2015 than those in fiscal year 2014.

Net unfavorable closing adjustments made in accordance with GAAP to bring the budgetary accounting basis to the modified accrual accounting basis totaled \$20.5 million for fiscal year 2015. GAAP and other adjustments were not budgeted in fiscal year 2015. The most significant of the GAAP and other adjustments affecting fiscal year 2015 were the result of an increase in the State's share of Medicaid liability required as of June 30, 2015. A General Fund GAAP adjustment of approximately \$26.9 million was required for unpaid liabilities to providers and managed care organizations as well as the incurred but not reported liabilities. Partially offsetting this unfavorable variance was the remaining GAAP and other adjustments which were net favorable by approximately \$6.4 million, including \$3.4 million of additional escheatment revenue. The fiscal year 2015 GAAP and other adjustments were approximately \$3 million higher than fiscal year 2014 (\$17.5 million). Additionally, \$0.9 million was transferred as budgeted to the Fish & Game fund during fiscal year 2015.

For information regarding the audit for fiscal year 2015, see "FINANCIAL STATEMENTS."

### *Fiscal Year 2016*

HB 1 and 2, the operating budget for fiscal years 2016-2017, were vetoed by the Governor on June 25, 2015. As a result, the State entered a six-month continuing resolution budget based on appropriations from fiscal year 2015. On September 16, 2015, HB 1 and 2, along with a companion bill, SB 9, were signed into law as Chapters 274, 275, and 276 of the Laws of 2015. The fiscal year 2016 budget as adopted in 2015 assumed the State would start the year with an unassigned general fund surplus of \$49.0 million and a Rainy Day Fund balance of \$23.8 million. Fiscal year 2016 did begin with the projected balance of \$49.0 million, but the Rainy Day Fund balance was short of the estimate by \$1.5 million, at \$22.3 million. The results of revenue, expenditures and other estimates for fiscal year 2016 were expected to bring the unassigned General Fund surplus down by \$15.5 million, to \$32.9 million, with the Rainy Day Fund balance expected to remain unchanged during fiscal year 2016.

However, the fiscal year ended with an undesignated General Fund surplus of \$88.5 million and a Rainy Day Fund balance of \$93.0 million, for a total unassigned balance of \$181.5 million.

These positive variances were caused by a number of factors, foremost of which was that actual combined General Fund and Education Trust Fund unrestricted revenues for fiscal year 2016 exceeded plan amounts by \$166.5 million. Traditional unrestricted revenue for the General and Education Trust Funds received during fiscal year 2016 totaled \$2,457.6 million which was above the fiscal year 2016 Plan of \$2,291.1 million by 7.3%. The favorable results as compared to the fiscal year 2016 budget resulted, in part, from the following taxes which performed better than expected: Business Taxes by \$132.8 million (23.4%); Meals and Rooms Taxes by \$9.8 million (3.4%); Insurance Taxes by \$5.1 million (4.3%); Tobacco Taxes by \$4.3 million (1.9%); and Real Estate Transfer Taxes by \$16.2 million (13.7%). Interest and Dividends Taxes were below the fiscal year 2016 budget by approximately \$3.8 million (4.1%) and Communications Taxes were below the fiscal year 2016 budget by \$5.7 million (9.8%). The State's other remaining revenue sources combined were approximately \$7.8 million above the fiscal year 2016 budget.

Included in the strong revenue collections, the State also experienced a positive variance in the results of the tax amnesty program conducted during a portion of fiscal year 2016 for all taxes collected by the Department of Revenue Administration. The program was expected to generate \$16 million above traditional revenue collections; however, actual receipts were approximately \$19 million or \$3 million more than originally estimated. Not reflected in the traditional unrestricted revenue total above is a one-time settlement received during the year of \$307.2 million from the MtBE settlement (see LITIGATION – *State of New Hampshire v. Amerada Hess, et al.*). Of this, \$30.7 million was transferred to the Rainy Day Fund in accordance with RSA 7:6-e, and the remaining \$276.5 million will be held as a component of restricted fund balance, to be administered as the newly established NH Drinking Water and Groundwater Trust fund in accordance with Senate Bill 380 (Chapter 11, 2016 session).

Audited net General Fund and Education Fund appropriations exceeded the fiscal year 2016 budget estimates by \$12.8 million (0.5%). The fiscal year 2016 budget of \$2,327.9 million included approximately \$46.7 million in anticipated lapses that were not achieved during the fiscal year, with actual lapses according to the unaudited results coming in at \$40.3 million for a difference of \$6.4 million. Appropriations authorized after the passage of the fiscal year 2016 budget via new legislation or existing laws made up the remainder of the increase in net appropriations.

Audited net unfavorable closing adjustments made in accordance with GAAP to bring the budgetary accounting basis to the modified accrual accounting basis totaled \$36.7 million for fiscal year 2016. GAAP and other adjustments were not budgeted in fiscal year 2016. The most significant of the GAAP and other adjustments affecting fiscal year 2016 was the recording of the \$10.4 million liability and expense as a result of the expected resolution of the *City of Dover v. State of New Hampshire* litigation, representing payment of the entire amount of education adequacy aid withheld due to the cap. Also significant was the increase in the State's share of Medicaid liability required as of June 30, 2016. A General Fund GAAP adjustment of approximately \$9.6 million was required to recognize liabilities that have been reported or billed and not yet paid to providers and managed care organizations, as well as liabilities incurred by the same providers and organizations during the same period but not yet reported. The remainder of this unfavorable variance was due to smaller scale increases in other areas, including accounts payable and accrued payroll, due largely to the timing of payments.

The audited results show that the total unassigned General Fund balance at the close of fiscal year 2016 is \$181.5 million, consisting of \$88.5 million of undesignated fund balance and \$93.0 million in the Rainy Day Fund. Per Ch. 264:5, Laws of 2016, as fiscal year 2016 audited financial results confirmed that unrestricted General Fund and Education Trust Fund revenues exceeded plan, an amount not to exceed \$40 million was transferred to the Revenue Stabilization Reserve Account, bringing that balance to \$93 million, and the \$88.5 million undesignated balance exceeded the anticipated budget balance of \$32.9 million by \$55.6 million.

For information regarding the audit for fiscal year 2016, see "FINANCIAL STATEMENTS."

## *Fiscal Year 2017*

The fiscal year 2017 budget as adopted in 2015 assumed the State would start the year with an unassigned general fund surplus of \$32.9 million and a Rainy Day Fund balance of \$23.8 million; however, based on positive variances in fiscal year 2016 as noted above, fiscal year 2017 began with an undesignated General Fund surplus of \$88.5 million and a Rainy Day Fund balance of \$93.0 million, for a total unassigned balance of \$181.5 million.

Positive variances continued in fiscal year 2017 as combined General Fund and Education Trust Fund unrestricted revenues exceeded plan amounts by \$96.1 million. Traditional unrestricted revenue for the General and Education Trust Funds received during fiscal year 2017 totaled \$2,407.5 million which was above the fiscal year 2017 plan of \$2,311.4 million by 4.2%. The favorable results as compared to the fiscal year 2017 budget resulted, in part, from the following taxes that performed better than expected: Business Taxes by \$72.7 million (12.9%); Real Estate Transfer Taxes by \$15.3 million (12.1%); Meals and Rooms Taxes by \$7.3 million (2.4%); and Insurance Taxes by \$7.5 million (6.6%). Interest and Dividends Taxes were below the fiscal year 2017 budget by approximately \$1.7 million (1.8%), as well as Tobacco Taxes below budget by \$3.1 million (1.4%) and Communications Taxes below budget by \$11.3 million (19.3%). The State's other remaining revenue sources combined were approximately \$9.4 million above the fiscal year 2017 budget.

Net General Fund and Education Fund appropriations exceeded the fiscal year 2017 budget estimates by \$124.1 million (5.3%). Appropriations authorized after the passage of the fiscal year 2017 budget via new legislation or existing laws increased net appropriations by approximately \$142 million. The additional appropriations utilized the majority of the beginning undesignated General Fund surplus carried forward from fiscal year 2016. In addition, the Legislature authorized a transfer of \$13.9 million of General Fund surplus to the Highway Fund for fiscal year 2017. Offsetting the impact of additional appropriations and transfers to other funds were favorable lapses of combined General Fund and Education Fund appropriations. The fiscal year 2017 original budget of \$2,353.6 million included \$47 million in anticipated lapses, while actual lapses according to the audited results came in at \$63.3 million for a difference of \$16.3 million.

Audited net favorable closing adjustments made in accordance with GAAP to bring the budgetary accounting basis to the modified accrual accounting basis totaled \$22 million for fiscal year 2017. GAAP and other adjustments were not budgeted in fiscal year 2017. The most significant of the GAAP and other adjustments affecting fiscal year 2017 was the reversal of the \$10.4 million liability and expense recorded in fiscal year 2016 as a result of the expected resolution of the *City of Dover v. State of New Hampshire* litigation, representing payment of the entire amount of education adequacy aid withheld due to the cap. While this was recorded as a liability reducing 2016 General Fund surplus, a portion of this amount (\$9.1 million) was also appropriated to the Education Fund in fiscal year 2017; thus the combined impact resulted in a positive \$9.1 million GAAP adjustment in fiscal year 2017. Also contributing to the positive adjustment was a decrease in the annual escheat liability (\$3.7 million) and a decrease in the State's share of Medicaid liability (\$2.3 million), both measured as of June 30, 2017. The remainder of the variance was due to smaller scale increases or decreases in several other areas.

The audited results show that the total unassigned General Fund balance at the close of fiscal year 2017 was \$100.0 million, consisting of \$100.0 million in the Rainy Day Fund. Per Chapter 156, Laws of 2017, \$7.0 million of fiscal year 2017 audited undesignated fund balance was transferred to the Revenue Stabilization Reserve Account to bring the balance in that account to \$100 million and the remaining surplus of \$18.7 million was transferred to the Public School Infrastructure Fund established pursuant to RSA 198:15-y.

## *Fiscal Year 2018*

As assumed in the fiscal year 2018 budget as adopted in 2017, fiscal year 2018 began with no undesignated General Fund surplus and a Rainy Day Fund balance of \$100.0 million, for a total unassigned General Fund balance of \$100.0 million.

Positive variances continued in fiscal year 2018 as combined General Fund and Education Trust Fund unrestricted revenues exceeded plan amounts by \$133.3 million. Traditional unrestricted revenue for the General and Education Trust Funds received during fiscal year 2018 totaled \$2,577.2 million which was above the fiscal year 2018 plan of \$2,443.9 million by 5.5%. The favorable results as compared to the fiscal year 2018 budget resulted, in

part, from the following taxes that performed better than expected: Business Taxes by \$118.8 million (17.9 %); Meals and Rooms Taxes by \$1.9 million (0.6 %); Interest and Dividends Taxes by \$9.8 million (10.2%), and Insurance Taxes by \$1.4 million (1.2%). Real Estate Transfer Taxes were below the fiscal year 2018 budget by approximately \$5.8 million (3.7%), Tobacco Taxes below budget by \$3.4 million (1.6%) and Communications Taxes below budget by \$0.6 million (1.4%). The State's other remaining revenue sources combined were approximately \$11.2 million above fiscal year 2018 budgeted amounts. The DRA believes that a portion of the additional revenue in fiscal year 2018 was due to one-time or temporary impacts from the TCJA. See "*Revenues - Business Enterprise Tax ("BET")*" herein.

Net General Fund and Education Fund appropriations exceeded the fiscal year 2018 budget estimates by \$22.4 million (0.92%). Appropriations authorized after the passage of the fiscal year 2018 budget via new legislation or existing laws increased net appropriations by approximately \$65.9 million. The additional appropriations utilized a portion of undesignated General Fund surplus revenues from fiscal year 2018. Offsetting the impact of additional appropriations and transfers to other funds were favorable lapses of combined General Fund and Education Fund appropriations. The fiscal year 2018 original budget of \$2,443.4 million included \$51.0 million in anticipated lapses, while actual lapses according to the audited results came in at \$94.8 million for a difference of \$43.8 million.

The total unassigned General Fund balance at the close of fiscal year 2018 was \$184.4 million, consisting of \$110.0 million in the Rainy Day Fund. Per Chapter 162, Laws of 2018, \$10.0 million of fiscal year 2018 audited undesignated fund balance was transferred to the Revenue Stabilization Reserve Account to bring the balance in that account to \$110 million. In addition, \$10 million of fiscal year 2018 surplus revenue was designated for the Public School Infrastructure Fund pursuant to Chapter 349, Laws of 2018.

The following tables present a comparison of General Fund and Education Trust Fund unrestricted revenues for fiscal years 2014 through 2018, General Fund and Education Trust Fund net appropriations for fiscal years 2014 through 2018, and General Fund and Education Trust Fund undesignated fund balances and the amounts reserved for the Revenue Stabilization Reserve Account for each of the fiscal years 2014 through 2018. The information for fiscal years 2014 through 2018 is derived from the State's audited financial statements.

**GENERAL AND EDUCATION TRUST FUND UNRESTRICTED REVENUES  
FISCAL YEARS 2014-2018  
(GAAP Basis - In Millions)**

<u>Revenue Category</u>	<u>FY 2014</u>			<u>FY 2015</u>			<u>FY 2016*</u>			<u>FY 2017</u>			<u>FY 2018</u>		
	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>
Business Profits Tax	\$271.7	\$58.4	\$330.1	\$282.4	\$61.1	\$343.5	\$352.8	\$74.2	\$427.0	\$317.4	\$68.4	\$385.8	\$393.4	\$88.9	\$482.3
Business Enterprise Tax	73.0	146.5	219.5	71.9	146.3	218.2	91.3	181.0	272.3	83.6	168.4	252.0	87.8	211.0	298.8
Subtotal	344.7	204.9	549.6	354.3	207.4	561.7	444.1	255.2	699.3	401.0	236.8	637.8	481.2	299.9	781.1
Meals & Rooms Tax	254.0	7.7	261.7	272.7	8.5	281.2	292.8	8.5	301.3	306.2	8.6	314.8	322.5	9.2	331.7
Tobacco Tax	130.3	89.8	220.1	128.7	92.6	221.3	132.4	94.7	227.1	128.2	90.4	218.6	124.5	87.1	211.6
Liquor Sales and Distribution	135.9	-	135.9	138.5	-	138.5	139.8	-	139.8	141.1	-	141.1	136.4	-	136.4
Interest & Dividends Tax	79.8	-	79.8	96.9	-	96.9	89.3	-	89.3	94.3	-	94.3	105.8	-	105.8
Insurance Tax	95.0	-	95.0	114.6	-	114.6	123.4	-	123.4	121.9	-	121.9	115.0	-	115.0
Communications Tax	59.3	-	59.3	57.3	-	57.3	52.4	-	52.4	47.1	-	47.1	43.4	-	43.4
Real Estate Transfer Tax	67.1	33.7	100.8	78.8	38.8	117.6	89.7	44.8	134.5	94.5	47.2	141.7	99.4	49.7	149.1
Securities Revenue	40.6	-	40.6	42.5	-	42.5	43.7	-	43.7	44.6	-	44.6	43.4	-	43.4
Lottery Transfers	-	72.4	72.4	-	74.3	74.3	-	75.9	75.9	-	72.6	72.6	-	86.1	86.1
Racing & Charitable Gaming Commission Transfers	-	3.0	3.0	-	3.0	3.0	-	3.3	3.3	-	3.5	3.5	-	1.2	1.2
Tobacco Settlement	2.3	40.0	42.3	1.9	40.0	41.9	1.5	40.0	41.5	2.6	40.0	42.6	5.9	40.0	45.9
Utility Property Tax	-	35.8	35.8	-	41.0	41.0	-	43.3	43.3	-	41.8	41.8	-	45.2	45.2
State Property Tax	-	363.6	363.6	-	363.4	363.4	-	363.1	363.1	-	363.4	363.4	-	363.1	363.1
Other	108.6	-	108.6	104.8	-	104.8	110.6	-	110.6	112.8	-	112.8	114.1	-	114.1
Subtotal	1,317.6	850.9	2,168.5	1,391.0	869.0	2,260.0	1,519.7	928.8	2,448.5	1,494.3	904.3	2,398.6	1,591.6	981.5	2,573.1
Net Medicaid Enhancement Revenues	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Recoveries	4.7	-	4.7	6.7	-	6.7	9.1	-	9.1	8.9	-	8.9	4.1	-	4.1
Subtotal	1,322.3	850.9	2,173.2	1,397.7	869.0	2,266.7	1,528.8	928.8	2,457.6	1,503.2	904.3	2,407.5	1,595.7	981.5	2,577.2
Executive Orders and Special Session Revenues	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	\$1,322.3	\$850.9	\$2,173.2	\$1,397.7	\$869.0	\$2,266.7	\$1,528.8	\$928.8	\$2,457.6	\$1,503.2	\$904.3	\$2,407.5	\$1,595.7	\$981.5	\$2,577.2

\* Includes Tax Amnesty Receipts (fiscal year 2016).

**GENERAL FUND AND EDUCATION TRUST FUND NET APPROPRIATIONS  
FISCAL YEARS 2014-2018  
(GAAP Basis – In Millions)**

<b>Category of Government</b>	<b><u>FY 2014</u></b>			<b><u>FY 2015</u></b>			<b><u>FY 2016</u></b>			<b><u>FY 2017</u></b>			<b><u>FY 2018</u></b>		
	<b><u>General</u></b>	<b><u>Education</u></b>	<b><u>Total</u></b>												
General Government	\$247.8	\$-	\$247.8	\$257.4	\$-	\$257.4	\$263.3	\$-	\$263.3	\$276.8	\$-	\$276.8	\$274.7	\$-	\$274.7
Justice and Public Protection	210.5	-	210.5	213.9	-	213.9	247.8	-	247.8	266.1	-	266.1	273.0	-	273.0
Resource Protection and Development	17.0	-	17.0	30.2	-	30.2	31.5	-	31.5	36.5	-	36.5	37.2	-	37.2
Transportation	1.0	-	1.0	1.0	-	1.0	1.0	-	1.0	37.8	-	37.8	20.9	-	20.9
Health and Social Services	571.6	-	571.6	544.1	-	544.1	623.3	-	623.3	679.1	-	679.1	681.3	-	681.3
Education	203.1	954.3	1,157.4	211.0	947.6	1,158.6	216.9	956.9	1,173.8	214.9	966.5	1,181.4	217.0	961.7	1,178.7
Net Appropriations	<u>\$1,251.0</u>	<u>\$954.3</u>	<u>\$2,205.3</u>	<u>\$1,257.6</u>	<u>\$947.6</u>	<u>\$2,205.2</u>	<u>\$1,383.8</u>	<u>\$956.9</u>	<u>\$2,340.7</u>	<u>\$1,511.2</u>	<u>\$966.5</u>	<u>\$2,477.7</u>	<u>\$1,504.1</u>	<u>\$961.7</u>	<u>\$2,465.8</u>

**GENERAL FUND AND EDUCATION TRUST FUND BALANCES**  
**FISCAL YEARS 2014–2018**  
**(GAAP Basis - In Millions)**

	<u>FY 2014</u>			<u>FY 2015</u>			<u>FY 2016</u>			<u>FY 2017</u>			<u>FY 2018</u>		
	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>
Undesignated Fund Balance, July 1	\$72.2	\$0.0	\$72.2	\$21.9	\$0.0	\$21.9	\$49.0	\$0.0	\$49.0	\$88.5	\$0.0	\$88.5	\$0.0	\$0.0	\$0.0
Additions:															
Unrestricted Revenue	1,322.3	850.9	2,173.2	1,397.7	869.0	2,266.7	1,528.8	928.8	2,457.6	1,503.2	904.3	2,407.5	1,595.7	981.5	2,577.2
Executive Orders and Special Session Revenues	-	-	-	-	-	-	30.7	-	30.7	-	-	-	-	-	-
Total Additions	\$1,322.3	\$850.9	\$2,173.2	\$1,397.7	\$869.0	\$2,266.7	\$1,559.5	\$928.8	\$2,488.3	\$1,503.2	\$904.3	\$2,407.5	\$1,595.7	\$981.5	\$2,577.2
Deductions:															
Appropriations Net of Estimated Revenues	(1,305.4)	(959.3)	(2,264.7)	(1,325.3)	(961.3)	(2,286.6)	(1,423.7)	(957.3)	(2,381.0)	(1,425.7)	(973.1)	(2,398.8)	(1,533.1)	(961.6)	(2,494.7)
COC Appropriation Adjustments	-	-	-	-	-	-	-	-	-	(133.1)	(9.1)	(142.2)	(64.4)	(1.5)	(65.9)
Special Session Reductions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Less: Lapses	54.4	5.0	59.4	67.7	13.7	81.4	39.9	0.4	40.3	47.6	15.7	63.3	93.4	1.4	94.8
Total Net Appropriations	(1,251.0)	(954.3)	(2,205.3)	(1,257.6)	(947.6)	(2,205.2)	(1,383.8)	(956.9)	(2,340.7)	(1,511.2)	(966.5)	(2,477.7)	(1,504.1)	(961.7)	(2,465.8)
GAAP and Other Adjustments	(18.9)	1.4	(17.5)	(20.5)	-	(20.5)	(36.7)	-	(36.7)	22.0	-	22.0	(0.6)	1.6	1.0
Other One time Revenue Adjustments	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Current Year Balance	52.4	(102.0)	(49.6)	119.6	(78.6)	41.0	139.0	(28.1)	110.9	14.0	(62.2)	(48.2)	91.0	21.4	112.4
Transfers (to)/from:															
Rainy Day Fund	-	-	-	(13.0)	-	(13.0)	(70.7)	-	(70.7)	(7.0)	-	(7.0)	(10.0)	-	(10.0)
Public School Infrastructure Fund	-	-	-	-	-	-	-	-	-	(18.7)	-	(18.7)	(6.6)	-	(6.6)
Highway Fund	-	-	-	-	-	-	-	-	-	(13.9)	-	(13.9)	-	-	-
Fish & Game Fund	(0.7)	-	(0.7)	(0.9)	-	(0.9)	(0.7)	-	(0.7)	(0.7)	-	(0.7)	-	-	-
Education Trust Fund	(102.0)	102.0	-	(78.6)	78.6	-	(28.1)	28.1	-	(62.2)	62.2	-	-	-	-
Undesignated Fund Balance, June 30	21.9	0.0	21.9	49.0	-	49.0	88.5	(0.0)	88.5 <sup>1</sup>	-	-	-	74.4	21.4	95.8
Reserved for Revenue Stabilization Account	9.3	-	9.3	22.3	-	22.3	93.0	-	93.0	100.0	-	100.0	110.0	-	110.0
Total Equity	\$31.2	\$0.0	\$31.2	\$71.3	-	\$71.3	\$181.5	\$0.0	\$181.5	\$100.0	-	\$100.0	\$184.4	\$21.4	\$205.8

<sup>1</sup> Per Ch. 264:5, Laws of 2016, to the extent the audited financial statements for fiscal year 2016 showed that GF/ETF Revenues exceeded the plan, an amount not to exceed \$40 million would be transferred to the Revenue Stabilization Reserve Account. The State's audited financial statements reported revenues approximately \$151 million in excess of plan for fiscal year 2016; therefore the full \$40 million authorized by law was transferred at the conclusion of the audit, bringing the current balance in the Revenue Stabilization Reserve Account, in addition to \$30.7 million representing 10% of the MtBE settlement, to \$93 million, and \$88.5 million remained in the General Fund.

## Operating Budget Fiscal Years 2018 and 2019

*General and Education Trust Funds.* Chapters 155 and 156 of the Laws of 2017, the operating budget for fiscal years 2018 and 2019, were signed by the Governor and became law on June 28, 2017. The adopted budget did not use any revenue or surpluses carried forward from the prior biennium instead balancing spending from the biennium only with revenue from the biennium. The budget dedicated any surplus from the biennium ending June 30, 2017 to the Rainy Day Fund and deferred infrastructure programs including:

- A \$4.5 million program for drug interdiction to address the opioid crisis.
- \$36.8 million dedicated to cities and towns for road and bridge repair.
- \$18 million dedicated toward the sudden need to develop and run heating infrastructure for State buildings after the unexpected shutdown of the Concord Steam utility that had provided a steam loop to State buildings for the last century.
- A \$13.9 million transfer to the Highway Fund to support State work on roads and bridges.
- \$18.7 million for the public school infrastructure fund for health and safety repairs to local schools.
- A \$7 million transfer to bring the State's Rainy Day Fund to \$100 million.

The adopted budget assumed a lapse from fiscal year 2017 of \$47 million. Actual lapses came in much higher at \$63.3 million.

General and Education Trust Fund revenue estimates for fiscal years 2018 and 2019 are \$2,444 million and \$2,472 million respectively. The fiscal years 2018 and 2019 budget includes the following tax reductions:

- The Business Profits Tax rate is reduced from 7.9% to 7.7% in 2019, and to 7.5% in 2021.
- The Business Enterprise Tax is reduced from 0.675% to 0.60% in 2019, and to 0.50% in 2021.
- Business Profits Tax Section 179 Expensing limits are increased from \$100,000 to \$500,000 in fiscal year 2019.
- The State's Electricity Consumption Tax is repealed effective in calendar year 2019.

Total net appropriations (after adjusting for estimated lapses) for the General and Education Trust Funds for fiscal years 2018 and 2019 are \$2,443 million and \$2,471 million, respectively. General Fund lapse estimates are \$51 million and \$52 million for fiscal years 2018 and 2019, respectively. Noteworthy budget initiatives include:

- Creation of a new Department of Business and Economic Affairs to manage the State's economic development and business outreach functions including the former divisions of Economic Development, Travel and Tourism, and a new Council of Partner Agencies to coordinate economic development functions across State government and component units of government.
- The natural resource components of the old Department of Resources and Economic Development including Forests and Lands and Parks and Recreation were combined with the Department of Cultural Resources into a new Department of Natural and Cultural Resources.
- Provided \$10 million for a new Governor's Scholarship Fund to provide post-secondary assistance directly to students, rather than traditional aid to higher educational institutions.
- Allocated \$19.8 million in rate increases to direct care providers across health and human services functions to address workforce shortages caused in part by below market wages

- Provided funding for 20 additional child protective services workers, implementing recommendations made by the independent assessor’s report on operations of the Division of Children, Youth, and Families issued in December 2016.
- Added \$22.6 million in total funds over the biennium for the provision of mental health services, including a Medicaid wraparound benefit for children with severe emotional disturbances, 20 designated receiving facility beds, 20 transitional step-down beds in fiscal year 2018 and 40 such beds in fiscal year 2019, a mobile crisis team and related apartments.
- Appropriates \$250.1 million in fiscal year 2018 and \$260.9 million in fiscal year 2019 for developmental services, an increase of \$57 million over fiscal year 2016 actual expenditures and fiscal year 2017 adjusted authorized amounts.
- Created a new \$9 million incentive program to establish full-day kindergarten in towns across the state.

*Highway Funds.* Total net operating appropriations (including estimated lapses) for the Highway Fund for fiscal years 2018 and 2019 are \$225.1 million and \$227.7 million, respectively. Spending is not directly comparable to years prior to fiscal years 2016-2017 because of changes made to the way the Highway Fund is budgeted. In the fiscal years 2016-2017 budget, in accordance with the New Hampshire Constitution, Article 6-a “Use of Certain Revenues Restricted to Highways,” the cost of collections is recorded as restricted revenue, and the remainder of the revenue, after providing for the cost of collection, is deposited into the Highway Fund. This change reduced unrestricted Highway Fund revenue and appropriations by approximately \$28.9 million in fiscal year 2016 and \$29.7 million in fiscal year 2017. In addition, on May 20, 2014, Chapter 17 of the Laws of 2014 (“Chapter 17”) increased the State’s motor vehicle fuel fee by 4.2 cents per gallon beginning on July 1, 2014. This was the first increase in the State’s motor vehicle fuel fee since 1991. The proceeds of this increase are dedicated to certain infrastructure projects throughout the State, such as the continuation of the widening of Interstate 93, resurfacing and rehabilitation of secondary roadways, and rehabilitation and reconstruction of municipal bridges. The increase provided under Chapter 17 will expire once all debt service payments on bonds to be issued to finance the I-93 widening project have been made. Further, the State pledged the incremental revenue from Chapter 17 for the purpose of entering into the \$200 million federal Transportation Infrastructure Finance and Innovation Act credit program which reduces anticipated expenditures for repayment of the I-93 debt service by offering a lower interest rate and deferred principal payments for nine years.

The budget for fiscal years 2018 and 2019 transferred \$13.9 million of surplus general funds from the prior biennium to the Highway Fund as unrestricted revenue.

### **Fiscal Year 2019 Revenue Performance for the Eight Months Ended February 28, 2019 (Unaudited)**

Unrestricted revenue for the General and Education Funds received for the eight months ending February 28, 2019, totaled \$1,290.3 million, which was above plan by \$138.2 million (12.0%) and above prior year by \$111.8 million (9.5%).

When comparing fiscal year 2019 actual results to the same period in fiscal year 2018 and the fiscal year 2019 revenue plan amounts, the results were as follows:

- Business Taxes through February 28, 2019 totaled \$464.0 million, which were \$151.2 million (48.3%) above plan and \$101.5 million (28.0%) above prior year. According to the DRA, the increase in revenue through February was primarily due to increases in return payments. Meals and Rentals Tax receipts through February 28, 2019 totaled \$244.0 million, or \$2.6 million (1.1%) above plan and \$13.8 million (6.0%) above prior year.
- Tobacco Tax receipts through February 28, 2019 of \$135.9 million were \$6.3 million (4.4%) below plan and \$7.5 million (5.2%) below prior year. According to DRA, stamp sales through February 28, 2019 were 4% lower than compared to revenues for the same period last year. In addition, the bond receivable balance is lower than the prior year by 10%.

- Real Estate Transfer Taxes through February 28, 2019 totaled \$109.6 million, which were \$7.7 million (6.6%) below plan and \$3.5 million (3.3%) above prior year. According to DRA, the number of transactions reported by counties for the month of February (January collections) was down 12.2% while transaction values were down 7.1% over the same period last year.

The following table presents a comparison of General Fund and Education Trust Fund unrestricted revenues for fiscal years 2017 through 2019. The information for fiscal year 2017 and 2018 is derived from the State’s audited financial statements. The information for fiscal year 2019 is preliminary and unaudited. The fiscal year 2019 information is based on Chapter 156, Laws of 2017, the operating budget for the fiscal years 2018-2019 biennium, with adjustments from Schedule 2 of the Conference Committee Surplus Statement (“Schedule 2”). Schedule 2 is prepared by the State’s Legislative Budget Assistant and represents agreed upon budget adjustments both for revenues and appropriations that result from special legislation passed outside of the operating budget.

**GENERAL FUND AND EDUCATION TRUST FUND UNRESTRICTED REVENUES**  
**ACTUAL AND BUDGET**  
**FISCAL YEARS 2017-2019**  
**(GAAP Basis - In Millions)**

<u>Revenue Category</u>	<u>Actual FY 2017</u>			<u>Actual FY 2018</u>			<u>Current Revenue Plan FY 2019</u>		
	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>
Business Profits Tax	\$ 317.4	\$ 68.4	\$ 385.8	\$393.4	\$88.9	\$482.3	\$323.8	\$ 68.5	\$392.3
Business Enterprise Tax	83.6	168.4	252.0	87.8	211.0	298.8	76.2	185.5	261.7
Subtotal	401.0	236.8	637.8	481.2	299.9	781.1	400.0	254.0	654.0
Meals and Rooms Tax	306.2	8.6	314.8	322.5	9.2	331.7	336.1	10.4	346.5
Tobacco Tax	128.2	90.4	218.6	124.5	87.1	211.6	120.1	94.4	214.5
Liquor Sales and Distribution	141.1	-	141.1	136.4	-	136.4	146.9	-	146.9
Interest & Dividends Tax	94.3	-	94.3	105.8	-	105.8	98.0	-	98.0
Insurance Tax	121.9	-	121.9	115.0	-	115.0	117.5	-	117.5
Communications Tax	47.1	-	47.1	43.4	-	43.4	40.7	-	40.7
Real Estate Transfer Tax	94.5	47.2	141.7	99.4	49.7	149.1	111.8	52.5	164.3
Securities Revenue	44.6	-	44.6	43.4	-	43.4	46.5	-	46.5
Transfers from Lottery Commission	-	72.6	72.6		86.1	86.1		85.0	85.0
Transfers from Racing & Charitable Gaming Commission	-	3.5	3.5		1.2	1.2		3.0	3.0
Tobacco Settlement	2.6	40.0	42.6	5.9	40.0	45.9	-	35.0	35.0
Utility Property Tax	-	41.8	41.8		45.2	45.2		43.4	43.4
State Property Tax	-	363.4	363.4		363.1	363.1		363.1	363.1
Other	112.8	-	112.8	114.1	-	114.1	104.2	-	104.2
Subtotal	1,494.3	904.3	2,398.6	1,591.6	981.5	2,573.1	1,521.8	940.8	2,462.6
Recoveries	8.9	-	8.9	4.1	-	4.1	9.1	-	9.1
<b>Total</b>	<b>\$1,503.2</b>	<b>\$904.3</b>	<b>\$2,407.5</b>	<b>\$1,595.7</b>	<b>\$981.5</b>	<b>\$2,577.2</b>	<b>\$1,530.9</b>	<b>\$ 940.8</b>	<b>\$2,471.7</b>

The following table compares on a cash basis, for the eight months ended February 28, 2019, General Fund and Education Trust Fund unrestricted revenues for fiscal year 2019 to revenues for the same period in fiscal year 2018, as well as to the revenue estimates from the fiscal year 2019 Operating Budget with adjustments from Schedule 2. Due to the combined filing of the business profits tax and business enterprise tax, it is not possible to measure accurately the individual effects of each of these taxes. They should be evaluated in their entirety. All information in this table is preliminary, unaudited, and subject to change. Further, because information in this table reflects cash receipts only, final audited numbers may differ in order to reflect appropriate accruals.

**STATE OF NEW HAMPSHIRE  
GENERAL AND EDUCATION FUNDS UNRESTRICTED REVENUES  
FOR THE EIGHT MONTHS ENDED FEBRUARY 28, 2019  
(In Millions)**

Revenue Category	Unaudited						
	FY 19 Actual	FY 18 Actual	FY 19 Plan	FY 2019 vs Plan Variance      % Change		FY 2019 vs FY 2018 Variance      % Change	
Business Profits Tax .....	\$279.4	\$223.8	\$187.7	\$ 91.7	48.9%	\$ 55.6	24.8%
Business Enterprise Tax.....	184.6	138.7	125.1	59.5	47.6%	45.9	33.1%
Subtotal .....	464.0	362.5	312.8	151.2	48.3%	101.5	28.0%
Meals & Rooms Tax .....	244.0	230.2	241.4	2.6	1.1%	13.8	6.0%
Tobacco Tax .....	135.9	143.4	142.2	(6.3)	-4.4%	(7.5)	-5.2%
Transfer from Liquor Commission .....	89.1	92.5	99.1	(10.0)	-10.1%	(3.4)	-3.7%
Interest & Dividends Tax.....	39.2	45.3	40.9	(1.7)	-4.2%	(6.1)	-13.5%
Insurance Tax.....	23.9	18.4	19.5	4.4	22.6%	5.5	29.9%
Communications Tax.....	27.8	29.3	27.2	0.6	2.2%	(1.5)	-5.1%
Real Estate Transfer Tax.....	109.6	106.1	117.3	(7.7)	-6.6%	3.5	3.3%
Securities Revenue.....	6.0	15.9	16.2	(0.2)	-1.2%	0.1	0.6%
Transfers from Lottery Commission* .....	59.7	50.9	52.0	7.7	14.8%	8.8	17.3%
Tobacco Settlement.....	-	-	-	-	0.0%	-	0.09%
Utility Property Tax .....	20.5	24.0	22.5	(2.0)	-8.9%	(3.5)	-14.6%
State Property Tax.....	-	-	-	-	0.0%	-	0.09%
Other .....	58.5	57.2	55.1	3.4	6.2%	1.3	2.3%
Subtotal .....	1,288.2	1,175.7	1,146.2	142.0	12.4%	112.5	9.6%
Recoveries.....	2.1	2.8	5.9	(3.8)	-64.4%	(0.7)	-25.0%
Subtotal .....	1,290.3	1,178.5	1,152.1	138.2	12.0%	111.8	9.5%
Total .....	\$1,290.3	\$1,178.5	\$1,152.1	\$138.2	12.0%	\$111.8	9.5%

\* Includes Racing & Charitable Gaming Commission.

The following table presents a comparison of General Fund and Education Trust Fund appropriations net of estimated revenues for fiscal years 2017 through 2019. The information for fiscal year 2017 and 2018 is derived from the State's audited financial statements. The fiscal year 2019 information is based on Chapter 156, Laws of 2017, the operating budget for the fiscal years 2018-2019 biennium, with adjustments from Schedule 2.

**GENERAL FUND AND EDUCATION TRUST FUND APPROPRIATIONS NET OF ESTIMATED REVENUES  
ACTUAL AND BUDGET  
FISCAL YEARS 2017-2019  
(In Millions)**

<u>Category</u>	<u>Actual Fiscal Year 2017*</u>			<u>Actual Fiscal Year 2018*</u>			<u>Operating Budget Fiscal Year 2019*</u>		
	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>			
General Government	\$ 276.8	\$ -	\$ 276.8	\$ 274.7	\$ -	\$ 274.7	\$ 292.6	\$ -	\$ 292.6
Justice and Public Protection	266.1	-	266.1	273.0	-	273.0	285.6	-	285.6
Resource Protection and Development	36.5	-	36.5	37.2	-	37.2	38.4	-	38.4
Transportation	37.8	-	37.8	20.9	-	20.9	1.1	-	1.1
Health and Social Services	679.1	-	679.1	681.3	-	681.3	741.0	-	741.0
Education	214.9	966.5	1,181.4	217.0	961.7	1,178.7	214.3	950.4	1,164.7
Total	<u>\$1,511.2</u>	<u>\$966.5</u>	<u>\$2,477.7</u>	<u>\$1,504.1</u>	<u>\$961.7</u>	<u>\$2,465.8</u>	<u>\$1,573.0</u>	<u>\$950.4</u>	<u>\$2,523.4</u>
Appropriation Adjustments	-	-	-	-	-	-	0.2	-	0.2
Lapses	-	-	-	-	-	-	(52.0)	-	(52.0)
Total Net Appropriations	<u>\$1,511.2</u>	<u>\$966.5</u>	<u>\$2,477.7</u>	<u>\$1,504.1</u>	<u>\$961.7</u>	<u>\$2,465.8</u>	<u>\$1,521.20</u>	<u>\$950.4</u>	<u>\$2,471.6</u>

\* Appropriation adjustments and lapses are not known by category of government until fiscal year end. Accordingly, the actual fiscal year 2017 and fiscal year 2018 appropriations by category are net of adjustments and lapses, while the budgeted appropriations by category for fiscal year 2019 are not. Total net appropriations budgeted for fiscal year 2019 are shown below the budgeted appropriations by category.

The following table presents the General Fund and Education Trust Fund undesignated fund balances and the amounts designated for the Revenue Stabilization Reserve Account for fiscal years 2017 through 2019. The information for fiscal year 2017 and fiscal year 2018 is derived from the State's audited financial statements. The fiscal year 2019 information is based on Chapter 156, Laws of 2017, the operating budget for the fiscal years 2018-2019 biennium, with adjustments from Schedule 2.

**GENERAL FUND AND EDUCATION TRUST FUND BALANCES  
FISCAL YEARS 2017 – 2019  
(GAAP Basis - In Millions)**

	<u>Actual FY 2017(1)(2)</u>			<u>Actual FY 2018</u>			<u>Operating Budget FY 2019</u>		
	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>	<u>General</u>	<u>Education</u>	<u>Total</u>
Undesignated Fund Balance, July 1	\$ 88.5	\$ 0.0	\$ 88.5	\$0.0	\$0.0	\$0.0	\$ 0.5	\$ 0.0	\$ 0.5
Additions:									
Unrestricted Revenue	1,503.2	904.3	2,407.5	1,595.7	981.5	2,577.2	1,530.9	940.8	2,471.7
Other Additions	-	-	-	-	-	-	-	-	-
Total Additions	1,503.2	904.3	2,407.5	\$1,595.7	981.5	2,577.2	1,530.9	940.8	2,471.7
Deductions:									
Appropriations Net of Estimated Revenues	(1,425.7)	(973.1)	(2,398.8)	(1,533.1)	(961.6)	(2,494.7)	(1,573.0)	(950.4)	(2,523.4)
Appropriation Adjustments	(133.1)	(9.1)	(142.2)	(64.4)	(1.5)	(65.9)	(0.2)	-	(0.2)
Special Session Reductions	-	-	-	-	-	-	-	-	-
Less: Lapses	47.6	15.7	63.3	93.4	1.4	94.8	52.0	-	52.0
Total Net Appropriations	(1,511.2)	(966.5)	(2,477.7)	(1,504.1)	(961.7)	(2,465.8)	(1,521.2)	(950.4)	(2,471.6)
GAAP and Other Adjustments	22.0	-	22.0	(0.6)	1.6	1.0	-	-	-
Other One time Revenue Adjustments	-	-	-	-	-	-	-	-	-
Current Year Balance	14.0	(62.2)	(48.2)	91.0	21.4	112.4	9.7	(9.6)	0.1
Transfers (to)/from:									
Rainy Day Fund	(7.0)	-	(7.0)	(10.0)	-	(10.0)	(0.6)	-	(0.6)
Public School Infrastructure Fund	(18.7)	-	(18.7)	(6.6)	-	(6.6)	-	-	-
Highway Fund	(13.9)	-	(13.9)	-	-	-	-	-	-
Fish & Game Fund	(0.7)	-	(0.7)	-	-	-	-	-	-
Education Trust Fund	(62.2)	62.2	-	-	-	-	(9.6)	9.6	-
Undesignated Fund Balance, June 30	-	-	-	74.4	21.4	95.8	-	-	-
Reserved for Revenue Stabilization Account	100.0	-	100.0	110.0	-	110.0	100.6	-	100.6
Total Equity	\$ 100.0	-	\$ 100.0	\$184.4	\$21.4	\$205.8	\$ 100.6	-	\$ 100.6

<sup>(1)</sup> The adopted fiscal year 2016 and 2017 budget assumed a beginning balance in fiscal year 2017, carried over from fiscal year 2016, of \$32.9 million. The actual ending balance of fiscal year 2016 based on audited results was \$88.5 million, which was carried forward to fiscal year 2017.

<sup>(2)</sup> Per Chapter 156, Laws of 2017, the fiscal year 2017 audited undesignated fund balance was transferred to the Revenue Stabilization Reserve Account to bring the balance in that account to \$100 million and the remaining amount of \$18.7 million was transferred to the Public School Infrastructure Fund established pursuant to RSA 198:15-y.

## MEDICAID PROGRAM

*Background.* Established in 1965, Medicaid is a joint federal-state program providing health care to eligible needy persons. Each state operates its Medicaid program within broad federal guidelines, in accordance with a customized State Plan approved by the federal Centers for Medicare & Medicaid Services (“CMS”) reflecting that state’s priorities in designing program eligibility and benefits. The federal government mandates certain benefits and eligibility categories, while states have a choice of which additional optional eligibility categories and benefits to offer, although the Patient Protection and Affordable Care Act (“PPACA”) has reduced states’ ability to reduce eligibility categories. The maintenance-of-effort (“MOE”) requirements in ACA were effective until the state exchanges were operational (2014), but the MOE for children is through fiscal year 2019. The federal government and the state share responsibility for financing Medicaid. The federal government matches state Medicaid spending at rates that vary depending on state per capita income.

As of February 1, 2019, 181,283 adults and children were enrolled in the New Hampshire Medicaid program as compared to 185,546 on February 1, 2018. This includes 51,959 (compared to 53,197 last year) within the Medicaid expansion “New Adult Group”, which principally insures childless adults up to 138% of the federal poverty level. The State expanded its Medicaid program as provided for under the PPACA in July 2014. See “Figure 1 – Enrollment by Delivery Method” below for enrollment trends since 2014.

*Overview of New Hampshire Medicaid.* The New Hampshire Medicaid program (“New Hampshire Medicaid”) administered through the Department of Health and Human Services (DHHS) is a complex network that provides health care and psychosocial support insurance coverage to participants who meet eligibility requirements. New Hampshire Medicaid covers all or part of the health care costs of low-income children, pregnant women, parents with children, senior citizens, and people with disabilities for medical and hospital services, nursing facility care, in-home support services and more. New Hampshire Medicaid expended a total of \$2.1 billion in fiscal year 2017; \$2.13 billion in fiscal year 2018 and expects to expend \$2.0 billion in fiscal year 2019. The State’s base federal matching rate is 50%. There are exceptions, which afford higher federal medical assistance percentages (FMAP) rates, such as the Breast and Cervical Cancer Program (65% match) and the New Hampshire Health Protection Program currently at 93% match through calendar year 2019; and then 90% beginning in calendar year 2020).

*Children’s Health Insurance Program (CHIP).* On January 22, 2018, Congress passed a six-year extension of CHIP funding as part of a broader continuing resolution to fund the federal government, which provides federal funding for CHIP for six years starting at the enhanced rate of 88% for State fiscal years 2018 and 2019, and phasing down to 65% in State fiscal year 2022.

The FMAP rate for expenditures funded by CHIP allotments is equal to the “enhanced FMAP” (EFMAP) as determined under section 2105(b) of the Social Security Act (the “Act”), which is capped at 85 percent unless otherwise provided in the statute. Section 2101(a) of the PPAC amended the Act by increasing the EFMAP by 23 percentage points (not to exceed 100 percent) for fiscal years 2016 through 2019. Section 3005 of the HEALTHY KIDS Act amended section 2105(b) of the Act by increasing the EFMAP by 11.5 percentage points (not to exceed 100 percent) for federal fiscal year 2020. Beginning October 1, 2020, there will no longer be any additional percentage points increasing the FMAP.

The effect of the amendments to the FMAP:

- EFMAP plus 23 percentage points remains in effect for federal fiscal years 2018 and 2019, which is equal to 88% for the period of October 1, 2017 through September 30, 2019;
- EFMAP plus 11.5 percentage points is in effect for federal fiscal year 2020, which is equal to 76.5% for the period of October 1, 2019 through September 30, 2020; and
- EFMAP reverts to the standard FMAP rate of 65% (pre-October 1, 2015 formula) as of October 1, 2020.

The reauthorization of CHIP is expected to offset State General Fund requirements by \$15 million to \$26 million each year of the 2018-2019 biennium. This includes enhanced federal match for qualifying State costs for related expenses for standard Medicaid children up to age 18 that fall within two separate groups.

*New Hampshire Medicaid Financial Summary.* Though New Hampshire Medicaid deploys a robust array of management strategies to contain Medicaid costs (see *Cost Containment*, below), economic forces and state and federal regulations limit options for controlling Medicaid spending. Total expenditures are a function of enrollment of qualified applicants, provider rates, and service utilization on the fee-for service side of the program and are a function of enrollment and per-member per month rates paid to Managed Care Organizations on the managed care side of the program. Enrollment fluctuations result primarily from changes in the State economy, in particular the unemployment rate, and changes in policy at the State or federal level that impact Medicaid eligibility.

As further detailed under *New Hampshire's Disproportionate Share Hospital ("DSH") Program* below, in fiscal year 2018, the DSH payment was approximately \$58 million above the fiscal year 2018 budget and the available MET for other Medicaid provider payments decreased by \$22.3 million. The reduction in MET revenue was funded by a supplemental appropriation.

For fiscal year 2019, DSH payments are estimated (based on the non-binding estimates received from the Department of Revenue in January) to be \$227.48 million, or \$62.08 million above the budgeted DSH payments. MET revenue is estimated at \$252.2 million, which is \$8.8 million higher than originally budgeted, so the reduction to MET available for Medicaid provider payments is estimated to be \$22.0 million for which the Governor is authorized to draw a warrant as needed for DSH payment in May 2019. The estimated shortfall of MET available for provider payments for fiscal years 2020-2021 is estimated to be \$18.3 million.

RSA 126-A:75 established an excess appropriation allocation account in DHHS for the biennium ending June 30, 2019, spending from this account, however, must be further authorized by the Legislature. The federal funds are a result of the reauthorization of CHIP and represent the 38 percentage point enhanced federal match. Due to uncertainty in future availability of federal funds, for the State fiscal year 2018 budget, DHHS only budgeted one quarter (three months) of Medicaid CHIP revenue received at a federal match of 88%, and three quarters at 50% federal match; and all four quarters of State fiscal year 2019 at a federal match of 50%. Any funds remaining unspent in the excess allocation appropriation account at the end of each fiscal year shall lapse to the State General Fund. At the end of State fiscal year 2018, \$20.1 million lapsed to the General Fund. For State fiscal year 2019, \$13.5 million in freed up General Fund moneys have been transferred to the excess appropriation allocation account to support bills funding positions within the Division for Children, Youth and Families, funds to cover foster care rates/programs, provide funding for the developmental waitlist and funding rehabilitation programs and operational costs of the Sununu Youth Services Center. Additional fiscal items will be processed to transfer additional available general fund moneys to the excess appropriation allocation account. It is anticipated that freed up general fund moneys will be similar to State fiscal year 2018, however, because of legislative authorized spending, the lapse will be less.

*Policy Changes.* Certain recent policy changes have impacted Medicaid enrollment. The number of individuals enrolled in Medicaid at the beginning of fiscal year 2014 was approximately 140,000. The number of individuals enrolled at the end of fiscal year 2018 was approximately 182,850, representing an increase of 30%. The increase can be primarily attributed to two elements of the PPACA. Historically, an increase of approximately 7% in enrollment was attributable to the federal changes in eligibility criteria as part of the Modified Adjusted Gross Income ("MAGI") methodology, which changed the financial eligibility criteria for Medicaid medical services. In August 2014, the State expanded Medicaid eligibility by implementing the New Hampshire Health Protection Program ("NHHPP"), which expanded coverage to an additional 52,507 individuals by the end of fiscal year 2018. Medical costs for this expanded population were initially funded from July 2014 through December 2015 with 100% federal financial participation ("FFP"), as provided for under PPACA.

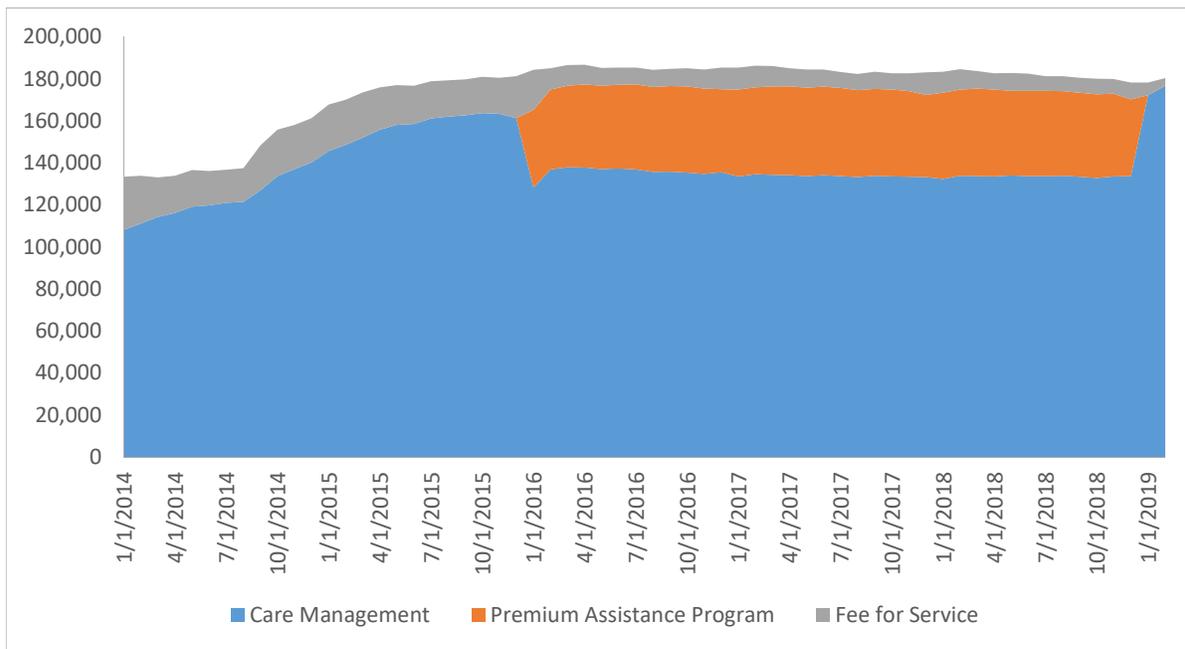
During the 2016 Legislative session, HB 1696 reauthorized the program to operate through December 31, 2018 and funded the non-federal share of the program with a combination of revenue sources, namely, revenue from the State's insurance premium tax, contributions from the State's high risk insurance pool and voluntary donations from hospitals. On July 25, 2017, CMS informed the State that its use of voluntary provider donations did not meet all of the federal criteria for a bona fide provider donation but allowed the State additional time through the following legislative session to amend its funding for the non-federal share of the program.

Senate Bill 313, was enacted on June 28, 2018. This bill repealed the NHHPP and established the NH Granite Advantage Health Care Program ("Granite Advantage Program"), a five-year demonstration program

beginning January 1, 2019, which will serve the entire Medicaid population, including the expansion population, in the State's managed care program. DHHS has submitted the required waiver applications and State plan amendments to establish the Granite Advantage Program. The State received notice on November 30, 2018 that CMS had issued all necessary approvals for the program.

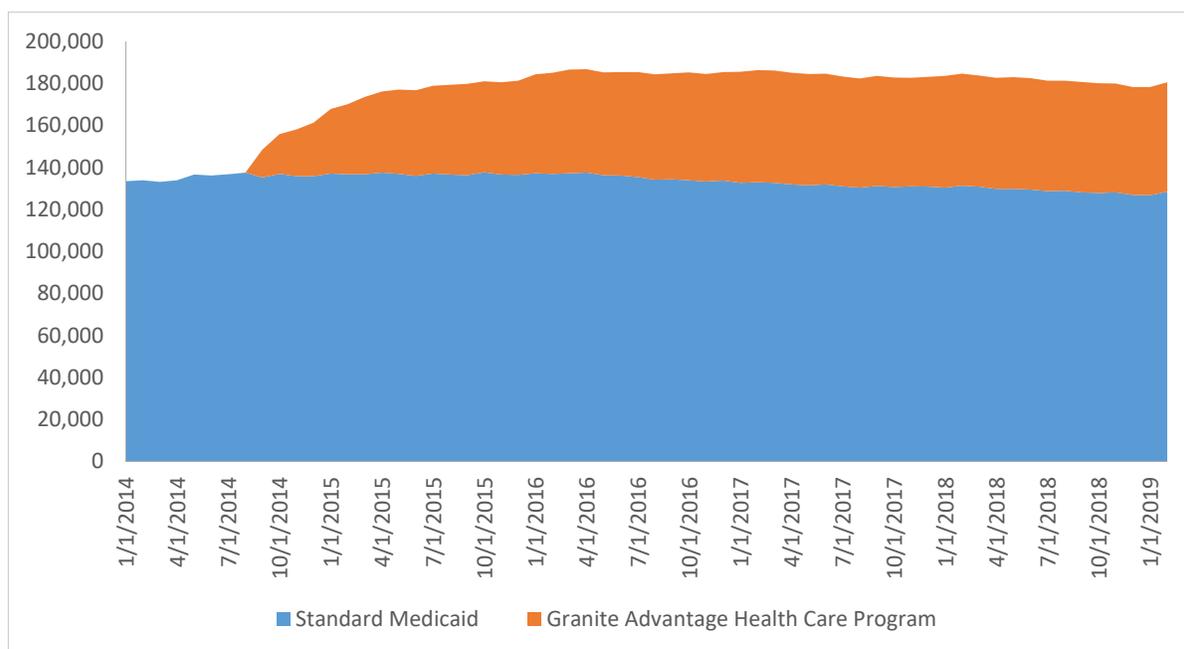
The Granite Advantage Program will provide the same services as the NHHPP, but instead of utilizing qualified health plans on the Federal Marketplace for coverage for the New Adult Expansion Group, the Granite Advantage Program will transition this population into the State's existing managed care program, which is expected to reduce costs by an estimated \$200 million in the first full calendar year of operation. New Hampshire Granite Advantage Health Care Trust Fund provides coverage for the newly eligible Medicaid population as provided for under RSA 126-AA:2. All moneys in the fund are nonlapsing and are continually appropriated to the Commissioner for the purposes of the fund. The fund is authorized to pay and/or reimburse the cost of medical services and cost-effective related services, including without limitation, capitation payments to MCOs. No State general funds shall be used to fund the program. The non-federal share of the costs of the program, including administrative expenses, will be funded from a combination of revenues: liquor tax revenues; the insurance premium tax; contributions from the State's insurance high risk pool assessment and other funds as allowed by RSA 126-AA:3.

Figure 1-Enrollment By Delivery Method



Note: data is for full benefit Medicaid members for a point in time as of the first of each month

Figure 2-Enrollment By Eligibility Standard



Note: data is for full benefit Medicaid members for a point in time as of the first of each month.

*Cost Containment.* New Hampshire Medicaid deploys a robust array of financial and utilization management and quality improvement strategies to contain costs and improve member health. Historically, comparison of New Hampshire Medicaid reimbursement rates to providers have found that in almost every case the State’s Medicaid provider payment rates to be significantly lower than other states’ Medicare and commercial insurance rates. The State’s Medicaid provider payment rates also tend to be lower, with a couple of exceptions, than the rates of the other Medicaid programs in New England.

DHHS’ Division of Medicaid Services has continuously monitored private sector managed care practices as well as other State Medicaid innovations for local application. To the extent that Medicaid program constraints and internal resources allow, New Hampshire Medicaid has further attempted to maximize cost efficiencies by adapting numerous managed care strategies in fee-for-service – a robust Pharmacy Benefit Management Program, utilization management (e.g., prior authorization, service limits, concurrent inpatient review, discharge planning and care management), and volume-based purchasing for vision care and eyeglass frames/lenses – to the current fee-for-service model. Further, New Hampshire Medicaid implemented in January, 2019 a next day enrollment feature into managed care to reduce fee for service financial exposure, and is in process of re-procuring the Managed Care Organizations serving the Medicaid Care Management program for State fiscal year 2020; the purpose of which is intended to strengthen the program and provide additional beneficiary choice.

*IMD / Substance Use Disorder Waiver.* In 2016, the Legislature passed HB517, which required the State to redevelop excess capacity at the existing Sununu Youth Services Center (SYSC) to allow for expansion to a 36-bed residential Substance Use Disorder (SUD) treatment facility available for adolescents. The program at SYSC was intentionally designed as a Comprehensive SUD Program, to be in alignment with the existing SUD service delivery system. CMS approved the program on July 10, 2018. The SYSC officially opened November 1, 2018. This waiver is budget neutral as expenditures for this project do not exceed the federal expenditures that would otherwise have been made.

*Fast Forward Waiver.* In 2016, the Legislature passed HB517 requiring DHHS to establish a Medicaid home and community-based behavioral health services program for children with severe emotional disturbances whose service needs cannot be met through traditional behavioral health services. DHHS may establish such services through a State plan amendment or a waiver under provisions of the SSA. If DHHS proceeds with the waiver, it may limit geographic availability of services. The services shall include the following or their functional

equivalent: wrap around care coordination, wrap around participation, in home respite care, out of home respite care, customizable goods and services, family peer support, and youth peer support. On July 12, 2018, CMS approved the State's Plan Amendment, which amended the NH Title XIX State Plan to include a section to provide home and community-based services to children with serious behavioral health issues through a coordinated model. The services were effective July 2018.

*New Hampshire's Disproportionate Share Hospital ("DSH") Program.* The DSH Program was significantly redesigned in fiscal year 2011, due to new federal DSH regulations and requirements of Chapter 144:212, Laws of 2009. Hospitals received payments based on the amount of uncompensated care provided to patients with no form of insurance coverage, regardless of the amount of MET the individual hospital paid to the State. Previously, hospital DSH payments equaled the amount paid in MET. At the time, no changes were made to the State's definition of net patient services revenue or to the MET rate of 5.5% of that revenue.

Pursuant to RSA 167:64, DSH funds were made available only to critical access hospitals up to 100% of each hospital's uncompensated care in the 2012-2013 biennium. For fiscal year 2014, in recognition of the amount of uncompensated care provided by all hospitals in New Hampshire, the Legislature increased DSH funding by \$20 million in State funds, and limited payments made to critical access hospitals to 75% of uncompensated care. This funding level allowed total DSH payments to both critical access and non-critical access hospitals of \$92 million in fiscal year 2014, which also includes the matching federal funds.

*Chapter 158, Laws of 2014.* This statute codified the State's settlement with hospitals over the use of MET revenue, revising services taxable under the MET and clarifying that the MET is a health care-related tax. The statute removes the application of the MET to special hospitals for rehabilitation, changes the payment schedule for the tax and the method for collecting overdue tax payments, and provides for a phased in reduction in the rate of the tax. The statute also clarified the priority in which MET can be applied to DSH payments to hospitals and for Medicaid provider payments.

*MET and DSH Impact in fiscal year 2016 and 2017.* As a result of a shortfall in MET received in fiscal year 2016 and a preliminary injunction from a federal court, the liability to the State's hospitals under the DSH program for their uncompensated care (UCC) exceeded the amount of DSH payments budgeted for fiscal years 2016 and 2017. DHHS satisfied the shortfalls by utilizing excess revenue received from the drug rebate program.

New Hampshire's Critical and Non Critical Access Hospitals file their MET in April and self-report UCC in February. DSH Payments are required to be paid to New Hampshire hospitals to reimburse for care for which they have not been paid, known as "Uncompensated Care" and are funded by the MET and federal Medicaid matching funds. MET is currently assessed at 5.4% of net patient service revenue, collected by the DRA, and subsequently transferred to DHHS.

In fiscal years 2016 and 2017, DSH payments were paid annually by May 31<sup>st</sup> and processed in the following priority order (subject to certain caps at both the ceiling and floor level):

- (1) Critical Access Hospital will be reimbursed at an amount equal to 75% of UCC
- (2) Non-Critical Access Hospital will be reimbursed at an amount equal to 50% of UCC
- (3) Remaining funds shall support Medicaid Provider payments

The State's fiscal year 2017 DSH obligation was higher than anticipated at the time the 2016-2017 biennial budget was enacted because of a dispute over the clarification to the definition of uncompensated care by the federal government that resulted in the issuance of a permanent order by the Federal District Court in New Hampshire in *NHHA v. Sylvia Matthews Burwell*. The effect of the order was to prevent the inclusion of any third party payments against hospital costs to arrive at a net UCC until such time as CMS issued the clarification of the definition by rule-making. Without the rule, third-party revenue for Medicaid patients was excluded thereby resulting in higher calculations of uncompensated care which are subject to a DSH payment in State fiscal year 2017. CMS issued a final rule effective June 2, 2017; however, since issuance of the final order, the NHHA et al. and other entities in other courts brought suit against USDHHS questioning the authority of the Secretary to issue this interpretation in rule (*NHHA v. Azar*). The rule was vacated and cannot currently be enforced. However, an appeal by CMS is

pending and is scheduled for argument on April 19, 2019, in the Circuit Court for the District of Columbia. See “LITIGATION.”

During the 2018 legislative session, the NHHA and the State revised their 2014 settlement to agree that for fiscal year 2018, DSH payments would be made in an amount equal to 92.2% of the MET collected, and for fiscal year 2019, in an amount equal to 90.2% of amount of MET collected. The new agreement was codified in Chapter 162:31, Laws of 2018, which also appropriated the additional DSH payments for the biennium ended June 30, 2019.

In fiscal years 2018 and 2019, DSH payments were and will be paid annually by May 31<sup>st</sup> and are processed in the following priority order:

- (1) Critical Access Hospital (CAH) will be reimbursed at an amount equal to 75% of UCC
- (2) Non-Critical Access Hospital will be reimbursed at an amount up to 92.2% (fiscal year 2018) or 90.2% (fiscal year 2019) of MET revenues
- (3) Remaining funds shall support Medicaid Provider payments

In fiscal year 2018, this resulted in an increased DSH payment of approximately \$58 million above the fiscal year 2018 budget and decreased the available MET for other Medicaid Provider payments by approximately \$22 million. For fiscal year 2019, DSH payments are estimated to be \$227.48 million, or \$62.08 million above the budgeted DSH payments. MET revenue is estimated at \$252.2 million, which is \$8.8 million higher than originally budgeted, so the reduction to MET available for Medicaid Provider payments is estimated to be \$22.0 million.

The legislation further clarified that:

- 1) Given any future change to the federal definition of uncompensated care resulting in a decrease in the UCC calculation, then the percentage of allowable UCC for CAH hospitals will be adjusted to 75% of UCC calculated without regard to payments from Medicare or third party payers. If increasing the percentage of allowable DSH causes any hospital to exceed the hospital-specific DSH limit, the difference will be paid to the critical access hospitals in Medicaid supplemental payments, MCO directed payments, increased rates, or any other allowable Medicaid payment.
- 2) Any future reduction in the federal DSH allotment to the State resulting in a DSH payment below the percentage of MET established for the year in question will be paid to hospitals in Medicaid supplemental payments, MCO directed payments, increased rates, or any other allowable Medicaid payment.

For fiscal years 2020 to 2024, hospitals will be paid for uncompensated care costs in an amount up to 86% of the MET revenue, with an additional 5% of MET revenue directed to an increase in hospital service provider rates. The DHHS budget request for fiscal year 2020 assumes \$112.2 million of MET for uncompensated care payments (\$224.4 million total funds) and \$6.5 million for hospital service rate increases (\$13 million total funds) included in the amounts listed below for fiscal years 2020 and 2021. The budget request also assumes \$142.4 million of MET for Medicaid Provider payments.

The table below sets forth aggregate DSH Payments, including both federal and State funding sources since 2009.

<u>State Fiscal Year</u>	<u>DSH Payments</u>
2009 paid	\$178,040,743
2010 paid	195,457,290
2011 paid	207,698,608
2012 paid	48,735,473
2013 paid	52,889,190
2014 paid	92,020,821
2015 paid	68,328,525
2016 paid	207,184,916
2017 paid	215,614,596
2018 paid	223,668,312
2019 budget	165,460,000

<u>State Fiscal Year</u>	<u>DSH Payments</u>
2019 expected	227,480,000
2020 Gov. budget	237,474,816
2021 Gov. budget	246,034,816

*Future Outlook.* Recent federal activity has presented new opportunities and challenges for states. The Medicare Modernization Act of 2003, the Deficit Reduction Act of 2005, and PPACA imposed new requirements for states along with options in the areas of benefits, cost sharing, and long-term care. DHHS had previously estimated the impact of the Medicaid reforms in PPACA, including various costs and savings arising from, among others, adult Medicaid expansion, changes in CHIP federal funding and increases to primary care rates. In these earlier preliminary estimates, Federal funding for many PPACA reforms began at 100% and reduces to 90% over time.

On January 22, 2018, Congress passed a six-year extension of CHIP funding as part of a broader continuing resolution to fund the federal government. Federal funding for CHIP had expired on September 30, 2017 as described above under *Children's Health Insurance Program (CHIP)*.

The U.S. Department of Health and Human Services Office of the Inspector General (OIG) has published a proposed rule to amend, effective January 1, 2020, which may impact the collection of drug rebates under Medicare Part D, Medicaid care management organizations. The 60-day public comment period for this proposed rule ends April 8, 2019. The OIG would need to issue a final rule by November 2019 for new policies to be effective January 1, 2020.

*New Hampshire Health Protection Program ("NHHPP") / Premium Assistance Program ("PAP").* Senate Bill 413 (codified at 2014 Laws Chapter 3) required the Department to establish the NHHPP, which expanded Medicaid eligibility to newly eligible adults as allowed under the PPACA.

Newly eligible adults are those who are aged 19 up to 65 years old with incomes up to 133% of FPL, who are not pregnant at the time of application, are not eligible for or enrolled in Medicare, and are not eligible for Medicaid through any other existing Medicaid eligibility category ("New Adult Group"). Federal law requires that states which voluntarily expand health coverage to the New Adult Group allow for a 5% increase in income above 133% of the FPL to minimize the number of people who lose eligibility by monthly fluctuations in income. This 5% income disregard effectively expands eligibility to 138% of the FPL.

The NHHPP started in August 2014 as a wholly federally-funded health care program that expanded coverage to the newly eligible adults. NHHPP included the Voluntary Bridge to Marketplace Program which provided services through Medicaid managed care organizations, Well Sense and New Hampshire Healthy Families, through December 31, 2015.

The NHHPP, as enacted, mandated coverage in private, employer sponsored health plans for those enrollees with access to cost-effective employer sponsored insurance. The Legislature repealed this mandatory program effective July 1, 2015 as a result of concerns over the costs of administering this mandatory program. DHHS, however, has for a number of years maintained a voluntary Health Insurance Premium Program ("HIPP") and new adults who are employed and who have private employer coverage that is determined to be cost effective may voluntarily enroll in HIPP.

Beginning January 1, 2016, NHHPP enrollees who are not medically frail were required to purchase coverage with a qualified health plan doing business in the individual market through the Federally Facilitated Marketplace. Those enrollees who self-attest to being Medically Frail (those having one or more mental, physical or emotional conditions which affect their ability to undertake the daily tasks of living) are excluded from the PAP by the terms of the Premium Assistance Waiver, 11-W-00298/1, issued to New Hampshire by the Centers for Medicare and Medicaid Services.

Fiscal year 2015 implementation costs totaled \$16 million, of which \$10.7 million were funded by the federal government and \$5.3 million were funded by the State General Fund. While costs for services were 100%

federally funded, administration and system development and implementation costs did have a General Fund requirement. Administration costs were matched at 50% while system development and implementation costs received an enhanced match of either 90% or 75%. As of January 1, 2017, the program was 95% funded by the federal government and as of January 1, 2018, the program was funded 94% by the federal government. Current State law authorizes the program through December 31, 2018, utilizing third party funding to cover the non-federal share and prohibiting use of moneys from the State General Fund toward this cost. CMS has identified concerns with the State’s use of voluntary donations to cover the non-federal share of the program, but allowed the State through the 2018 legislative session to address the concerns over third-party funding sources. Expenses for the NHHPP for State fiscal year 2018 totaled \$492.2 million.

*Granite Advantage Health Care Program (“Granite Advantage”).* Senate Bill 313 repeals the NHHPP effective December 31, 2018 and establishes the NH Granite Advantage Health Care Program, a five-year demonstration program beginning on January 1, 2019. The State’s application to extend and revise the State’s section 1115 demonstration, titled "New Hampshire Health Protection Program (NHHPP) Premium Assistance Demonstration" (Project Number 11-W-00298/1), was approved by CMS, effective on November 30, 2018. In addition to transitioning the New Adult Group from the Federal Marketplace to the State’s managed care program, the waiver allows the State to offer new incentives for beneficiaries to utilize lower cost providers; implement reference based pricing; and adopt new measures to address the State’s Opioid Crisis. Included in the waiver is an extension of the community engagement and work requirement issued May 7, 2018 with the goal of improving health and economic mobility and sustaining insurance coverage and employment for this population. This requirement conditions continued eligibility for benefits on satisfying work and community engagement requirements of 100 hours per month of qualifying activities for individuals who are not otherwise exempted. (See “*Litigation*” below for a discussion of potential litigation related to the community engagement and work requirement.) As previously noted, Senate Bill 313 also addresses changes to the non-federal share of the program cost.

The following table sets forth actual monthly service expenditures for the NHHPP for fiscal years 2015 through 2018, the first eight months of fiscal year 2019 and projected monthly expenditures for Granite Advantage for the remainder of fiscal year 2019:

NHHPP / Granite Advantage Health Care Program

	<u>Fiscal Year 2015</u>	<u>Fiscal Year 2016</u>	<u>Fiscal Year 2017</u>	<u>Fiscal Year 2018</u>	<u>Fiscal Year 2019</u>
<u>Paid Month</u>	<u>Total Expense</u>				
July	\$ 0	\$ 30,260,776	\$ 33,656,932	\$ 35,132,343	\$ 41,818,681
August	192,859	30,545,786	36,357,669	31,948,168	45,737,079
September	6,596,169	31,219,458	35,593,814	33,831,379	45,493,090
October	11,739,066	30,946,657	35,743,698	34,748,460	45,036,980
November	14,396,687	31,168,010	33,947,984	35,120,917	41,873,760
December	17,409,157	55,823,853	41,092,700	48,871,221	14,162,889
January	20,204,025	29,889,902	36,291,258	45,410,939	30,190,565
February	22,468,654	31,282,993	38,997,497	45,878,507	30,112,200
March	23,881,902	34,718,769	39,535,517	45,665,014	28,687,024
April	27,967,005	32,198,240	41,354,459	43,144,147	28,272,752
May	28,393,165	33,205,749	40,393,055	46,481,017	29,238,619
June	29,226,605	34,721,888	39,919,065	46,017,452	30,428,565
<b>Total Expense</b>	<b>\$202,475,294</b>	<b>\$405,982,081</b>	<b>\$452,883,648</b>	<b>\$492,239,603</b>	<b>\$411,052,204</b>

The total projected expenses for fiscal year 2019 shown above are approximately \$81 million less than fiscal year 2018 expenses. This expected reduction reflects, in part, projected aggregate savings of approximately \$51 million. The reduction in projected costs is also related to implementation of a next day enrollment process. A newly Medicaid eligible member is now enrolled in an MCO on the day following Medicaid eligibility confirmation. This minimizes the time a member is covered under fee-for-service. The remaining amount is attributable to a change in the timing of payments. Under the NHHPP, certain payments were made prospectively for the next month. Under the new Granite Advantage program, costs are paid in the actual service month. Accordingly, the

December, 2018 amount is decreased, as compared to prior years, because it no longer includes payment for services to be rendered in January.

*NHHPP Risk Mitigation.* As of January 1, 2016, the Bridge Period ended and the NHHPP members began coverage in the QHPs, except for medically frail members that remained in an MCO. This risk settlement period covers only those medically frail members, which is a minimal proportion compared to the approximately 50,000 members. The MCO contracts included a risk mitigation provision to minimize the financial risk for the MCOs, the state and the federal government from the potential under or over estimation of the capitation rates given the estimating healthcare costs for this population that was not previously covered by health insurance. The NHHPP population was healthier than assumed for the period of September 2014 through December 2015 (the “Bridge Period”) resulting in \$61.5 million net recovery of 100% federal funds. The funds were received by the MCOs and returned to CMS in January 2018. The Risk Settlement reconciliation for January 2016 through June 2016 resulted in \$5.7 million net recovery, which was also 100% federal funds. The Risk Settlement reconciliation for the period July 2016 through June 2017 resulted in \$16.6 million recovery, 100% federal funds for the period July 2016 through December 2016; 95% federal funds and 5% non-federal for the period January 2017 through June 2017. The funds were received by the MCOs and returned to CMS by December 31, 2018.

*Section 1115 Transformation Waiver.* On January 5, 2016, the Centers for Medicare and Medicaid Services (CMS) approved New Hampshire’s Section 1115 Research and Demonstration Transformation to access new federal funding to help transform its behavioral health delivery system. On January 5, 2016, the Centers for Medicare and Medicaid Services approved the State’s application to participate in this Demonstration Waiver that will allow the State to access up to a total of \$150 million over the next five years (approximately \$30 million per year) over a five year period for the purpose of strengthening and expanding capacity for the State’s behavioral health system. The Transformation Waiver has four main targets:

- (1) Deliver integrated physical and behavioral health care that better addresses the full range of individuals’ needs
- (2) Expand capacity to address emerging and ongoing behavioral health needs in an appropriate setting
- (3) Reduce gaps in care during transitions across care settings by improving coordination across providers and linking patients with community supports
- (4) Move fifty percent of Medicaid reimbursement to alternative payment models by the end of the demonstration period

There are two distinct federal funding streams associated with the waiver, a federal reimbursement for Designated State Health Programs (DSHP) and a federal reimbursement for Delivery System Reform Incentive Payments (DSRIP). The DSHP funds consist of new federal matching funds received on existing State and local health related programs. Under the waiver approval, DSHP funds will be disbursed to fund new DSRIP reform projects. DSRIP performance based payments made to the regionally based networks of medical and community social service providers called Integrated Delivery Networks (IDN’s) processed in fiscal year 2017 were \$24.9 million and in fiscal year 2018 were \$20.4 million. Expenditures for State fiscal year 2019 are expected to be less than \$30 million. Under the waiver the State, including local county governments, are not required to spend any new or additional funds. However, in order to continue to receive the additional federal matching funds, spending on the existing health related programs is expected to continue.

A change in federal policy has introduced potential implications to the current five-year waiver for future DSHP financing under the DSRIP waiver. CMS has issued national guidance regarding the discontinuation of certain DSHP financing subsequent to the original five year duration. A portion of the State’s DSRIP waiver required conversion of certain DSHP financing to a CPE (certified public expenditures) method for this waiver specifically. Under the CPE rules, CMS guidance potentially disallows a portion of the monies anticipated by the State. While CMS has subsequently approved DHHS’ alternative methodology, it is contingently effective in that it depends on counties voluntarily appropriating monies not previously federally matched to be contributed to DHHS so they can be matched in support of the DSRIP waiver. As of March 2019, all ten counties have thus far voted 2018 appropriations that will allow for an additional estimated \$12 million after federal match. The capability of the counties to contribute is indirectly the result of enhanced Proshare payments due to the alternative methodology. The impact going forward in 2019 and 2020, the remainder of the waiver period, should the counties elect not to

provide financial support, would be a curtailment of what can be accomplished through the waiver. Therefore, any county shortfall is not expected to impact the General Fund. The waiver has budget neutrality provisions.

*Litigation.* Various aspects of New Hampshire Medicaid are the subject of litigation and potential litigation. Such litigation, if decided in a manner unfavorable to the State, could subject the State to substantial financial judgments. See “LITIGATION” with respect to the matters under the captions that reference DHHS or New Hampshire Medicaid.

As mentioned above, DHHS has received approval from the Centers for Medicare and Medicaid Services (CMS) of a waiver under Section 1115 of the Social Security Act of 1933, as amended, for the implementation of its Granite Advantage Health Care Program for coverage of the New Adult Group under the Patient Protection and Affordable Care Act. That waiver approval includes a waiver of Section 1902a(10) thus permitting eligibility for benefits to be conditioned on satisfying work and community engagement requirements. To date, litigation challenging the Secretary’s determination under Section 1115 that work and community engagement requirements promote the objectives of the Medicaid program has been filed in every state in which the Medicaid agency has implemented such a work and community engagement requirement pursuant to a CMS issued waiver. See *Stewart v. Azar, et.al., Civ. Action No. 18-152 (USDCDC)(Kentucky Waiver)*, and *Gresham, et al. v. Azar, Civ. Action No. 1:18-cv-01900 USDCDC (Arkansas)*.

Indiana has been granted a waiver and is reportedly beginning its implementation in January 2019. The proposed rules for the New Hampshire work and community engagement requirement have been approved for a March 1, 2019 implementation date. Individuals subject to the requirement, and who are not exempted, will be required to demonstrate compliance with the 100 hour per month requirement beginning in June 2019. The authorizing legislation for Granite Advantage contains a severability clause that provides as follows: “If any provision of this act or the application thereof to any person or circumstance is held invalid, or is not approved by the Centers for Medicare and Medicaid Services, the invalidity or non-approval does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.” At this time, it is not possible to predict the outcome of any such claim challenging the work and community engagement requirements, or its potential impact on Granite Advantage, if one were filed.

## STATE INDEBTEDNESS

### Debt Management Program

The State has a debt management program, one purpose of which is to avoid the issuance of short-term debt for operating purposes. (See “Temporary Loans” for information on recent short-term debt issuances.) The State’s debt management program is designed to hold long-term tax-supported debt to relatively low levels in the future and to coordinate the issuance of debt by the State, its agencies and public authorities.

### Authorization and Classification of State Debt

The State has no constitutional limit on its power to issue obligations or incur indebtedness and there is no constitutional requirement that a referendum be held prior to the incurrence of any such debt. The authorization and issuance of State debt, including the purpose, amount and nature thereof, the method and manner of the incurrence of such debt, the maturity and manner of repayment thereof, and security therefor, are wholly statutory.

Pursuant to various general or special appropriation acts, the Legislature has from time to time authorized the State Treasurer, with the approval of the Governor and Council, to issue bonds or notes for a variety of specified projects or purposes. In general, except for the Turnpike System revenue bonds and federal highway grant anticipation (“GARVEE”) bonds, such borrowing constitutes general obligation debt of the State for which its full faith and credit are pledged but for the payment of which no specific State revenues are segregated or pledged. There is general legislation, however, under which the Governor and Council may authorize the State Treasurer to issue revenue bonds for revenue-producing facilities and to pledge the revenue from such facilities for the payment of such bonds. The Legislature has also authorized the guarantee of certain obligations issued by political subdivisions of the State and by various State agencies, which guarantee constitutes a pledge of the State’s full faith

and credit, and has authorized two State-wide agencies to incur debt for the financing of revenue producing projects and programs and authorized such agencies to create certain funds which may be maintained by State appropriation (see “Agencies, Authorities and Bonded or Guaranteed Indebtedness”). However, most of this indebtedness is supported by revenues produced by the project or entity for which the debt was issued. Consequently, such self-supported debt is not considered net General Fund debt of the State.

The Legislature has also authorized certain State agencies to issue revenue bonds for various projects, including industrial, health, educational and utility facilities. Except to the extent that State guarantees may be awarded for certain bonds of the New Hampshire Business Finance Authority and the Pease Development Authority, indebtedness of those agencies does not constitute a debt or liability of the State.

## Debt Statement

The table below sets forth the long-term debt of the State outstanding as of June 30, 2018.

### Debt Statement as of June 30, 2018 (In Thousands)

<u>General Obligation Bonds:</u>		
General Improvement	\$587,125	
Highway	84,029	
University System of New Hampshire	114,230	
Total Direct General Obligation Debt		\$785,384
<u>Revenue Bonds:</u>		
Turnpike System <sup>(1)</sup>	362,965	
GARVEE <sup>(2)</sup>	118,720	
Total Revenue Bond Debt		\$481,685
<u>Contingent (Guaranteed) Debt:</u>		
Water Pollution and Waste Disposal Bonds issued by Political Subdivisions	0	
Business Finance Authority	49,784	
Local School District School Bonds	19,982	
Total Contingent Debt		\$69,766
Total Debt		<u>\$1,336,835</u>
<u>Less: Self-Supporting and Contingent Debt:</u>		
General Fund Self-Supporting Debt <sup>(3)</sup>	53,014	
Turnpike System Revenue Bonds	362,965	
Highway Fund	84,029	
GARVEE	118,720	
Water Pollution and Waste Disposal Bonds issued by Political Subdivisions	0	
Business Finance Authority	49,784	
Local School District School Bonds	19,982	
Liquor Commission	27,563	
School Building Aid	70,065	
Fish & Game	1,782	
Total Self-Supporting and Contingent Debt		\$787,904
Total Net General Fund Debt <sup>(4)</sup>		<u>\$548,931</u>

(Columns may not add to totals due to rounding.)

<sup>(1)</sup> Turnpike System revenue bonds are limited obligations of the State payable solely out of net revenues of the Turnpike System. Neither the full faith and credit nor the taxing power of the State is pledged for the payment of the Turnpike System revenue bonds.

<sup>(2)</sup> Federal Highway Grant Anticipation (GARVEE) Bonds. These bonds are special limited obligations of the State payable from federal grant funding.

<sup>(3)</sup> Includes bonds paid from General Fund restricted revenues (primarily user fees, criminal penalty assessments and lease revenues statutorily earmarked to fund debt service payments on specific projects). School building aid debt service is funded from a portion of the meals and rooms tax revenue.

<sup>(4)</sup> Net General Fund debt is debt for which debt service payments are made directly by the State from its taxes and other unrestricted General Fund revenue.

Chapter 17 of the Laws of 2014 (SB 367) authorized \$200 million in general obligation bonds for the completion of the Interstate 93 widening project. Chapter 276:210-211, Laws of 2015, amended the legislation by specifically authorizing a federal Transportation Infrastructure Finance and Innovation Act (“TIFIA”) loan as an

alternative to a traditional general obligation bond issue including, without limitation, a pledge of the revenue collected from adjustments under RSA 260:32-a for rates that exceed \$0.18 per gallon less required distributions under RSA 235:23, I, on said revenues.

On May 24, 2016, the State entered into the TIFIA financing agreement to fund the construction of the remaining portions of the I-93 project. The loan, established at a 1.09% rural TIFIA interest rate, will fund \$200 million in project costs along the I-93 corridor from Salem to Manchester, New Hampshire. The debt service payments are to be funded by a portion of the revenue collected from the increase in the road toll that was effective July 1, 2014. The road toll increase pursuant to Chapter 17 of the Laws of 2014, projected to generate approximately \$34 million annually, will expire once all debt service payments for the I-93 project have been made and the financing is fully amortized (June 2034). The full \$200 million loan is expected to be drawn down monthly over the next several years. The State will pay interest only on the outstanding balance until 2025, when principal repayment will begin on a level debt service basis to maturity, June 1, 2034. The TIFIA loan agreement also requires that the State expend certain annual amounts of the increased road toll revenues on non-federally aided highway projects in the State. In the event, the State does not meet these requirements the interest rate on the loan will increase to 2.17% until the spending requirements are met. In addition, the TIFIA loan agreement provides for a default rate of interest equal to 3.09%. As of June 30, 2018 the amount drawn on the TIFIA loan was \$102.8 million on a GAAP accrual basis, which amount was \$7.7 million less than originally expected.

The table above does not include the outstanding TIFIA loan balance as of June 30, 2018 in order to reconcile Total Direct General Obligation Debt outstanding of \$785 million with scheduled Direct General Obligation Debt Service principal payments of \$785 million.

In addition to the debt presented above, at June 30, 2018, the State had short and long-term capital leases outstanding of \$1.8 million and \$7.9 million, respectively, 58% of which relate to building space.

The State's debt management program has resulted in the State maintaining relatively low debt levels in recent years. The table below sets out the State's debt ratios over the past five years.

**Certain General Obligation Debt Statistics**  
(Dollars in Thousands)

	<b>June 30,</b>				
	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Direct General Obligation Debt	\$ 956,406	\$ 918,168	\$ 827,558	\$ 806,138	\$ 785,384
Contingent (Guaranteed) Debt	90,838	85,988	80,366	73,495	69,766
Less: Self-Supporting Debt	(354,197)	(332,258)	(301,796)	(312,448)	(306,219)
<b>Total Net General Fund Debt</b>	<b>693,047</b>	<b>671,898</b>	<b>606,128</b>	<b>567,185</b>	<b>548,931</b>
Per Capita Debt <sup>(1)</sup> :					
Direct General Obligation Bonds	\$718	\$691	\$620	\$604	\$585
Net General Fund Debt	520	\$506	\$454	\$425	\$409
Ratio of Debt to Personal Income <sup>(1)</sup>					
Direct General Obligation Bonds	1.36%	1.27%	1.11%	1.08%	0.98%
Net General Fund Debt	0.99	0.93%	0.81%	0.76%	0.69%
Ratio of Debt to Estimated Full Value:					
Direct General Obligation Bonds	0.63%	0.57%	0.50%	0.46%	0.43%
Net General Fund Debt	0.46	0.42%	0.37%	0.33%	0.30%
General Fund Unrestricted Revenues					
Debt Service Expenditures <sup>(2)</sup>	1,436,618	1,397,673	1,528,800	1,503,500	1,599,400
Debt Service as a Percent of General Fund Unrestricted Revenues	98,759	102,190	90,280	90,710	90,674
	6.87%	7.31%	5.91%	6.03%	5.67%
Population (in thousands)	1,332	1,329	1,334	1,335	1,343
Total Personal Income (in millions)	70,180	72,541	74,388	74,687	80,122
Estimated Full Value (in thousands)	\$160,572,109	\$166,808,092	\$165,140,011	\$173,365,434	\$182,759,870

<sup>(1)</sup> Based on U.S. Department of Commerce and U.S. Bureau of the Census estimates for population and personal income.

<sup>(2)</sup> Debt service on Net General Fund Debt. Does not include interest paid on revenue or bond anticipation notes.

**Rate of Debt Retirement  
as of June 30, 2018**

	<u>General Obligation Debt</u>	<u>Net General Fund Debt</u>
5 years .....	51%	52%
10 years.....	82	81
15 years.....	95	95
20 years.....	100	100

**Recent Debt Issuances**

In recent years, the State has issued bonds for a variety of authorized purposes. The following table compares the amount of issuances and retirements of long-term direct State general obligation indebtedness for each of the past five fiscal years. See also “Temporary Loans” below.

**Issuances and Retirements of Direct General Obligation Debt  
(In Thousands)**

	<b>Fiscal Year Ended June 30,</b>				
	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Beginning Debt	\$ 963,224	\$ 956,406	\$ 918,168	\$ 827,558	\$ 806,139
Bonds Issued	83,180	151,144	0.00	118,260	70,855
Total Net Debt	1,046,404	1,107,550	918,168	945,818	877,024
Less: Bonds Paid	89,998	89,980	90,610	85,904	91,640
Defeasance	0	99,400	0	53,775	0
Ending Debt	\$ 956,406	\$ 918,168	\$ 827,558	\$ 806,139	\$ 785,384

**TIFIA Loan**

See the discussion above under the heading “Debt Statement” for information regarding the payment terms of this loan.

**Schedule of Debt Service Payments**

The following table sets forth the projected principal and interest requirements of all general obligation bonds of the State outstanding at June 30, 2018. The amounts shown for interest include the gross interest payable by the State with respect to its outstanding general obligation “Build America Bonds,” which were outstanding in the amount of \$125 million with expected subsidy payments of \$12.9 million over the remaining life of the bonds as of June 30, 2018. With the exception of one minor withheld amount, which has since been rectified, prior to sequestration, the State had received interest subsidy payments from the federal government equal to 35% of the actual interest payable on such “Build America Bonds.” Federal sequestration has cut a percentage of these direct pay subsidies for fiscal years 2013 through 2018 and is expected to cause further reductions in fiscal year 2019 and beyond. The result in State fiscal year 2018 was a reduction of \$78,937 in subsidy interest payments on general obligation bonds. See “STATE FINANCES – State Revenues – Federal Sequestration.”

**Direct General Obligation Debt  
as of June 30, 2018<sup>(1)</sup>  
(In Thousands)**

<u>Fiscal Year Ending June 30,</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2019 .....	\$ 94,370	\$ 34,069	\$ 128,439
2020 .....	90,310	29,590	119,900
2021 .....	78,215	25,461	103,676
2022 .....	73,000	22,223	95,223
2023 .....	63,555	18,786	82,341
2024 .....	58,310	15,827	74,137
2025 .....	55,120	13,211	68,331
2026 .....	47,225	11,001	58,226
2027 .....	43,105	8,890	51,995
2028 .....	37,310	7,064	44,374
2029 .....	30,175	5,402	35,577
2030 .....	28,055	4,057	32,112
2031 .....	20,020	2,971	22,991
2032 .....	13,355	2,210	15,565
2033 .....	14,795	1,705	16,500
2034 .....	12,560	1,135	13,695
2035 .....	12,389	661	13,050
2036 .....	5,195	372	5,567
2037 .....	5,660	165	5,825
2038 .....	2,660	40	2,700
Total	\$ 785,384	\$ 204,840	\$ 990,224

<sup>(1)</sup> Columns may not add to totals due to rounding.

### Temporary Loans

To the extent monies in the General Fund, Highway Fund, or Fish and Game Fund are at any time insufficient for the payment of obligations payable from such funds, the State Treasurer, under the direction of the Governor and Council, is authorized to issue notes to provide funds to pay such obligations. Outstanding revenue anticipation notes issued for the General Fund may not exceed \$200 million; for the Highway Fund, \$15 million; and for the Fish and Game Fund, \$0.5 million.

In general, the State Treasurer, with the approval of the Governor and Council, is authorized to issue bond anticipation notes maturing within five years of their dates of issue. Refunding notes must be paid within five years of the dates of issue of the original notes.

The State Treasury does not currently anticipate any temporary borrowings in fiscal years 2019 or 2020.

See “STATE FINANCES – Proprietary (Enterprise) Funds” and “– *Unemployment Trust Fund*” for a discussion of repayable advances that the State has been approved for under Section 1201 of the Social Security Act.

### Authorized But Unissued Debt

As of June 30, 2018 the State had statutorily authorized but unissued direct general obligation debt in the total principal amount of \$301.2 million, under various laws. This amount does not include the State’s Turnpike System and GARVEE authorizations or statutorily authorized guarantees, nor its authority to issue bonds in lieu of all or a portion of the State’s guarantee of bonds of the Pease Development Authority.

Chapter 58 of the Laws of 2005, the “Federal Highway Anticipation Bond Act,” authorized the State to issue GARVEE bonds in an amount not to exceed \$195 million with the approval of the Governor and Council. Chapter 193 of the Laws of 2012 authorized an additional \$250 million of GARVEE bonds, for a total authorized amount of \$445 million. GARVEE bonds are special obligations of the State secured by revenues consisting of federal aid for highways and other grants, loans and contributions from any governmental unit relating to projects to be financed under the statute. The statute authorized GARVEE bonds for the purpose of financing project costs related to the widening of Interstate 93 from Manchester to the Massachusetts border and any other federally aided highway project which the Legislature may subsequently authorize to be funded under the statute. On November

18, 2010 the State issued GARVEE bonds in the amount of \$80 million for financing projects related to such highway widening. Another \$115 million of GARVEE bonds were issued on May 30, 2012 for the continued work on widening I-93, specifically, three identified construction projects associated with I-93 exits 2 and 3 in Salem and Windham, respectively, and an additional project subsequently authorized for engineering on I-93 widening from exit 3 north to the I-293 split in Manchester. The additional project was possible due to construction bid prices on the first three construction projects coming in under original estimates by nearly \$10 million. Additionally, Chapter 231 of the Laws of 2010 authorized the issuance of an additional \$45 million of GARVEE bonds for the purpose of financing a portion of the State’s share of the replacement of the Memorial Bridge and Sarah Mildred Long Bridge, both located on the Seacoast between New Hampshire and Maine. The Memorial Bridge has been replaced and is in operation, with the cost split between the New Hampshire and Maine. New Hampshire did not use GARVEE bonds as a means of financing the construction cost of the Memorial Bridge. The New Hampshire Ten Year Transportation Improvement Plan 2015-2024, Chapter 326 of the Laws of 2014, modified RSA 228-A:2 to remove authorization of GARVEE bond authority for the purpose of replacing the Memorial Bridge and retained the authority to bond for the replacement of the Sarah Mildred Long Bridge, the widening of I-93 from Manchester to the Massachusetts border, and any other federally-aided highway project. Chapter 326 of the Laws of 2014 further identified approximately \$88.5 million of anticipated GARVEE bonds for the construction of the Sarah Mildred Long Bridge (\$77.5 million) and a portion of the I-93 project (\$11 million). New Hampshire did not use GARVEE bonds as a means of financing the construction cost of the Sarah Mildred Long Bridge or a portion of the I-93 project. The New Hampshire Ten Year Transportation Improvement Plan 2017-2026, Chapter 324 of the Laws of 2016, modified RSA 228-A:2 to issue GARVEE bonds for 2 Connecticut River bridges located in Lebanon, New Hampshire and Hinsdale, New Hampshire. The bonding for these projects is not anticipated until State fiscal year 2020.

The State has various guarantee programs, which are described under the caption “Agencies, Authorities and Bonded or Guaranteed Indebtedness” below. The statutes authorizing the guarantee programs require approval by the Governor and Council of any award of a State guarantee. In addition, statutory limitations apply to all of the guarantee programs, but they vary in two major respects. First, the limit may be either on the total amount guaranteed or on the total amount guaranteed that remains outstanding at any time; the latter is a revolving limit, allowing additional guarantees to be awarded as guaranteed debt is retired. Second, the statutory dollar limit may represent either the total amount of principal and interest or only the total amount of principal that may be guaranteed; in the latter case interest on that principal amount may also be guaranteed but is not otherwise specifically limited. See also material related to the Pease Development Authority under the headings “Capital Budget” and “Agencies, Authorities and Bonded or Guaranteed Indebtedness” below.

<u>Purpose</u>	<u>Guarantee Limit as of June 30, 2018</u>	<u>Remaining Guarantee Capacity as of June 30, 2018</u>
Local Water Pollution Control Bonds	\$50.0 million <sup>(1)(2)</sup>	\$50.0 million
Local School Bonds	95.0 million <sup>(1)(2)</sup>	69.7 million
Local Superfund Site Bonds	20.0 million <sup>(4)</sup>	20.0 million <sup>(3)</sup>
Local Landfill and Waste Site Bonds	10.0 million <sup>(1)(2)</sup>	10.0 million
Business Finance Authority Bonds, Loans	115.0 million <sup>(1)(4)</sup>	65.3 million <sup>(3)</sup>
Pease Development Authority	105.0 million <sup>(4)</sup>	48.9 million <sup>(3)</sup>
Housing Finance Authority Child Care Loans	0.3 million <sup>(1)(2)</sup>	0.3 million

<sup>(1)</sup> Revolving limit.

<sup>(2)</sup> Limit applies to total principal and interest.

<sup>(3)</sup> Plus interest.

<sup>(4)</sup> Limit applies to principal only.

## Capital Budget and Bonds Authorized

Capital budgets are adopted biennially during the odd-numbered legislative sessions in conjunction with the biennial operating budget schedule. Additionally, bond authorizations are periodically legislated outside the capital budget process. The following table sets out the State's capital budget appropriations and bonds authorized for the 2018-19 biennium.

### Capital Appropriations and Bonds Authorized

	<b>Biennium Ending June 30, 2019</b>
Adjutant General	\$ 28,348,000
Administrative Services	33,595,000
Community-Technical College System	9,600,000
Corrections	5,151,000
Education	13,541,673
Environmental Services	16,293,500
Fish & Game	184,023
Health & Human Services	47,674,394
Housing Finance Authority	2,500,000
Information Technology	3,713,997
Judicial Branch	1,000,000
Legislative Branch	740,000
Liquor Commission	26,690,000
Office of Energy & Planning	316,000
Pease Development Authority/Ports	2,138,300
Police Standards and Training	650,000
Natural and Cultural Resources	5,064,621
Revenue Administration	30,160,000
Safety	3,600,000
Secretary of State	4,850,000
Transportation	21,026,881
University System of New Hampshire	3,000,000
Veteran's Home	2,255,000
Gross Appropriations	<u>262,092,389</u>
Less-Federal, Local & Other Funds	60,990,011
Net Bonds Authorized	<u>\$201,102,378</u>
<b><u>Funding of Bonds</u></b>	
Highway Funded	\$ 17,524,000
Other Funded	58,484,023
General Funded	125,094,355
Net Bonds Authorized	<u>\$201,102,378</u>

### Agencies, Authorities and Bonded or Guaranteed Indebtedness

Described below are the principal State agencies or programs for which the State (a) issues revenue bonds, (b) provides State guarantees of payments of indebtedness, or (c) issues general obligation bonds supported in whole or in part by restricted revenues, rather than taxes or unrestricted General Fund revenues. (A summary of the State guarantee programs is also provided under the caption "Authorized But Unissued Debt" above.) Also described briefly below are the other independent State authorities that issue revenue bonds and notes that do not constitute a debt or obligation of the State. Except as noted below, guarantee limits and remaining guarantee capacity provided in the narrative to follow are as of June 30, 2018.

*New Hampshire Turnpike System.* Effective July 1, 1971, the New Hampshire Turnpike System was established to administer certain toll highways in the State. State statutes establishing the Turnpike System require the collection of tolls on such turnpikes and improvements or extensions thereof at levels sufficient to pay expenses

of operations and maintenance and to pay debt service on general obligation bonds issued for Turnpike System purposes. Payment of debt service on such general obligation bonds from Turnpike System revenues is subordinate, however, to payments required with respect to Turnpike System revenue bonds.

Chapter 237-A of the New Hampshire Revised Statutes Annotated, as amended, provides for the issuance by the State Treasurer of revenue bonds of the State for the Turnpike System in such amounts as the Governor and the Council shall determine, from time to time, subject to the current statutory limit of \$766.05 million (excluding bonds issued for refunding purposes). RSA 237-A expressly provides that the bond resolution authorizing Turnpike System revenue bonds may include provisions setting forth the duties of the State in relation to the fixing, revision and collection of tolls and further provides that the State has pledged to perform all such duties as set forth in such bond resolution. Turnpike System revenue bonds constitute limited obligations of the State, and the State has not pledged its full faith and credit for the payment of such bonds. Approximately \$363 million of such bonds were outstanding as of June 30, 2018.

*The University System of New Hampshire.* The University System is a body politic and corporate created by State law under the control and supervision of a 27 member board of trustees. The board of trustees is entrusted with the management and control of all property comprising the University System and maintains the financial affairs of the University System separate and apart from the accounts of the State. Income received by the University System, except where specifically segregated, is retained by the University System for its general purposes. State statutes additionally provide for annual appropriations by the Legislature to be used for the general purposes of the University System. General obligation bonds issued by the State for the construction of capital improvements at the University System are supported by General Fund revenues. Approximately \$114 million of such bonds were outstanding June 30, 2018. The University System has the power to borrow through the issuance of revenue bonds for dormitory or other housing facility purposes by the New Hampshire Health and Education Facilities Authority, without pledging the full faith and credit of the State or the University System for payment.

*State Guaranteed Local Water Pollution Control Bonds.* The State's programs for the protection of adequate water supplies and the control and elimination of water pollution are under the supervision of the Department of Environmental Services' Water Division. In order to assist municipalities in the financing of sewerage systems and sewage treatment and disposal plants for the control of water pollution, the Governor and Council are authorized to guarantee unconditionally as a general obligation of the State the payment of all or some portion of the principal of and interest on bonds or notes issued by any town, city, county or district for construction of such facilities. The outstanding State guaranteed amount of principal and interest of such bonds and notes may not exceed \$50 million. As of June 30, 2018, no bonds remain outstanding under this program.

In addition, the Legislature has provided in RSA 486 that the State shall pay annually an amount equal to 20% of the yearly principal and interest expense on the original costs resulting from the acquisition and construction of sewage disposal facilities by counties, cities, towns or village districts in the State and, with respect to certain specified facilities, the State shall pay annually an amount, after completion thereof, equal to the yearly principal and interest expense on the remaining portion of the eligible costs (after application of available federal funds and the 5% local share). Such assistance payments are made to the municipalities, are not binding obligations of the State and require appropriation by the Legislature.

*New Hampshire Department of Environmental Services-Water Division.* The Department of Environmental Services' Division of Water Resources (formerly the New Hampshire Water Resources Board) is charged with authority to construct, maintain and operate reservoirs, dams and other waterworks systems (including hydro-energy production facilities) and to charge and collect fees and tolls for the use of water and other services supplied by the division. Projects constructed by the division are intended to be self-liquidating and self-supporting through user fees. The division is authorized to issue self-supporting revenue bonds from time to time for the acquisition and construction of projects and such bonds shall not constitute a debt of the State but are payable solely from the revenues of the projects and are guaranteed by the State. As of June 30, 2018, no bonds remain outstanding under this program.

*State Guaranteed Local School Bonds.* The Governor with the advice and consent of the Council may agree to award an unconditional State guarantee for the payment of not more than \$95 million of the principal and interest on bonds or notes issued by school districts for school projects of not less than \$100,000 involving

construction, enlargement or alteration of school buildings. The supervision of the guarantee program is the responsibility of the New Hampshire School Building Authority, consisting of the State Treasurer, the State Commissioner of Education and three members appointed by the Governor and Council. Guarantees may be awarded on either a split issue basis, where the payment of not in excess of 75% of the aggregate principal amount of bonds issued for a project and interest thereon may be guaranteed, or on a declining balance basis, where a specified percentage of the principal of and interest on each bond or note issued is guaranteed. The full faith and credit of the State are pledged to such guarantees. As of June 30, 2018, \$25.3 million of principal and interest was guaranteed under this program. This amount includes approximately \$20 million of principal due on such bonds.

*State Guaranteed Local Superfund Site Bonds and Landfill and Waste Site Bonds.* The Governor with the advice and consent of the Council may award an unconditional State guarantee for the payment of not more than \$20 million in aggregate principal amount (plus the interest thereon) of bonds issued by municipalities in the State for costs of cleanup of “superfund” hazardous waste sites for which the municipalities are named potentially responsible parties (including bonds issued by a municipality on behalf of other potentially responsible parties at the same site). No bonds have been guaranteed under this program.

In addition, the Governor and Council may award an unconditional State guarantee for the payment of principal and interest on bonds issued by municipalities in the State for closing or cleanup of landfills, other solid waste facilities or hazardous waste sites. The outstanding State guaranteed amount of principal and interest on such bonds may not exceed \$10 million at any one time. As of June 30, 2018, all previously outstanding bonds guaranteed under this program have been paid.

*New Hampshire Business Finance Authority.* The Legislature created the Business Finance Authority of the State of New Hampshire (formerly the Industrial Development Authority) as a body politic and corporate as an agency of the State to provide financial assistance to businesses and local development organizations in the State. Legislation enacted in 1992, 1993, and 2015 significantly expanded the power of the Authority, with the concurrence of the Governor and Council, to issue State guaranteed bonds and to award State guarantees of other indebtedness for the purpose of promoting business development in the State.

In order to carry out its programs, the Authority was authorized to issue up to \$25 million in principal amount of bonds as general obligations of the Authority, the principal of and interest on which is guaranteed by the State. As of June 30, 2018, \$20 million of such guaranteed bonds were outstanding.

The Authority is authorized to issue revenue bonds that are limited obligations of the Authority secured solely by specified revenues and assets. The principal of and interest on up to \$15 million in principal amount of the Authority’s revenue bonds could be guaranteed by the State with the approval of the Governor and Council; \$2.3 million of such guaranteed revenue bonds were currently outstanding as of June 30, 2018. In January, 2019, the State guaranteed an additional \$12 million of Authority revenue bonds.

The Authority may also recommend that the Governor and Council award State guarantees of certain indebtedness of businesses, but the total principal amount of indebtedness guaranteed, when combined with the outstanding principal amount of State guaranteed bonds of the Authority, may not exceed \$115 million at any time. As of June 30, 2018, \$27.4 million of State guaranteed loans were outstanding under those Authority programs. The Authority expects that over the next five years it will seek Governor and Council approval of State bond and loan guarantees at or near the current outstanding amount.

In addition to its loan and guarantee programs, the Authority is also authorized to issue notes or bonds for the construction of industrial facilities, and certain commercial, recreational, railroad, small scale power and other facilities, for lease or sale to specific private entities. Except for the guaranteed bonds described above, such bonds or notes are not a debt or obligation of the State and no State funds may be used for their payments.

*Pease Development Authority.* Pease Air Force Base in the Portsmouth area closed in October 1991. Under State legislation, the Pease Development Authority (“PDA”) was established in 1990 to prepare a comprehensive plan and to implement all aspects of the plan including taking title to the property, marketing, and developing the property. As of June 30, 2018, the Pease International Tradeport had 4.8 million square feet of new or renovated office/R&D/manufacturing space with over 250 companies employing more than 10,250 direct hires

with another 5,125 indirect hires resulting from companies not located at Pease but doing business with companies at Pease.

As of June 30, 2018, PDA is authorized to issue bonds, not exceeding in the aggregate \$250.0 million, and the Governor and Council may award an unconditional State guarantee to secure up to \$105.0 million in principal amount plus interest on those bonds. The remaining guarantee capacity at June 30, 2018 was \$48.9 million. The \$105.0 million unconditional State guarantee is made up of two separate statutory provisions, one of which is \$35.0 million that may be awarded by the Governor and Council after the approval of a PDA comprehensive development plan for a research district at the PDA. Bonds have never been issued under these statutory provisions.

The second guarantee provision authorizes the State to issue up to \$70.0 million general obligation bonds in lieu of a portion of the guarantee, with the maximum amount to be guaranteed then reduced by the amount of such bonds issued by the State. In April 1993 the State issued \$30.0 million of general obligation bonds for a project at the Tradeport consisting of construction and acquisition of certain manufacturing facilities to be leased to Celltech Biologics, Inc. (Celltech was acquired in June, 1996 by a British subsidiary of Alusuisse-Lonza of Switzerland and is now called Lonza Biologics, Inc.) The State has also issued \$7.6 million of general obligation bonds in lieu of State guarantees to make loans to PDA with respect to its operations. Pursuant to Chapter 1 of the Special Session Laws of 2008, PDA was required to repay \$10.0 million to the State by December 1, 2008. On November 25, 2008 PDA issued \$5.0 million State guaranteed bond anticipation notes and established a \$2.5 million State guaranteed line of credit. PDA made the required \$10.0 million payment to the State on November 26, 2008. PDA has subsequently repaid in full the \$5.0 million State-guaranteed bond anticipation notes. Under this program, there is currently no debt outstanding; however, there remains capacity to borrow up to \$48.9 million on a one-time basis pursuant to this guarantee.

In addition to the \$105.0 million State guarantee discussed above, the State is authorized to issue up to \$10.0 million general obligation bonds, the proceeds of which may be loaned to provide matching funds to private grants for development of a research district at PDA. No debt has ever been issued under this provision.

*New Hampshire Housing Finance Authority.* The New Hampshire Housing Finance Authority is a body politic and corporate having a distinct existence separate from the State and not constituting a department of State government. The Authority is generally authorized to provide direct construction and mortgage loans for residential housing and to make loans to and to purchase loans from lending institutions in order to expand available mortgage funds in the State. In order to carry out its corporate purposes, the Authority is authorized to issue its bonds or notes in an amount outstanding at any one time not to exceed \$2 billion. Such bonds or notes are special obligations of the Authority, and do not constitute a debt or obligation of the State. By law, the Authority is authorized to issue up to \$600 million in bonds supported by one or more reserve funds and to maintain in each fund for a particular series of bonds a bond reserve fund requirement established by resolution of the Authority in an amount not to exceed one year's debt service on the bonds secured by such fund. For bonds issued under this provision, the chairman of the Authority is directed to request an appropriation of the sum, if any, needed to maintain the bond reserve funds at their required levels. Amounts so requested are subject to appropriation by the Legislature and do not constitute a debt of the State. The Authority has not issued bonds under this provision since 1982 and there are currently no bonds outstanding subject to such a reserve fund.

Legislation enacted in 1989 authorizes the Authority to issue certificates of guarantee equal to 50% of the principal of loans made to eligible child care agencies or organizations, such principal guarantee not to exceed \$10,000 per recipient. The full faith and credit of the State are pledged for such guarantees, provided that the total obligation of the State shall at no time exceed \$300,000. As of June 30, 2018, no outstanding debt was guaranteed under this program.

*New Hampshire Municipal Bond Bank.* The New Hampshire Municipal Bond Bank ("NHMBB") was established by the State in 1977 for the purpose of aiding local governmental units in the financing of public improvements. The powers of the Bank are vested in a board of five directors, including the State Treasurer and four members appointed by the Governor and Council. The Bank is authorized to issue revenue bonds in unlimited principal amount and to make loans to political subdivisions of the State through the purchase by the Bank of general obligation bonds and notes of the political subdivisions. The obligations of the political subdivisions bear interest at a rate equal to the rate on the Bank's bonds plus administrative costs. Bonds of the Bank do not constitute

a debt or obligation of the State. The Bank is authorized to establish one or more reserve funds to additionally secure its bonds and is directed to request such appropriations from the Legislature as are necessary to (1) maintain such reserve funds at required cash levels or (2) reimburse the payor of any sums paid by such payor under any insurance policy, letter or line of credit or other credit facility maintained by the Bank for the purpose of meeting the reserve fund requirements in lieu of the deposit of cash. Amounts so requested are subject to appropriation by the Legislature and do not constitute a debt of the State. As of June 30, 2018, the amount of bonds issued and outstanding pursuant to the NHMBB reserve fund requirement totaled \$862.5 million.

The Bank is also authorized to issue revenue bonds in unlimited principal amount for small scale power facilities and to make loans to public utilities and to certain elementary and secondary educational institutions through the purchase by the Bank of bonds of such public utilities and educational institutions. Such bonds are issued through separate divisions of the Bank and are not a debt or obligation of the State and no State funds may be used for their payment.

*New Hampshire Health and Education Facilities Authority.* This authority, formerly known as the New Hampshire Higher Educational and Health Facilities Authority, was established to provide financing for the State's private colleges and hospitals; the Authority can now also provide financing for the University System. The State is not directly or indirectly responsible for any obligations of this Authority issued for private entities. Moreover, bonds issued for the University System by the Authority constitute limited obligations of the University System payable solely from designated revenues.

*New Hampshire Rail Transit Authority.* The New Hampshire Rail Transit Authority ("NHRTA") was established under RSA 238-A effective July 1, 2007 as a body politic and corporate in the State for the general purpose of developing and providing intercity rail or other similar forms of passenger rail service. The NHRTA was authorized to issue bonds to carry out its purposes. Chapter 291, Laws of 2018, repealed the legislation that created the NHRTA and instead established the New Hampshire Transportation Council effective August 24, 2018. The purpose of the Council is to study and evaluate alternative modes of transportation including but not limited to new technologies, bus, rail, highway, marine, and air transportation. As established, the New Hampshire Transportation Council does not have authority to issue bonds.

## **STATE RETIREMENT SYSTEM**

### **Overview**

The State maintains a defined benefit pension plan, which is administered by the New Hampshire Retirement System ("NHRS" or "System"). The System administers both a cost-sharing multiple-employer pension plan (the "Pension Plan") and a medical subsidy plan (the "Medical Subsidy Plan" and collectively, with the Pension Plan, the "Plans"). The Pension Plan covers effectively all State employees and all public primary and secondary teachers, law enforcement and fire service employees. Full-time employment is required to join the Plan. In addition, New Hampshire political subdivisions may elect to join the NHRS to cover their other employees. At June 30, 2018, there were approximately 48,121 active, 2,420 inactive vested, 11,454 inactive non-vested, and 37,012 retired members of the System. The System provides service, disability, death and vested deferred pension retirement benefits to its members and their beneficiaries. The Medical Subsidy Plan provides an offset or subsidy for retiree health premiums for a closed group of eligible participants. By law, all retirees must be provided the option to obtain retiree health benefits through their former employer's medical plan. However, the employer is not required to provide any funding for that benefit. For those eligible retirees who elect to receive health benefits through a former employer, the subsidy offsets some part of the cost of the health benefits for the retiree, the employer or both. The State, as an employer, funds the vast majority of costs related to retiree health. Therefore the medical subsidy from the System flows back to the State. See "HEALTH CARE COVERAGE FOR RETIRED EMPLOYEES."

The State and participating political subdivisions appropriate funding for the Plans based on percentage rates for each member's annual earnable compensation. These rates include a "normal contribution" rate and an "accrued liability contribution" rate and are based on biennial actuarial valuations. The Plan's unfunded liabilities are currently being amortized over a 30-year period beginning July 1, 2009. The thirty year amortization period began with the actuarial valuation performed as of June 30, 2007 as required by law, however because of the lag

between valuation results and effective date of corresponding employer rates, the actual amortization of the liability began on July 1, 2009. The System also provides postemployment health benefit plan through the Medical Subsidy Plan. The Medical Subsidy Plan is effectively functioning on a pay-as-you-go basis. Medical subsidy payments are made by the System from a 401(h) subtrust on behalf of a closed group of eligible participants. Under current law, the cash outflow necessary to make benefit payments will continue until all benefits are paid. By law effective July 1, 2011, the maximum benefit payable is capped and the subsidy amount is not to be increased, provided, however, that all legislative provisions are subject to amendment or modification, within constitutional limits. Medical subsidy payments are made directly to former employers (State and local governments) and third party health insurance administrators to offset the cost of health insurance for the eligible retirees. The balance of the insurance premium is paid by either the retiree or the former employer, depending on the employer's policy. For information regarding additional health care benefits provided directly by the State for retired employees, see "HEALTH CARE COVERAGE FOR RETIRED EMPLOYEES" below.

Additional information pertaining to the Pension Plan is contained in the State's audited financial statements for the year ended June 30, 2017 at note 11 and in the Required Supplementary Information about the System (pages 112-115), which financial statements are included as Exhibit A to this Information Statement. The System's audited financial statements for the year ended June 30, 2018 are also included in the State's Comprehensive Annual Financial Report for the year ended June 30, 2018 (the "2018 State CAFR"), which report is also incorporated herein by reference and may be accessed at <https://das.nh.gov/accounting/reports.asp>. The 2018 State CAFR has also been filed with the EMMA and may be accessed at <http://emma.msrb.org>.

The System issues publicly available financial reports that may be obtained by requesting them in writing at 54 Regional Drive, Concord, NH 03301-8507 or from their web site at [www.nhrs.org](http://www.nhrs.org). Currently available reports include the System's Comprehensive Annual Financial Report for the year ended June 30, 2018 (the "2018 System CAFR"), available at <https://www.nhrs.org/docs/default-source/cafr/nhrs-2018-cafr.pdf?sfvrsn=6>, CAFR Schedules, GASB Statement Nos. 67 and 74 Plan Reporting and Accounting Schedules June 30, 2018 (the "2018 Interim Actuarial Valuation"), available at <https://www.nhrs.org/docs/default-source/actuarial/fy-2018-cafr-tables-and-gasb-67-74.pdf?sfvrsn=4>, the Actuarial Valuation Report as of June 30, 2017 (the "2017 Actuarial Valuation"), available at <https://www.nhrs.org/docs/default-source/actuarial/actuarial-valuation-fy-2017.pdf?sfvrsn=4>, and the 2011-2015 Experience Study available at <https://www.nhrs.org/docs/default-source/actuarial/july-1-2010--june-30-2015-experience-study.pdf?sfvrsn=4>. Similar reports for prior years are also available from the System at the addresses set forth above or at [www.nhrs.org](http://www.nhrs.org).

The Board of Trustees (the "Board") accepted the 2015 Actuarial Valuation on September 13, 2016, and used that valuation to certify the employer contribution rates for the 2018-2019 biennium at that same meeting. The Board of Trustees (the "Board") accepted the 2017 Actuarial Valuation on September 11, 2018, and used that valuation to certify the employer contribution rates for the 2020-2021 biennium at that same meeting.

At the December 11, 2018 meeting, the Board accepted both the 2018 System CAFR and the 2018 Interim Actuarial Valuation.

See *Results of Actuarial Valuations* and *GASB Statements No. 67 and 68* below.

## **Financing**

The financing of the System is provided through both member and employer contributions from the State and political subdivisions. Effective July 1, 2011, the statutory member contributions equal 7% for all State and political subdivision employees and teachers, 11.55% for police members and 11.80% for fire service members. The employer contribution rate is based on a biennial actuarial valuation performed by an independent actuary and then certified by the NHRS Board of Trustees. The State Constitution provides that the employer contributions certified as payable to the System to fund the System's liabilities, as determined by "sound actuarial valuation and practice shall be appropriated each fiscal year to the same extent as is certified."

The Pension Plan is divided into two membership groups. Group I consists of State and local employees and teachers. Group II consists of firefighters and police officers. The Medical Subsidy Plan is divided into four membership groups: 1) State employees, 2) political subdivision employees, 3) teachers, and 4) police officers and

firefighters. The State funds 100% of the employer cost for the Plans for all State employees and, prior to fiscal year 2010, the State funded 35% of the employer cost for teachers, firefighters and police officers employed by political subdivisions. Due to changes made in the 2009 legislative session, the State funded 30% of the employer cost for these three employee classes in fiscal year 2010 and 25% of the employer cost for such employees in fiscal year 2011. Pursuant to Chapter 224, Laws of 2011, effective July 1, 2011, the State no longer shares in the funding of local employer contributions, with the exception of a one-time payment of \$3.5 million that was paid in fiscal year 2012.

The reduced percentage contribution for the State’s share of local employers in fiscal years 2010 and 2011 reduced the State’s aggregate contributions to the Plans in those years by \$8.59 million and \$18.73 million, respectively. The budget adopted for fiscal years 2012 and 2013 removed State funding for local employer contributions with the exception of \$3.5 million in fiscal year 2012 noted above. As a result of significant legislative changes made in 2011 to pension eligibility, benefits and other provisions, coupled with increased member contributions, the State paid approximately \$63.2 million less in fiscal year 2012 and \$65.6 million less in fiscal year 2013 than would have been the case with no change in law and resumption of 35% State sharing of local employer contributions. The budgets adopted for fiscal years after 2013 did not include any State funding for local employer contributions. See “*Total Employer Contributions to NHRS*” tables below.

Chapter 224, Laws of 2011 included many changes to eligibility and pension benefits, primarily for new members and members that were not vested as of January 1, 2012. These changes were intended to reduce the future pension liability and include, but are not limited to:

- Increasing the retirement age for employees and teachers from 60 to 65.
- Increasing the minimum retirement age for police and fire from 45 with 20 years of service to 50 with 25 years of service.
- Average final compensation used to calculate pension benefits will be calculated using the highest five years’ salary rather than the highest three years’ salary. In addition, compensation in excess of base pay in the final years of service will not be included. Caps have been defined for maximum retirement benefits.

The Annual Required Contribution (“ARC”) from the State to the NHRS shown below represents both Pension Plan and Medical Subsidy Plan contributions currently required by statute for both State employees and the State’s share of employer contributions for local government employees. The contribution amounts are determined as a percentage of the payroll for eligible employees. Accordingly, the actual dollar amount of contributions in any year will vary from estimates to the extent the actual payroll varies.

**Total Employer Contributions to NHRS (Pension and Medical Subsidy)**  
(\$ in millions)

<u>Fiscal Year</u>	<u>Total Employer</u>	<u>% of ARC</u>	<u>State Share</u>			<u>State Share % of Total</u>	<u>Local Share</u>	<u>Local Share % of Total</u>
			<u>For State Employees</u>	<u>On Behalf of Local</u>	<u>Total</u>			
2018	\$466.9	100%	\$92.8	\$0.0	\$92.8	20%	\$374.1	80%
2017	425.8	100%	90.2	0.0	90.2	21%	335.6	79%
2016	415.7	100%	87.1	\$0.0	87.1	21%	328.6	79%
2015	381.2	100%	85.0	0.0	85.0	22%	296.2	78%
2014	377.3	100%	80.8	0.0	80.8	21%	296.5	79%
2013	299.5	100%	66.0	0.0	66.0	22%	233.5	78%
2012	303.5	100%	70.2	3.5	73.7	24%	229.8	76%
2011	307.5	100%	73.6	44.3	117.9	38%	189.6	62%
2010	302.2	100%	74.5	51.5	126.0	42%	176.2	58%
2009	261.5	75%	60.5	51.0	111.5	43%	150.0	57%

The budgeted State share of total employer contributions for fiscal year 2019 is approximately \$91.6 million.

Starting in fiscal year 2007, changes were made to the way the Medical Subsidy Plan was accounted for and funded. For years prior to fiscal year 2008, and in accordance with State statute, 25% of employer contributions were credited to the 401(h) Medical Subsidy Subtrust when received; the Pension Plan was then made whole by transferring assets from a Medical Special Account to the Pension Plan. On the advice of NHRS counsel, the NHRS stopped this practice effective for fiscal year 2008.

As a result of this changed practice and as reported in the June 30, 2008 interim actuarial valuation, only 75% of the ARC was contributed in fiscal years 2008 and 2009. While the State and all other employers had consistently paid 100% of the rates certified by the NHRS Board of Trustees, the rates certified by the NHRS Board of Trustees in 2005 with respect to fiscal years 2008 and 2009 did not include a separate component for the funding of the Medical Subsidy Plan. At the time such rates were certified in 2005, the NHRS Board of Trustees was not aware that the Pension Plan would only be credited with 75% of the ARC for fiscal years 2008 and 2009.

### **2011-2015 Experience Study**

On May 10, 2016 the Board of Trustees accepted an actuarial experience study (the “2011-2015 Experience Study”) for the period July 1, 2010 through June 30, 2015. The 2011-2015 Experience Study contains related information regarding the System and can be accessed in its entirety at <https://www.nhrs.org/docs/default-source/actuarial/july-1-2010---june-30-2015-experience-study.pdf?sfvrsn=4>. In addition to demographic and economic assumptions recommended by the System’s actuary, significant recommendations included reducing the current 7.75% investment rate of return to within a range of 7.0% to 7.5% and reducing the current 3.75% assumed wage growth to within a range of 3.0% to 3.50%. The Board of Trustees voted on May 10, 2016 to adopt 7.25% as the assumed rate of return and 3.25% for all member groups except teachers, which was reduced to 2.75%, as the assumed wage growth for use in the 2017 Actuarial Valuation. The System will be undertaking its next Experience Study for the period 2016-2020.

### **Results of Actuarial Valuations**

The NHRS has actuarial valuations performed biennially in each odd-numbered year, the results of which are used to determine the employer contribution rate for the next succeeding biennium. For example, the 2017 Actuarial Valuation was used to set required contributions for fiscal years 2020 and 2021.

The 2018 Interim Actuarial Valuation was accepted by the Board at its December 11, 2018 meeting. The net assets at actuarial value available to pay pension benefits was reported to be \$8,710.9 million. The market value of pension net assets as of June 30, 2018 was approximately \$126.0 million more than the actuarial value. The total pension accrued liability at June 30, 2017 was \$13,703.1 million, resulting in an unfunded accrued actuarial liability (“UAAL”) at June 30, 2018 of \$4,992.2 million and a funded ratio of 63.6%. The 2017 Actuarial Valuation was accepted by the Board at its September 11, 2018 meeting and the valuation was used to certify employer contribution rates for the fiscal year 2020-2021 biennium. The net assets at actuarial value available to pay pension benefits was reported to be \$8,165.7 million. The market value of pension net assets as of June 30, 2017 was approximately \$88.3 million more than the actuarial value. The total pension accrued liability at June 30, 2017 was \$13,208.9 million, resulting in an unfunded accrued actuarial liability (“UAAL”) at June 30, 2017 of \$5,042.8 million and a funded ratio of 61.8%. Because the UAAL is being funded at a level percent of payroll over a closed period (21 years remaining at June 30, 2018), it is expected that the UAAL will continue to increase until 2020 even if all assumptions are met. Effective July 1, 2007 the System’s actuarial cost method changed from the open group aggregate cost method to the more widely used entry age normal cost method. The total liabilities since that date have been determined using the entry age normal actuarial cost method and a 30-year closed amortization of the unfunded accrued actuarial liability. Due to the fact that contributions for any particular fiscal year are determined by actuarial valuation performed up to four years prior to a particular year, the contributions that reflect the 30-year amortization began with fiscal year 2010. Actuarial Valuations can be viewed in their entirety at <http://www.nhrs.org/funding-and-investments/reports-valuations/annual-report-archive>.

The actuary for the Plans uses several actuarial assumptions including the investment return rate at 7.25% (and 3.25% for Medical Subsidy Plan for funding purposes) and the wage inflation rate at 3.25% (2.75% for teachers). The actuary also uses so-called “smoothing,” whereby the difference between the market value of assets and the actuarial value of assets is smoothed over the previous five years to offset the effects of volatility of market

values in any single year. In addition, the NHRS uses a 20% “corridor” in order to prevent the smoothed value from varying too far from market. The use of the 20% corridor means that very large gains and losses (i.e., ones that would produce a smoothed value that is more than 20% higher or lower than the actual market value) will not be presumed to be completely transitory and will be reflected immediately in funding. For example, the use of the corridor in the 2009 actuarial valuations for the Plans lowered the actuarial value of assets that would have otherwise been established in its absence and thus raised the ARC in fiscal years 2012 and 2013.

The NHRS medical subsidy UAAL with the actuarial assumptions accepted by the Board as part of the 2015 Experience Study was \$652.8 million as of June 30, 2018, which represented a decrease of approximately \$5.0 million as compared to the UAAL as of June 30, 2017 of \$657.8 million, which was a decrease of approximately \$45.1 million as compared to the UAAL as of June 30, 2016. This liability is separate and in addition to the State’s other postemployment benefits (“OPEB”) liability discussed under “HEALTH CARE COVERAGE FOR RETIRED EMPLOYEES.”

Employer contribution rates depend on all of the actuarial assumptions used in determining the contribution rates. The following table sets forth a summary of certain assumptions used in the System’s actuarial valuations during the years 2015-2019, which contain detailed information regarding the System’s funding progress, employer contribution rates and actuarial information to be used for certain accounting reporting purposes. The assumptions for the investment rate of return and rate of payroll growth were changed following the acceptance of the five-year experience study to 7.25% and 3.25% (2.75% for teachers), respectively. These assumptions were used for the 2015 valuation and for all subsequent valuations to date. It is anticipated that they will continue in use until the next five-year experience study, for the period from 2016 through 2020, is conducted, except that future gains and losses will be amortized using a layered amortization approach beginning with fiscal years 2018 and 2019.. The assumptions for the investment rate of return and payroll growth used in the prior valuation were 7.75% and 3.75%, respectively, and were the assumptions used to determine the contributions required for fiscal years 2016 and 2017.

**New Hampshire Retirement System  
Pension and Medical Subsidy Plan Assumptions**

	<u>Pension Plan</u>	<u>Medical Subsidy Plan</u>
<b>Actuarial Cost Method</b>	Entry age normal	Entry age normal
<b>Amortization Method</b>	Level percentage of payroll, closed	Level percentage of payroll, closed
<b>Equivalent single amortization period</b>	30 years From 7/1/2009	*
<b>Asset valuation method</b>	5-year smoothed market	5-year smoothed market
<b>Actuarial Assumptions:</b>		
<b>Investment rate of return*</b>	7.25%	3.25%
<b>Projected salary increases*</b>	3.75% (2.75% for teachers) to 25.25%	3.75% (2.75% for teachers) to 25.25%
<i>*Includes Price Inflation at</i>	2.5%	2.5%
<b>Rate of Payroll Growth</b>	3.25%	3.25%
<b>Valuation Health Care Trend Rate</b>	N/A	N/A-The Medical Subsidy Plans provide a specific dollar subsidy to be used for health care. Effective July 1, 2008, the annual increase will be 0.0%.

\* Because the Medical Subsidy Plan is effectively a pay-as-you-go benefit provided to a closed group of eligible participants, the contribution needed to fund the benefits on a pay-as-you-go basis is intended to meet or exceed the contribution that would be otherwise necessary to amortize the liability under a 30-year amortization period.

Chapter 224, Laws of 2011, required the Board of Trustees to recertify the employer rates for fiscal years 2012 and 2013 applying changes adopted during the 2011 legislative session and using actuarial assumptions used by the Board when originally setting the rates in September 2010 for fiscal years 2012 and 2013. The Board recertified the employer rates effective August 1, 2011, and those recertified rates are shown below. The rates for

fiscal years 2014 and 2015 were certified by the Board on September 11, 2012 following acceptance of the 2011 Actuarial Valuation on July 10, 2012, ahead of the October 1, 2012 statutory requirement. The rates for 2016 and 2017 were certified by the Board of Trustees on September 9, 2014. The rates for 2018 and 2019 were certified by the Board of Trustees on September 13, 2016. The rates for 2020 and 2021 were certified by the Board of Trustees on September 11, 2018.

**Combined Employer Contribution Rates for Pension Plan and Medical Subsidy Plan For  
Fiscal Years 2014-2021 Certified by Board**

	<b>Certified</b>			
	<b><u>2014 and 2015</u></b>	<b><u>2016 and 2017</u></b>	<b><u>2018 and 2019</u></b>	<b><u>2020 and 2021</u></b>
Employees				
State	12.13%	12.50%	12.15%	11.93%
Political Subdivisions	10.77	11.17	11.38	11.17%
Teachers	14.16	15.67	17.36	17.80%
Police				
State	25.40	26.38	29.43	28.43%
Political Subdivisions	25.40	26.38	29.43	28.43%
Fire				
State	27.85	29.16	31.89	30.09%
Political Subdivisions	27.74	29.16	31.89	30.09%

The employer contribution rates are established at levels necessary to fund both the “normal” cost and the amortization of the UAAL. Most of the contribution rates relate to the UAAL amortization. For example, for fiscal years 2020 and 2021, the UAAL employer contribution rate for State Employees is 8.96%, for State police is 19.73% and State fire is 20.08%.

The remaining amortization of the UAAL, as a level percentage of payroll, over the current amortization period that ends in fiscal year 2039 will require increasing amounts of annual employer contributions. The Draft 2018 Actuarial Valuation projects that the UAAL payment for the pension plan will increase from approximately \$361 million in fiscal year 2019 to approximately \$632 million in fiscal year 2039, the last year of the amortization period. Actual experience will likely differ from the assumptions used in each actuarial valuation and the actual amounts to be contributed with respect to “normal costs” and the UAAL amortization may be higher or lower than currently projected and, depending upon actual future circumstances, such variances could be material. The State’s share of total employer contributions to the System for the year ended June 30, 2018 was approximately 20%. The State’s share in future years may vary. See “*GASB Statements No. 67 and 68*” below.

The following tables provide a ten-year history of funded ratios based on actuarial value of assets separated for the Pension Plan and the Medical Subsidy Plan. Fiscal year 2011 legislation authorized the transfer of all but funds needed to pay the temporary supplemental annuity (TSA) payment due July 1, 2012 from the Special Account to the Pension Plan. Fiscal year 2012 legislation repealed the Special Account as of July 1, 2012. The purpose of the Special Account was to fund additional benefits, such as cost of living adjustments (COLAs). Special Account assets are not included in the Ten Year History of Pension Plan Funding Status table below for years prior to 2012. Fiscal year 2018 legislation authorized a TSA payment to retirees that met certain criteria. This TSA was generally funded by the State at a cost of \$3.9 million and was paid to approximately 7,795 eligible retirees. The actuarial funding status as of June 30, 2018 is based upon the 2018 Interim Actuarial Valuation accepted by the Board at the December 11, 2018 meeting.

**NEW HAMPSHIRE RETIREMENT SYSTEM  
TEN YEAR HISTORY OF PENSION PLAN ACTUARIAL FUNDING STATUS  
FISCAL YEARS 2009-2018  
(All Dollar Amounts in Thousands)**

<b>Actuarial Valuation Date (June 30)</b>	<b>Actuarial Value of Assets</b>	<b>Actuarial Accrued Liability (AAL)</b>	<b>Unfunded AAL (UAAL)</b>	<b>Funded Ratio</b>
2018	\$8,710,939	\$13,703,148	\$4,992,209	63.6%
2017	8,165,684	13,208,449	5,042,765	61.8
2016	7,636,066	12,732,866	5,096,800	60.0
2015	7,280,761	12,303,636	5,022,875	59.2
2014	6,700,554	11,045,174	4,344,620	60.7
2013	6,070,681	10,708,768	4,638,087	56.7
2012	5,817,882	10,361,600	4,543,718	56.1
2011	5,740,516	9,998,251	4,257,735	57.4
2010	5,233,838	8,953,932	3,720,094	58.5
2009	4,937,320	8,475,052	3,537,732	58.3

Note: Liabilities were determined under the entry age normal actuarial cost method.

Source: Information for fiscal years 2016, 2017 and 2018 is shown in the CAFR Schedules and GASB 67 Plan Reporting and Accounting Schedules prepared by the System's actuary for each respective year. Information for fiscal year 2014 and 2015 are shown in the respective Actuarial Valuation reports. Information for fiscal years 2009 through 2013 is derived from the System's CAFR for the applicable years. The fiscal years 2013 through 2017 schedule of net pension liability using the new GASB 67 and 68 is shown in footnote 6, of the 2017 System CAFR and is not presented in this table. As a result, the information presented in this table will differ from that shown in the 2017 System CAFR.

**NEW HAMPSHIRE RETIREMENT SYSTEM  
TEN YEAR HISTORY OF MEDICAL SUBSIDY PLAN FUNDING STATUS  
FISCAL YEARS 2009-2018  
(All Dollar Amounts in Thousands)**

<b>Actuarial Valuation Date (June 30)</b>	<b>Actuarial Value of Assets</b>	<b>Actuarial Accrued Liability (AAL)</b>	<b>Unfunded AAL (UAAL)</b>	<b>Funded Ratio</b>
2018	\$36,777	\$689,577	\$652,800	5.3%
2017	38,853	696,548	657,695	5.6
2016	27,350	730,132	702,782	3.7
2015	19,515	761,342	741,827	2.6
2014	21,246	714,104	692,858	3.0
2013	21,823	731,872	710,049	3.0
2012	24,317	752,759	728,442	3.2
2011	33,218	777,572	744,354	4.3
2010	57,818	1,033,863	976,045	5.6
2009	176,800	673,390	496,590	26.3

Note: \$89.5 million of the asset change from fiscal year 2009 to fiscal year 2010 represents the transfer to the Special Account as part of the Plan's participation in the Voluntary Correction Program with the IRS discussed below.

Note: Liabilities were determined under the entry age normal actuarial cost method.

Source: Information for fiscal years 2016, 2017 and 2018 is shown in the CAFR Schedules and GASB 67 Plan Reporting and Accounting Schedules prepared by the System's actuary for those respective years. Information for fiscal year 2015 is derived from the June 30, 2015 Actuarial Valuation Report with assumptions updated from the 2015 Experience Study; information for fiscal years 2009 through 2014 is derived from the System's CAFR for applicable years.

## **GASB Statements No. 67 and 68**

GASB Statements No. 67 and 68, issued on June 30, 2012, set forth new standards that modified the accounting and financial reporting of the State's pension obligations. The standards for governments that provide employee pension benefits require the State to report in its statement of fiduciary net position a net pension liability, defined as the difference between the total pension liability (the present value of projected benefit payments to employees based on their past service) and the assets (mostly investments reported at fair value) set aside in a trust and restricted for the payment of benefits to current employees, retirees and their beneficiaries. The standards require immediate recognition of more pension expense than was previously required. The rate used to discount projected benefit payments to their present value is based on a single rate that reflects (a) the long-term expected rate of return on plan investments as long as the plan net position is projected under specified conditions to be sufficient to pay pensions of current employees and retirees and the pension plan assets are expected to be invested using a strategy to achieve that return or (b) a yield or index rate on tax-exempt 20-year AA-or-higher rated municipal bonds to the extent that the conditions for use of the long-term expected rate of return are not met. The Plan meets the criteria in (a) and the assumed rate of return of 7.75% as established by the Board was initially used as the discount rate. The new standards were effective for the System in fiscal year 2014 and for the State in fiscal year 2015. (See State of New Hampshire CAFR Notes to the Basic Financial Statements: Note 1, Section U and Note 11). NHRS has reflected the new GASB 67 requirements beginning in the fiscal year 2014 CAFR that was issued in December 2014. The initial GASB 68 report was issued using June 30, 2014 data. GASB 68 reports are available on the NHRS website at: <https://www.nhrs.org/employers/employer-resources/gasb/gasb-reports>.

The Pension Plan is a cost-sharing, multiple-employer plan. Accordingly, the State's obligation with respect to the Pension Plan is a proportionate share, as determined in accordance with GASB 67 and GASB 68. For the Pension Plan as a whole, the Total Pension Liability ("TPL") and Pension Plan's fiduciary net position reported as of June 30, 2018 were approximately \$13.652 billion and \$8.837 billion, respectively, resulting in a Net Pension Liability ("NPL") of approximately \$4,815 billion reported as of June 30, 2018. As of June 30, 2017 the TPL and fiduciary net position reported by the System were approximately \$13.172 billion and \$8.254 billion, respectively, resulting in an NPL of approximately \$4.918 billion reported as of June 30, 2017.

GASB 67 requires that a Pension Plan's reporting date must be identical to its measurement date; however GASB 68 allows employers to have a measurement date up to one year before their reporting date, so there is a one year lag between the Plan's reporting date and the State's reporting date. For the System's NPL reported as of June 30, 2018, the portion allocable to the State was approximately \$0.887 billion and will be reported in the 2019 State CAFR. For the System's NPL reported as of June 30, 2017 the portion allocable to the State was approximately \$0.975 billion and was reported in the 2018 State CAFR.

The System did not experience a "crossover date" in connection with determination of the NPL and accordingly, the measurement of the State's NPL for both fiscal years 2017 and 2018 assumes a 7.25% discount rate which is the same as the expected rate of return of Plan investments for the System. The annual rate of return, net of investment expense for the System, for the fiscal year ended June 30, 2017 was 13.5% and for the fiscal year ended June 30, 2018 was 8.9%.

The NPL can fluctuate up and down from year to year. The major contributors for fluctuations in the NPL are the difference between the projected and actual earnings on investments, the difference between expected and actual experience, changes in benefits and changes in assumptions.

Implementation of GASB 68 also requires setting forth the sensitivity of the NPL using an assumed discount rate that is one percentage point lower and one percentage point higher than the current rate. For the State's portion of the Plan's NPL reported as of June 30, 2018, a 1% decrease in the discount rate would increase the State's NPL from \$0.887 billion to approximately \$1.180 billion while a 1% increase in the discount rate would decrease the State's NPL to approximately \$0.641 billion. For the Plan's reported NPL as of June 30, 2017, a 1% decrease in the discount rate would increase the State's NPL from \$0.975 billion to approximately \$1.285 billion and a 1% increase would lower it to approximately \$0.722 billion.

While GASB 68 changes the way state and local governments report pension benefits in their financial statements it does not impact pension funding requirements or contribution amounts. To date, the State has generally contributed to the System 100% of the amounts required to be so contributed, as determined in accordance with actuarial valuations.

### **GASB Statements No. 74 and 75**

GASB Statements No. 74 and 75, issued on June 30, 2015, set forth new standards that modified the accounting and financial reporting of the State's Postemployment Benefit Plans Other Than Pension Plans (OPEB), including the System's Medical Subsidy Plan. See "HEALTH CARE COVERAGE FOR RETIRED EMPLOYEES" for information regarding the State's OPEB liability. The following discussion in this section pertains to the System's Medical Subsidy Plan.

The new standards for governments that provide postemployment benefits other than pensions require the State to report in its statement of fiduciary net position a net OPEB liability, defined as the difference between the total OPEB liability (the present value of projected benefit payments to employees based on their past service) and the assets (mostly investments reported at fair value) set aside in a trust and restricted for the payment of OPEB to current employees, retirees and their beneficiaries. The new standards require immediate recognition of more OPEB expense than was previously required. The rate used to discount projected benefit payments to their present value is based on a single rate that reflects (a) the long-term expected rate of return on plan investments as long as the plan net position is projected under specified conditions to be sufficient to pay OPEB of current employees, retirees and beneficiaries and the OPEB plan assets are expected to be invested using a strategy to achieve that return or (b) a yield or index rate on tax-exempt 20-year AA-or-higher rated municipal bonds to the extent that the conditions for use of the long-term expected rate of return are not met. The Medical Subsidy Plan meets the criteria in (a) and the assumed rate of return of 7.25% as established by the Board was used as the discount rate. The new standards were effective for the System in fiscal year 2017 and for the State in fiscal year 2018. NHRS has reflected the new GASB 74 requirements beginning in the System's fiscal year 2017 CAFR that was issued in December of 2017 and continued into the 2018 System CAFR issued in December of 2018. In June of 2018, the initial GASB 75 report was issued with a reporting date of June 30, 2017 using June 30, 2016 data, and in January of 2019 the GASB 75 report with a reporting date of June 30, 2018 was issued. GASB 74 and 75 reports are available on the NHRS website at: <http://www.nhrs.org/employers/employer-resources/gasb/gasb-reports>.

The Medical Subsidy Plan is a cost-sharing, multiple-employer plan. Accordingly, the State's obligation with respect to the Medical Subsidy Plan is a proportionate share, as determined in accordance with GASB 74 and GASB 75. For the Medical Subsidy Plan as a whole, the Total OPEB Liability ("TOL") and Medical Subsidy Plan's fiduciary net position reported as of June 30, 2018 were approximately \$495.2 million and \$37.3 million, respectively, which results in a Net OPEB Liability ("NOL") of approximately \$457.8 million as of June 30, 2018. As of June 30, 2017, the TOL and Medical Subsidy Plan's fiduciary net position reported were approximately \$496.5 million and \$39.3 million, respectively, which results in a Net OPEB Liability ("NOL") of approximately \$457.2 million as of June 30, 2017. GASB 74 requires that System's Medical Subsidy Plan reporting date must be identical to its measurement date; however GASB 75 allows employers to have a measurement date up to one year before their reporting date, there is a one year lag between the System's Medical Subsidy Plan reporting date and the State's reporting date. For the System's TOL reported as of June 30, 2018 in the 2018 System CAFR, the portion allocable to the State was approximately \$92.4 million and will be reported in the 2019 State CAFR. For the System's TOL reported as of June 30, 2017 in the 2017 System CAFR, the portion allocable to the State was approximately \$87.3 million and was reported in the 2018 State CAFR.

The System did not experience a "crossover date" in connection with determination of the NOL and accordingly, the measurement of the State's NOL for fiscal year 2017 assumes a 7.25% discount rate, which is the same as the expected rate of return of Pension Plan investments for the System. The annual rate of return, net of investment expense for the System, for the fiscal year ended June 30, 2017 was 13.5% and for the fiscal year ended June 30, 2018 was 8.9%.

The NOL can fluctuate up and down from year to year. The major contributors for fluctuations in the NOL are the difference between the projected and actual earnings on investments, the difference between expected and actual experience, changes in benefits and changes in assumptions.

Implementation of GASB 75 also requires setting forth the sensitivity of the State’s NOL using an assumed discount rate that is one percentage point lower and one percentage point higher than the current rate. For the State’s portion of the Medical Subsidy Plan’s NOL reported as of June 30, 2018, a 1% decrease in the discount rate would increase the State’s portion of the NOL from approximately \$92.4 million to approximately \$96.1 million while a 1% increase in the discount rate would decrease the State’s NPL to approximately \$81.8 million. For the Plan’s reported NPL as of June 30, 2017, a 1% decrease would increase the State’s portion of the NOL with respect to the Medical Subsidy Plan from approximately \$87.3 million to approximately \$95.0 million and a 1% increase would lower it to approximately \$80.6 million. GASB 74 also requires setting forth the sensitivity of the NOL to the healthcare cost trend assumption. However, since the Medical Subsidy benefits are a fixed stipend, there is no sensitivity to change in the healthcare cost trend assumption and no such analysis is required.

While GASB 75 changes the way state and local governments report postemployment benefits other than pensions in their financial statements, it does not impact OPEB funding requirements or contribution amounts. To date, the State has generally contributed to the System 100% of the amounts required to be so contributed, as determined in accordance with actuarial valuations. The GASB 75 report issued by the System is solely limited to liabilities attributable to the Medical Subsidy Plan and does not include other medical benefit liabilities for insurance provided to State employees or retirees. See “HEALTH CARE COVERAGE FOR RETIRED EMPLOYEES.”

## Investments

RSA 100-A:15, I, provides separate and specific authorities to the Board and the Independent Investment Committee for the management of the funds of the Plans and charges them with exercising the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence, acting in a like capacity and familiar with such matters, would use in the conduct of a pension plan of like character and with like aims of the Plans.

Fiscal year 2010 marked the first full reporting period for which the Independent Investment Committee (the “Committee”) conducted oversight and management of the investment program. Prior to January 1, 2009, the Board served as the NHRS Investment Committee. On that date, the Committee assumed its responsibilities in accordance with the provisions of RSA 100-A:14-b. The Committee is responsible for: investing in accordance with policies established by the Board; making recommendations to the Board regarding investment consultants, asset allocation, and other policy matters; selecting investment managers, agents, and custodial banks; and reviewing performance. The Committee, which meets monthly, is comprised of five members: three independent members appointed by the Governor and Executive Council, and two members of the Board appointed by the Chair of the Board. All are statutorily required to have significant experience in institutional investment or finance.

State law requires that the Committee provide a comprehensive annual investment report. The report for the fiscal year ended June 30, 2018 was unanimously approved and accepted by the NHRS Board of Trustees at its December 11, 2018 meeting.

The target allocation and range for each asset class, as most recently adopted by the Board on September 11, 2012 and June 9, 2015, respectively, are as follows:

<u>Asset-Class</u>	<u>Target Allocation</u>	<u>Allocation Range</u>
Domestic Equity	30%	20 – 50%
Non-U.S. Equity	20	15 – 25
Fixed Income	25	20 – 30
Real Estate	10	5 – 20
Alternative Investments	15	5 – 25

Performance returns shown below are calculated on a net-of-fees time-weighted rate of return basis.

#### Annualized Investment Returns

<u>Asset Class</u>	<u>Percent of Assets</u>	<u>Periods Ending June 30, 2017</u>			
		<u>1-Year</u>	<u>3-Years</u>	<u>5-Years</u>	<u>10-Years</u>
<b>Total Fund</b>	100.0%	8.9%	7.7%	8.7%	7.1%
<i>Total Fund Custom Index</i>		7.8%	7.3%	8.8%	7.2%
<b>Domestic Equity</b>	29.7%	14.6%	11.0%	12.7%	9.6%
<i>Domestic Equity Blended Benchmark*</i>		14.4%	11.9%	13.5%	10.3%
<b>Non-US Equity</b>	19.2%	7.8%	6.1%	6.0%	3.3%
<i>Non-US Equity Blended Benchmark*</i>		7.3%	5.1%	6.0%	2.5%
<b>Fixed Income</b>	21.5%	0.2%	2.8%	2.9%	5.1%
<i>Fixed Income Blended Benchmark*</i>		-0.3%	2.1%	2.6%	4.1%
<b>Real Estate</b>	9.2%	10.5%	11.1%	12.7%	6.1%
<i>Real Estate Blended Benchmark*</i>		7.5%	8.4%	10.1%	6.6%
<b>Alternative Investments</b>	18.6%	10.9%	8.4%	8.5%	3.1%
<i>Alternative Investments Blended Benchmark*</i>		9.4%	8.4%	13.4%	11.7%
<b>Cash</b>	1.8%	1.4%	0.8%	0.5%	0.4%
<i>91 Day Treasury Bills</i>		1.4%	0.7%	0.4%	0.3%

\* In a dynamic market, strategies and objectives evolve over time. Consequently, these benchmarks are blended due to historical investment strategy decisions. Detailed descriptions of the benchmarks above are available by contacting NHRS.

#### Ten-Year History Actuarial Value vs. Market Value of Assets

The Actuarial (Funding) Value of Assets recognizes assumed investment income fully each year. Differences between actual and assumed investment income are phased in over a closed five-year period. During periods when investment performance exceeds the assumed rate, Funding Value of Assets will tend to be less than market value. During periods when investment performance is less than the assumed rate, Funding Value of Assets will tend to be greater than market value. The Funding Value of Assets is unbiased with respect to Market Value. At any time it may be either greater or less than Market Value. If assumed rates are exactly realized for four consecutive years, it will become equal to Market Value. Based on actuarial principles, Final Funding Value of Assets may not be less than 80% nor more than 120% of Market Value of Assets.

The table below presents a ten year history of actuarial rates of return and asset values and market value rates of return and asset values. Assets are valued on a market-related basis that recognizes each year's difference between actual and assumed investment return over a closed five year period.

The asset values presented below include all assets in the NHRS Plan Trust. Prior to June 30, 2012, total plan assets included the Special Account assets that were available pursuant to RSA 100-A:16, II(h) to provide additional benefits such as cost-of-living adjustments. The Special Account was repealed in the 2011 legislative session. The Special Account assets were not used in calculating the funded ratios of the Pension and Medical Subsidy Plans prior to June 30, 2012 because those assets were not available to pay the corresponding liabilities. Accordingly, Special Account assets are not included in the Ten Year funding status tables found in the "Results of Actuarial Valuation" section for years prior to 2012.

**New Hampshire Retirement System  
Pension and Medical Subsidy  
Actuarial Value vs. Market Value  
Fiscal Years 2009 to 2018**

<u>Fiscal Year</u>	<u>Actuarial Rate of Return</u>	<u>Actuarial Value of Assets</u>	<u>Market Value Rate of Return</u>	<u>Market Value of Assets</u>
	(Per Actuarial Valuation Reports) <sup>(1)</sup>	(in thousands)	(NHRS CAFRs)	(in thousands)
2018	8.40%	\$8,747,715	8.9%	\$8,874,175
2017	9.11	8,204,537	13.5	8,293,261
2016	6.83	7,663,416	1.0	7,460,945
2015	10.72	7,300,276	3.5	7,530,056
2014	12.28	6,721,799	17.6	7,414,062
2013	7.12	6,092,504	14.5	6,428,009
2012	3.22	5,846,570	0.9	5,774,343
2011	6.90	5,798,249	23.0	5,891,179
2010	6.48	5,569,341	12.9	4,898,339
2009	-3.87	5,353,453	-18.1	4,461,211

<sup>(1)</sup> Fiscal years 2016 and later actuarial information in the table above is from the respective CAFR & GASB 67 Plan Reporting & Accounting Schedules. The fiscal year 2015 actuarial information is from the June 30, 2015 Actuarial Valuation Report with assumptions updated from the 2015 Experience Study. Both reports were prepared by the System's actuarial consultant.

### Current Market Conditions

Since June 30, 2008, the liquidity crisis in the credit, housing and mortgage markets blossomed into a global economic crisis of significant proportions. Both U.S. and global investment markets experienced significant declines since June 30, 2008. Investment results since June 30, 2009 have improved, and as a result of that improvement, the market value of net assets available for benefits has recovered to \$8.9 billion as of June 30, 2018. (It should be noted that future contributions to the System will be based upon the actuarial value of the System's assets, not market value, and such actuarial values will differ from market value.) For the twelve months ending June 30, 2018, the System's total fund net-of-fees investment return (at market) was 8.9%. The System is a long-term investor. No prediction can be made of the short-term or long-term investment prospects for the System's investment portfolio.

### Legislative Activity

The State has enacted various legislative changes in recent years in order to address certain issues pertaining to the System, including, among other matters, the level of benefits to be received by retirees and the contributions required to be made by employers and employees.

The 2019 legislative session is currently underway, and NHRS cannot predict if any legislation with a substantive impact to the System will be enacted.

The 2018 legislative session included, but was not limited to, legislation that:

- Limits NHRS retirees working part-time for retirement system participating employers to a maximum of 1,352 hours per calendar year, effective January 1, 2019. Retirees already working part-time prior to that date are allowed to work up to 1,664 hours per calendar year for as long as they remain in the position they held on the effective date of the bill. The bill also contains a financial penalty for any retirees exceeding the statutory limits on annual hours worked and requires members who retire on/after January 1, 2019 to wait 28 days from their effective date of retirement before commencing part-time employment with a participating employer.
- Grants a one-time additional allowance of \$500 in fiscal year 2019 to retired members who meet all of the following criteria: (a) the member retired with at least 20 years of creditable service; (b)

the member retired and has been receiving an allowance for at least 5 years prior to July 1, 2018;  
(c) the annual retirement allowance of the member on June 30, 2018, is not greater than \$30,000.

- Requires the retirement system to amortize biennial actuarial gains or losses accrued on or after July 1, 2017, for separate closed, fixed periods of no longer than 20 years.

There were no substantive legislative changes during the 2017 legislative session.

The 2015 and 2016 legislative session did not include legislation that changed actuarial assumptions, impacted employers, members or beneficiaries, or the System.

The 2014 legislative session included, but was not limited to, legislation that:

- Allows the retirement system to make a lump sum payment of \$15,000 or less to the next of kin of a deceased member when no probate proceedings are pending.
- Grants NHRS electronic access to a limited data set of death, marriage, and divorce information of members and beneficiaries held by the Division of Vital Records Administration for purposes of administering RSA 100-A.
- Repeals the optional benefit program available to eligible call, substitute, or volunteer firefighters.
- Authorizes the State Department of Administrative Services to determine the feasibility of contracting with a credit card issuer to establish a credit card affinity program in which the fees received by the State are dedicated to reducing the System's unfunded liability.
- Clarifies the definitions of terms used in RSA 100-A; establishes a procedure for assessing the true actuarial cost of service credit purchases; clarifies the ability to earn service credit while on a salary continuance plan; adds a penalty for employers who fail to submit required monthly data in a timely manner; and repeals obsolete provisions.

A detailed discussion of legislative activity for the 2014 and 2015 legislative sessions can be found in Note 6 of the 2015 System CAFR.

NHRS cannot predict what additional changes, if any, may be proposed or enacted into law in future legislative sessions.

## **HEALTH CARE COVERAGE FOR RETIRED EMPLOYEES**

In addition to pensions, many state and local governmental employers provide Other Post Employment Benefits (OPEB) as part of the total benefit component of compensation offered to attract and retain the services of qualified employees. OPEB includes postemployment healthcare, as well as other forms of postemployment benefits (for example, life insurance) when provided separately from a pension plan. From an accrual accounting perspective, the cost of OPEB, like the cost of pension benefits, generally should be associated with the periods in which the exchange occurs (matching principle), rather than with the periods (often many years later) when benefits are paid or provided. However, in current practice, most OPEB plans are financed on a pay-as-you-go basis.

GASB Statements No. 43 and 45 were promulgated to address the reporting and disclosure requirements for OPEB. GASB Statement No. 43, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, was effective for the System's financial statements for fiscal year 2007. This Statement required the NHRS to change its financial reporting and enhance disclosure of its postemployment health benefit medical subsidy program ("Medical Subsidy Plan"). GASB Statement No. 43 was replaced by GASB Statement No. 74 and was effective for NHRS's financial statements for the Fiscal Year 2017. Similar to GASB Statement No. 43, GASB Statement No. 74 is not applicable to the financial reporting of the State. GASB Statement No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions, was implemented in the State's CAFR during fiscal year 2008, and requires that the long-term cost of retirement health care and obligations for OPEB be determined on an actuarial basis, and reported similar to pension plans. GASB Statement No. 45 is being replaced by Statement No. 75 and it takes effect for the Fiscal Year 2018 State CAFR. GASB Statement No. 75 requires the entire unfunded OPEB liability that is currently recognized in the footnotes of the State's financial

statements for the State's self-funded employee and retiree health benefit program ("State OPEB Plan") to be recognized on the State's balance sheet.

GASB Statement No. 75 requires the State to record the Total OPEB Liability on its balance sheet, as the State does not have assets accumulated in a trust that meets the criteria in paragraph 4 of GASB Statement No. 75. In calculating the Total OPEB Liability recorded as of June 30, 2018, the State used a measurement date of June 30, 2017, which was determined based upon the results of the actuarial valuation as of December 31, 2016 with updated assumptions required under GASB Statement No. 75, including the use of the Municipal Bond Index rate as the discount rate of 3.58% as of June 30, 2017, resulting in a Total OPEB Liability of \$2.2 billion. The State OPEB Plan is a single employer primary government with component units plan, therefore, the State, as the primary government, has recorded a Total OPEB Liability on its balance sheet of \$2.1 billion as of June 30, 2018. The remaining amount of \$100 million is allocable to component units of the State. Subsequent to the measurement date, the State implemented a Medicare Advantage Plan, effective January 1, 2019. It is estimated that this change will decrease the overall Total OPEB Liability by \$170 million.

GASB Statement No. 75 also requires the State to record its proportionate share of the Net OPEB Liability (NOL) of the NHRS Medical Subsidy Plan discussed earlier. NHRS administers a cost-sharing multiple employer defined benefit postemployment healthcare plan for qualified retired members. This plan has assets accumulated in a trust that meet the criteria in paragraph 4 of GASB Statement No. 75. Therefore, the State has recorded a NOL of \$87.3 million as of June 30, 2018 for its share. The State's proportionate share of 19.1% represents the projected long-term share of contributions to the Medical Subsidy Plan relative to the projected contributions of all participating entities, as determined by NHRS actuaries.

The State OPEB Plan is administered under State law which provides health care benefits for certain retired State employees within the limits of the funds appropriated. Each year, the State works with its actuary to develop working rates, or premiums, that are projected to cover the cost of retiree health care for the calendar year. The State collects the working rates from the appropriate State agencies and other statutorily authorized groups, as well as from other sources, and deposits all revenues into the Employee and Retiree Benefit Risk Management Fund (the "Fund"), established in October 2003, which finances the State OPEB Plan. As required by RSA 21-I:30-b(1)a, the Fund includes a reserve equal to at least 3% of the estimated annual self-insured claims and administrative expenses. However, as a result of claims volatility the State currently maintains a statutory reserve of 5% of estimated annual self-insured claims and administrative expenses for the Retiree Health account. In addition as required by law, the State maintains an incurred but not reported amount that is calculated by the State's actuary. The State maintains amounts that exceed the required reserve as cash flow reserve and, if appropriate, the State implements a working rate holiday or adjusts the working rate in order to spend-down the cash flow reserve.

In the past, eligible retirees did not contribute toward the cost of health care. However, effective July 1, 2009, retirees on the non-Medicare eligible plan (typically under the age of sixty-five) contributed \$65 per month per covered retiree or spouse and \$130 per retiree and spouse. From July 1, 2011 to December 31, 2015, the premium contribution changed from this flat fee to an amount equal to twelve and half percent (12.5%) of the total monthly premium for each retiree, or twelve and half percent (12.5%) of the total monthly premium for a two-person plan if coverage includes a spouse. From January 1, 2016 to September 30, 2017, the premium contribution percent increased to seventeen and a half percent (17.5%) of the total monthly premium for each non-Medicare eligible retiree and spouse. Beginning October 1, 2017, the premium contribution increased in the State's budget and trailer bill to twenty percent (20%) of the total monthly retiree health premium for each non-Medicare eligible retiree and spouse. As of January 1, 2019 the non-Medicare premium contribution is \$191.26 per covered retiree or spouse and \$382.52 per retiree and spouse.

On February 8, 2017, New Hampshire Department of Administrative Services submitted a draft Long Term Study of Retiree Health Benefits prepared by the Segal Company, the State's health care consultant and actuary, to the members of the Joint Legislative Fiscal Committee. This study identified the following strategies for managing the state's short-term and long-term Retiree Health Benefits costs: (1) implementing a private Medicare exchange with a defined contribution to a Health Reimbursement Account, (2) implementing a Medicare retiree premium cost share, (3) eliminating the Medicare retiree prescription drug plan, (4) eliminating Retiree Health Benefits for new hires or for spouses of future hires, (5) implementing a Medicare Advantage Plan, and (6) implementing a defined dollar amount for non-Medicare retirees. The Long Term Study of Retiree Health Benefits is available at

<https://das.nh.gov/riskmanagement/rmu-reports.aspx>. After review of the proposed strategies, the Legislature implemented the Medicare retiree premium cost share in the fiscal year 2018-2019 budget.

The fiscal years 2018 and 2019 budget and trailer bill (HB 517: Chapter 0156, Laws of 2017) implemented one of the strategies identified in the Long Term Study of Retiree Health Benefits and established a first-ever premium contribution by Medicare eligible retirees. Effective January 1, 2018, retirees and spouses enrolled in the Medicare eligible plan with a date of birth on or after January 1, 1949 are required to contribute ten percent (10%) of the monthly premium. The calendar year 2019 monthly premium contribution for Medicare-eligible retirees/spouses who were born January 1, 1949 or later is \$432.04. As of January 2019, approximately 3,000 retirees and spouses pay the 10% Medicare premium contribution out of approximately 9,900 total Medicare retirees and this number will grow in coming fiscal years as the number of retirees/spouse born on or after January 1, 1949 increases.

There are two ways the Non-Medicare and Medicare premium contribution amounts can change. As was enacted in the budget trailer bill, the Legislature can amend State law that defines the amount of the premium contribution. In addition, the Joint Legislative Fiscal Committee that generally meets monthly has the authority to approve changes to the non-Medicare and Medicare premium contribution amounts. Substantially all of the State's Group I employees hired on or before June 30, 2003 may become eligible for these benefits at 60 years of age after attainment of ten years of State creditable service if they elect to receive pension payments on a periodic basis rather than as a lump sum. Group I employees hired on or after July 1, 2003 must attain 20 years of State creditable service and be 60 years of age (65 if hired on or after July 1, 2011) in order to be eligible for retiree health benefits. Group II (Police and Fire) employees are subject to somewhat different age and creditable service requirements, as are certain Group I employees with 30 years of creditable service. Group I and Group II employees, or surviving spouses if applicable, may also qualify for retiree health benefits as the result of job-related accidental disability or death or non-job related disability or death. Similar benefits for active employees are authorized by RSA 21-I:30 and are provided through the Fund.

State retiree health benefits paid from the Fund, including administrative costs, totaled \$88.4 million to cover approximately 12,420 retirees and dependents in fiscal year 2018 on a pay-as-you-go (cash) basis. The State does not pre-fund OPEB costs. However, in 2013, the State passed a law authorizing the creation of an OPEB trust account in which resources could accumulate for purposes of funding retiree health benefits. To date no funds have been paid into the trust.

In 2014, following a procurement process, the Department of Administrative Services retained The Segal Company ("Segal") to assist, among other matters, in the determination and valuation of the State OPEB Plan liability under GASB Statement No. 45. Segal provides to the State benefits consulting, claims auditing and actuarial services for the purposes of setting rates for its self-funded health and dental plans. The most recent complete State OPEB Plan liability actuarial valuation as of December 31, 2016, dated September 29, 2017, is posted to the State's website at <https://das.nh.gov/riskmanagement/rmu-reports.aspx>. To comply with GASB Statement No. 75 Segal provided the State with a GASB Statement No. 75 Accounting Valuation Report for Reporting Date June 30, 2018. GASB Statement No. 75 does not mandate the prefunding of postemployment benefit liabilities. The State currently plans to only partially fund Retiree Health Benefits on a pay-as-you-go basis, at an actuarially determined rate. The pay-as-you-go contributions made in fiscal year 2018 were \$51.6 million on an accrual basis. Those contributions do not include NHRS medical subsidy and other sources as presented in the table entitled "State Retiree Health Funding Sources" on the following page. NHRS medical subsidy payments are not included because the related obligation is excluded from the calculation of the Net OPEB Liability for the Retiree Health Benefit Plan. In addition, Employer Group Waiver Plan Subsidies (EGWP), the federal subsidies received for sponsoring a Medicare Prescription Drug Plan (Part D) are excluded pursuant to guidance promulgated by GASB Statement No. 75. Other small differences will exist because of timing between cash and accrual basis of accounting.

In accordance with GASB 75, the Total OPEB Liability for the State's primary government and component units, which was measured as of June 30, 2017 was \$2.2 billion. With no actuarial value of assets this results in a Net OPEB Liability of \$2.2 billion, as compared to a Net OPEB Liability as of June 30, 2016, updated under GASB 75, of \$2.9 billion. The decrease in the Net OPEB Liability is primarily due to changes in actuarial assumptions which include updates to health care trends to reflect current claims experience and future expectations and an increase in the discount rate, required by GASB 75, from 2.85% as of June 30, 2016 to 3.58% as of June 30, 2017.

The GASB 75 updated report assumes a salary scale, mortality, disability, turnover and retirement rates consistent with NHRS based on its 5-Year Experience Study of July 1, 2010 through June 30, 2015. This amount does not include the State's share of the UAAL from the NHRS Medical Subsidy plans discussed below.

The next actuarial valuation is expected to be dated as of December 31, 2018 and will be completed in the fall of 2019. The State cannot now predict whether such valuation will result in an increase or decrease in the UAAL as compared to the most recent valuation.

As described above under "STATE RETIREMENT SYSTEM," the NHRS currently provides medical subsidy payments to the State Retiree Health Benefit Plan on behalf of a closed group of retirees. Funding for the medical subsidy payments is included as a percentage of the employer contribution rate and is applied to active employee payroll similar to employer pension contributions. As of June 30, 2017 the NHRS Medical Subsidy Plan was 4.7% funded; amounts paid by the State to the NHRS Medical Subsidy Plan are paid back to the State by the NHRS in the form of subsidy payments to the Retiree Health Benefit Plan. In the June 30, 2018 CAFR, the State reported a net OPEB liability of \$87.3 million for its proportionate share of the NHRS Medical Subsidy Net OPEB liability.

**State Retiree Health Funding Sources**  
(\$ in millions)

<u>Fiscal Year</u>	<u>General Fund</u>	<u>Self-Supporting Agencies</u>	<u>NHRS Medical Subsidy</u>	<u>Other Sources (i.e. Rebates, Rx Subsidies, Retiree Contrib.)</u>	<u>Total Revenue</u>	<u>Total Costs</u>
2018	\$35.6	\$20.7	\$12.0	\$24.9	\$93.2	\$88.4
2017	33.3	19.9	12.3	23.4	88.9	84.8
2016	32.5	19.3	12.8	19.4	84.0	85.4
2015	33.8	16.3	13.1	16.7	79.8	79.0
2014	33.3	16.3	12.3	10.5	72.4	71.6
2013	34.2	15.2	12.4	10.8	72.6	70.9
2012	33.8	15.7	14.3	12.5	76.3	73.5
2011	30.3	13.7	14.2	12.4	70.6	75.9
2010	34.7	15.2	14.4	10.5	74.8	72.4

**STATE RETIREE HEALTH PLAN COMMISSION**

Effective July 1, 2007, the State Retiree Health Plan Commission was established pursuant to RSA 100 A:56 to determine the actuarial assumptions to be used in the valuation of liabilities relative to State employee health benefits. The Commission membership includes one representative appointed by the Speaker of the House, one Senator appointed by the Senate President, one member appointed by the Governor, the State Treasurer and the Commissioner of Administrative Services. The Commission's role is to determine the actuarial assumptions to be used in the OPEB valuation of the State's OPEB liability and to ensure the OPEB Valuation Report is submitted to the Speaker of the House, Senate President, and Governor. In June 2017 the Commission fulfilled its duties relative to the OPEB Valuation as of December 31, 2016.

In preparation for the fiscal year 2018 CAFR OPEB reporting under GASB 75, the Retiree Health Commission reconvened on July 25, 2018, to review the updated assumptions that the State's actuaries used to update the State's OPEB valuation as of December 31, 2016 for the fiscal year 2018 CAFR. GASB 75 requires changes to the discount rate assumption (from the long-term expected yield on the State's assets to the yield for a 20-year, tax-exempt general obligation municipal bonds with an average rating of AA/Aa or higher) and the actuarial calculation method assumption that were approved at the prior Retiree Health Commission meeting on June 28, 2017. Additionally, the State's actuaries suggested a lower prescription drug trend (11% to 9%) in assumption due to lower prescription drug trends industry wide. The lower prescription drug trend is consistent with the State's recent prescription drug experience and the Retiree Health Benefit fiscal years 2020-2021 Budget Rates. The Retiree Health Commission members voted unanimously to accept the updated OPEB assumptions for the fiscal year 2018 CAFR.

## STATE RETIREE HEALTH BENEFITS PLAN CHANGES

Over the last 2½ years, the State has successfully managed and addressed funding challenges for Retiree Health Benefits. In June 2015, DAS projected a \$10.6 million deficit in the Retiree Health Benefits budget based off of a \$5.6 million budget shortfall, an unanticipated \$4 million projected increase in pharmacy costs following an industry-wide increase in pharmacy cost trends from 8% to 13%, and an unanticipated decrease of approximately \$1 million in Employer Group Waiver Program (EGWP) revenues, in this case federal Medicare prescription drug subsidies. Between July and October 2015, DAS worked with the Joint Legislative Fiscal Committee over the course of five Fiscal Committee meetings to manage this projected deficit. In October 2015, the Fiscal Committee approved: (1) prescription drug plan copay and maximum out-of-pocket increases projected to save a total of \$2 million, and (2) an increase in the Non-Medicare eligible retiree premium contribution from 12.5% of premium to 17.5 % of premium projected to save \$2.8 million. The remaining budget shortfall of \$5.8 million plus the cost of the Retiree Health Long Term Study (\$0.3 million) resulted in an estimated \$6.1 million budget shortfall for fiscal years 2016-2017. To address this shortfall, the Fiscal Committee approved transfers in fiscal years 2016 and 2017 totaling \$150,000 in General Funds from the DAS budget to the Retiree Health Benefit Plan and the release of \$800,000 from the Retiree Health Benefit Reserve account into the cash flow reserve. This was possible because the Retiree Health Benefit Plan held a \$5.4 million dollar cash flow reserve that had slowly accrued since calendar year 2012 due to better than projected claims experience that was available to close the gap.

As contemplated, DAS did use cash flow reserve funds during fiscal years 2016-2017 to meet retiree health expenses. In fiscal year 2016, DAS used \$574,000 in cash flow reserve to account for a deficit of General Funds in the Retiree Health account. Similarly, in fiscal year 2017, DAS used \$1.772 million in cash flow reserve to cover a deficit in General Funds.

The Legislature made further Retiree Health Benefit Plan changes in the fiscal year 2018 – 2019 budget and accompanying trailer bills to help manage the growing cost of the Retiree Health Benefit Plan. HB 517 amended RSA 21-I: 30 (Laws 2017 Chapter 156:6-10) effective January 1, 2018 to include a first-time ever 10% monthly premium contribution for Medicare retirees born on or after January 1, 1949. HB 517 also increased the monthly premium contribution percentage paid by Non-Medicare retirees from 17.5% to 20% effective October 1, 2017.

The fiscal years 2018-2019 Retiree Health Benefits budget totals \$171.4 million, an increase of \$25.4 million over fiscal years 2017. The fiscal years 2018-2019 budget estimates are based on medical and pharmacy trends for the Medicare eligible and non-Medicare eligible Retiree Health Benefit Plans and a projected annual increase in plan enrollment. For fiscal years 2018 and 2019, the non-Medicare eligible retiree plan projected medical trend was 5% and the Medicare eligible retiree plan projected medical trend was 2.5%. The projected pharmacy trend for all retiree health benefit plans was 13% for fiscal years 2018 and 2019. The total budget also included a 4% annual increase in enrollment in the Medicare eligible retiree plan in fiscal years 2018 and 2019. The \$25.4 million increase included a \$14 million increase in General Funds, \$8 million increase in retiree premium contributions, and \$3.4 million increase in other funds.

Fiscal year 2018 claims experience has come in lower than projected and the Retiree Health Budget is currently projected to lapse approximately \$15 million to the General Fund at the end of the biennium. Additionally, the favorable claims experience has resulted in cash flow reserves of approximately two months of projected annual self-insured expenses. Considering the historical increase in the Retiree Health Benefit cash flow reserve and projected claims through the end of calendar year 2018, the State implemented a one time, one month, working rate (premium) holiday for the Retiree Health Benefit Plan in October 2018. The Retiree Health Benefit Plan holiday spent down a total of \$5.4 million in retiree cash flow reserves which equaled approximately \$1.7 million General Fund savings, \$2.95 million Other State agency savings, \$700,000 retiree premium contribution savings, and \$77,000 savings to Legislators, retired Judges, and other self-payers enrolled in the Retiree Health Benefit Plan. In addition to the premium holiday, the calendar year 2019 non-Medicare working rates include an adjustment of \$3 million to decrease the calendar year 2019 working rate in an effort to reduce the retiree health cash flow reserve. As of December 31, 2018, the Retiree Health cash flow reserve equaled approximately \$9.6 million.

DAS continues to review and analyze cost containment options for the Retiree Health Benefit Plan. As such, Anthem, the State's medical TPA, presented the concept of a Medicare Advantage option for the State's Medicare eligible retirees to DAS in the fall of 2017. In 2018, implementation of a Medicare Advantage Plan was not a viable option because Anthem's New Hampshire Medicare Advantage network was inadequate. However, by 2018 the Medicare Advantage network had grown and DAS worked with Anthem and Segal Consulting to review and analyze Medicare Advantage as an option for its retirees effective January 1, 2019. On June 20, 2018, Governor and Executive Council approved an amendment to the State's existing contract with the medical third party administrator, Anthem, which authorizes the State, effective January 1, 2019, to replace the current self-funded Medicare supplemental coverage with a fully-insured Medicare Advantage Plan (Medicare Part C plan). This is a change in the funding mechanism to provide medical benefits for the State's approximately 9,900 Medicare retirees and it does not in substance change the medical benefits coverage that Medicare retirees receive today. As a group Medicare Advantage plan, Anthem will provide State retirees with an enhanced level of care coordination and retirees will not experience any change in their out-of-pocket costs and they will not have to change doctors.

By moving to a Medicare Advantage plan, the State will benefit from enhanced federal Medicare funding resulting in an estimated \$11.8 million in savings over calendar years 2019 and 2020. This federal funding will help mitigate future increases in the Retiree Health Benefits budget that are driven by increasing numbers of retirees and increases in medical and pharmacy costs.

**STATE RETIREE HEALTH BENEFIT BUDGET FOR FISCAL YEAR 2020 AND 2021 AND  
TREND ASSUMPTIONS**

The fiscal years 2020-2021 Governor's Recommended Retiree Health Plan Budget, released in February 2019, totals \$154.4 million, a decrease of \$26.4 million from fiscal year 2019. The updated projection and budget need as compared to fiscal year 2019 is presented in the chart below:

	FY19 Authorized Budget	FY20 Budget	\$ Decrease FY19 to FY20	FY21 Budget	\$ Decrease FY19 to FY21	\$ Decrease Total Biennium
GF	\$42,778,200	\$33,746,000	(\$9,032,200)	\$36,320,800	(\$6,457,400)	<b>(\$15,489,600)</b>
Other Funds	\$47,629,000	\$40,980,900	(\$6,648,100)	\$43,360,600	(\$4,268,400)	<b>(\$10,916,500)</b>
<b>Total</b>	<b>\$90,407,200</b>	<b>\$74,726,900</b>	<b>(\$15,680,300)</b>	<b>\$79,681,400</b>	<b>(\$10,725,800)</b>	<b>(\$26,406,100)</b>

The fiscal year 2020-2021 recommended Retiree Health Benefit Plan Budget assumes a 4% increase in total enrollment for the Medicare Eligible Retiree Plan and the Non-Medicare Eligible Retiree Plan is assumed flat, at the October 2018 enrollment numbers, throughout the 2020-2021 biennium. The recommended budget assumes a prescription drug trend of 9% for the non-Medicare Retiree Plan and 7% for the Medicare Retiree Plan and a medical trend of 6% for the non-Medicare Retiree Plan. The recommended budget assumes the contracted fully insured Medicare Advantage rates for calendar year 2019 and calendar year 2020 and then assumes a 5% medical trend for Medicare Retiree Plan for the remainder of fiscal year 2021.

The \$26.4 million decrease in the fiscal years 2020-2021 Retiree Health Benefit Plan Budget as compared to fiscal year 2019 is primarily due to savings associated with moving to a fully insured Medicare Advantage Plan effective January 1, 2019, a lower projected prescription drug trend, and lower than projected claims and enrollment in fiscal year 2019. Medicare Advantage is the primary contributor to the decrease in the Retiree Health Benefit Plan Budget. As noted above, in the Medicare Advantage Plan, the State is estimated to save \$11.8 million over calendar years 2019 and 2020 from enhanced federal Medicare Funding. The projected prescription drug trend assumed in the fiscal year 2019 budget rates was 13% and in the fiscal year 2020 and 2021 budget rates, the prescription drug trend for the Medicare plan is 7% and the Non-Medicare plan remains at 9%. In addition, the most recent Prescription Benefit Manager (PBM) procurement resulted in estimated claims savings of 4% due to improved financial terms in the PBM contract with Express Scripts effective January 1, 2019. Finally, in the fiscal year 2018-2019 recommended Retiree Health Plan Budget the Non-Medicare enrollment was assumed flat and the Medicare enrollment assumed a 4% annual increase, based on October 2016 enrollment, and in fiscal year 2018, the Non-Medicare enrollment has decreased 3% and the Medicare enrollment has only increased by 3.2%.

## JUDICIAL RETIREMENT PLAN

The New Hampshire Judicial Retirement Plan (the “Judicial Plan”) was established on January 1, 2005 pursuant to RSA 100-C:2. The Judicial Plan is a defined benefit plan providing disability, death, and retirement protection for full-time Supreme Court, Superior Court, or Circuit court judges employed within the State. As of January 1, 2016, the date of the most recent actuarial valuation, there were 56 active participants and 63 retirees, beneficiaries and other persons due benefits.

In connection with the establishment of the plan, the State engaged a consultant to prepare an actuarial valuation as of January 1, 2005, based on the final plan provisions and reflecting an initial funding payment of \$42.8 million, which amount was provided from the proceeds of general obligation bonds issued by the State. The initial valuation determined the total accrued liability of the plan as of January 1, 2005, to be \$43,669,534 and the value of the net assets of the plan to be \$42,800,000, which amount was almost equal to the proceeds of the State’s bonds. This valuation resulted in an unfunded actuarial liability as of January 1, 2005, of \$869,534. As of June 30, 2015, none of the bonds issued by the State for this purpose remained outstanding.

Additional information regarding the Judicial Plan is contained in the 2015 State CAFR at note 10 and on page 94. The Judicial Plan’s audited financial statements for the period ended December 31, 2014 are included in the 2015 State CAFR in the portions pertaining to the State’s Fiduciary Funds, although the information regarding the Judicial Plan is combined with information pertaining to the Pension Plan and is not separately presented.

The Judicial Plan issues publicly available financial reports that may be obtained upon written request addressed to Charles G. Douglas, III, Esq.; Executive Director, 14 South Street, Concord, NH 03301. Currently available reports include the Judicial Plan’s Financial Statements and Required Supplementary Information as of December 31, 2017 and the most recent Actuarial Valuation Report dated as of January 1, 2018 (the “2018 Judicial Actuarial Valuation”). Similar reports for prior years are also available from the Judicial Plan at the address set forth above.

The actuary for the Judicial Plan has prepared actuarial computations under GASB 67 and 68 with respect to the Judicial Plan for the year ended December 31, 2017. The report shows a total pension liability as of January 1, 2018 of \$95,412,248, a fiduciary net position (market value of assets) of \$57,931,041, and a resulting net pension liability (analogous to the unfunded accrued liability) of \$38,592,810. The report further notes that the Judicial Plan decreased the discount rate to calculate its liabilities from 7.00% to 6.675%. A 1% decrease or 1% increase in the discount rate would increase or decrease the net pension liability to \$46,342,762 or \$29,280,161, respectively. The actual net pension liability as of future dates will, of course, vary from these amounts and the variances may be material.

Biennial actuarial valuations performed for the Judicial Plan as of January 1 of the years indicated have reported the following results:

### New Hampshire Judicial Retirement Plan Selected Actuarial Valuation Results

<u>Valuation Date</u> <u>January 1</u>	<u>Actuarial Value of Assets</u>	<u>Unfunded Accrued Liability</u>	<u>Funded Ratio</u>	<u>State Contribution Rates for Fiscal Years</u>	
2006	\$44,980,407	\$2,173,046	98%	19.68%	FY 08-09
2008	50,600,791	4,330,338	92	27.42	FY 10-11
2010	44,013,949	15,811,816	74	41.00	FY 12-13
2012	41,547,067	29,758,435	58	64.50	FY 14-15
2014	41,136,968	39,575,961	51	70.90	FY 16-17
2016	48,088,712	45,529,454	51	75.40	FY 18-19
2018	56,819,438	38,592,810	59.6	69.4	FY 19-20

The State contributions expected to be paid in the 2018-2019 and 2020-2021 biennium to the Judicial Plan total \$6,304,628 and \$6,279,304, respectively. Chapter 257, Laws of 2011, extended the amortization period for the

unfunded accrued liability from 15 to 30 years. An actuarial valuation using January 1, 2018 data was issued in July 2018.

The market value of assets as of the January 1 valuation dates is shown below.

January 1, 2008	\$51,857,186
January 1, 2010	\$36,678,291
January 1, 2012	\$36,303,522
January 1, 2014	\$43,938,985
January 1, 2016	\$46,905,875
January 1, 2018	\$57,931,041

The actuary for the Judicial Plan uses several actuarial assumptions in the 2018 Judicial Actuarial Valuation including the investment return rate at 6.675% and an annual wage inflation rate and cost of living increase of 2.75%. The actuary also uses so-called “smoothing,” whereby the difference between the market value of assets and the actuarial value of assets is smoothed over the previous five years to offset the effects of volatility of market values in any single year. In addition, the Judicial Plan uses a 20% “corridor” in order to prevent the smoothed value from varying too far from market, similar to the System’s methodology. However, the use of the corridor in the January 1, 2018 actuarial valuation did not affect the actuarial value of assets that would have been established in its absence.

Employer contribution rates depend on all of the actuarial assumptions used in determining the contribution rates. The following table sets forth a summary of certain assumptions used in the 2018 Judicial Actuarial Valuation.

**New Hampshire Judicial Retirement System  
Actuarial Assumptions**

<b>Actuarial Cost Method</b>	Entry age normal
<b>Amortization Method</b>	Level dollar
<b>Amortization Period</b>	Closed 30 years From 01/01/2010
<b>Asset valuation method</b>	5-year smoothed market
<b>Investment rate of return</b>	6.675%
<b>Wage and Cost of Living Inflation</b>	2.750%

**EMPLOYEE RELATIONS**

The State Employees’ Association of New Hampshire Inc.-SEIU Local 1984 (the “SEA”) is the exclusive bargaining representative of the majority of classified (merit system) employees in the State, a group of approximately 9,200 employees in some thirty bargaining units. The employees of the University System, the Community College System of New Hampshire and the New Hampshire Retirement System are not classified State employees and are not included in any of these bargaining units. The sworn non-commissioned and commissioned employees of the Division of State Police are represented by the New Hampshire Troopers Association (the “NHTA”) and the NHTA – Command Staff. Fish & Game Conservation Officers Fish & Game Conservation Officer Supervisors, Probation Parole Officers, Probation Parole Officer Supervisors and Liquor Enforcement Officers are represented by the New England Police Benevolent Association (the “NEPBA”). The Teamsters are the exclusive representative of the uniformed Corrections Officers and Corrections Corporals of the Department of Corrections.

In July, 2007, approximately 600 employees in the Department of Corrections who were represented by the SEA filed two modification petitions requesting that they be allowed to vote to determine whether they should be represented by a new union, the NEPBA, or whether they would continue to be represented by their current union, the SEA. The Public Employee Labor Relations Board (“PELRB”) granted these petitions and the Corrections bargaining unit elections resulted in the decertification of the SEA and the certification of the NEPBA as the exclusive representative of the uniformed Corrections Officers and the uniformed Corrections Supervisors of the

Department of Corrections. In January 2009, the New Hampshire Supreme Court overruled the decision of the PELRB to grant the petitions of approximately 600 employees of the Department of Corrections to be allowed to vote to determine whether they should be represented by a new union, the NEPBA or whether they would continue to be represented by their current union, the SEA. The Supreme Court based the decision upon the “contract bar” rule and remanded the case to the PELRB. The PELRB vacated the certifications of the Corrections units and both units were again represented by the SEA. In a subsequent election, the uniformed Corrections Officers again voted to be represented by the NEPBA and the uniformed Corrections Supervisors voted to remain with the SEA. Three other units formerly represented by the SEA voted to decertify the SEA and certify the NEPBA as their exclusive representative. Those units are Probation Parole Officers, Probation Parole Supervisors and Liquor Enforcement Officers. On October 4, 2012, the Teamsters Local 633 were certified by the Public Employee Labor Relations Board (PELRB) and in accordance with RSA 273-A:10 were selected to represent the NH State Corrections Officers and Corrections Officer Corporals. In 2014, the State Police Command Staff decertified from the SEA and created the NHTA – Command Staff bargaining unit.

The State began negotiations with the SEA, NHTA, NEPBA and the Teamsters in October of 2018. The current Collective Bargaining Agreements are valid through June 30, 2019.

### **CYBERSECURITY RISKS**

The State relies on the use of information technology as a critical enabling factor to support citizens, businesses, and all aspects of State government. The State also relies on its access to the Internet to conduct essential operations.

The State faces the same external cyber threats as any other entity connected to the Internet, including phishing attacks, malware embedded emails, and denial of service and network based attacks. Internal cyber threats also exist, and the most common result is a breach of confidential or sensitive information.

In order to counter known and unknown cyber threats, the State employs various defensive strategies. These include products deployed at every level of the enterprise architecture, from network perimeter devices to the user desktop, as well as hardware and software protections focused on the most prevalent cyber-attacks against the email system, web and application servers, databases, and user endpoint devices.

The State also administers a comprehensive cybersecurity training and awareness program, which all employees are required to complete annually. The State coordinates and shares cyber event information with state and federal entities, such as the Department of Homeland Security and also with cyber-focused public organizations such as the Multi State Information Sharing and Analysis Center (MS-ISAC) and the National Association of State Chief Information Officers (NASCIO). In 2018, the State conducted a series of cyber incident response exercises that involved multiple State agencies, the New Hampshire National Guard, and local critical infrastructure organizations. As a result of this exercise program, the State completely revised its Cyber Disruption Plan, which outlines incident escalation and de-escalation points, procedures, roles and responsibilities, and operational resources in the event of a cyber-incident.

In recent years, the State has experienced one significant internal data breach that involved the unauthorized access and public posting of certain personal information for as many as 15,000 clients of one state agency. The breach was contained and mitigation measures put in place to address the conditions that allowed the breach to occur. In the follow-up to the breach, the State found no evidence that the information had been misused or further distributed before it was contained and removed from public access.

While there can be no guarantees against a future cyber-attack resulting in some impact, the State has taken an expansive, multi-pronged approach to protect against, detect, respond to, and recover from a potential cyber event. The State has also obtained an insurance policy for “Data Security and Privacy Cyber Liability” (the current policy extends through August 2019). This policy includes coverage for privacy/media liability, incident (breach) response, network extortion, digital data recovery, business interruption costs, terrorism, and prior acts. The “prior acts” coverage extends coverage to claims for unknown data breaches that occurred prior to the inception of the policy. Notwithstanding the planning and actions taken to date, the State cannot assure that future incidents or

possible unknown prior events will not have a potential material impact on the State's operations or financial condition.

## LITIGATION

The State and certain of its agencies and employees are defendants in numerous lawsuits that assert claims regarding social welfare program funding, breach of contract, negligence, and 42 U.S.C. §1983. Although the Attorney General is unable to predict the ultimate outcome of the majority of these suits, the State believes that the likelihood of such litigation resulting, either individually or in the aggregate, in final judgments against the State which would materially affect its financial position is remote. Accordingly, no provision for the ultimate liability, if any, has been made in the State's financial statements.

Except as otherwise noted below, the following matters are currently pending and, at this time, it is not possible to predict the outcome of these matters:

*Contoocook Valley School District v. State et al.* On March 13, 2019, several plaintiffs, including a school district and three individuals, sued the State claiming that it has failed to meet its obligation to fund an adequate education. The plaintiffs assert that certain costs like transportation, school nurses, food services, facilities, teacher benefits, and superintendents, must, as a matter of State constitutional law, be funded by the State and are currently not funded by the State. The plaintiffs request that approximately \$17 million be paid to the school district by April 1, 2019, which amount allegedly represents the current fiscal year funding shortfall. The plaintiffs also allege that the statewide education property tax, which funds a portion of the State's adequate education formula, is unconstitutional because it does not collect and redistribute property taxes that municipalities are able to raise in excess of their adequate education grant amounts. Subsequently, the Monadnock Regional School District voted to join the lawsuit and the Winchester School District notified the State that it was joining the lawsuit. It is likely that other school districts will join as well. The State is defending the current school funding system. If the lawsuit is successful, the Legislature may need to revise the cost of an adequate education and the funding mechanism. It is not possible at this time to quantify the total financial impact to the State if the plaintiffs are successful.

*State v. Purdue Pharma; State v. Janssen/Johnson & Johnson.* The State has filed suit against both opioid manufacturers alleging unfair or deceptive business practices, Medicaid fraud, nuisance and other common law counts. Both cases are in Merrimack County Superior Court. The Purdue case has survived a motion to dismiss by the defendants and discovery is on-going. The Janssen case was filed later and a motion to dismiss by the defendants is pending. The State is also participating in multistate efforts with other attorneys general aimed at discussions with all opioid related defendants (manufacturers, distributors and major pharmacy chains) toward a global resolution. It is not possible at this stage to predict any recovery amounts that would come to the State.

*City of Dover v. State of New Hampshire.* In this case, filed August 20, 2015, the City of Dover challenges the State's distribution of education aid to municipalities as a violation of the State constitutional entitlement to an adequate education, insofar as the statutory distribution scheme imposes a "cap" limiting the aid that a particular municipality can receive in a particular year to 108% of the aid it received in the prior year. The suit seeks both prospective and retrospective relief against the cap, which has been in effect since 2009. If the request for prospective relief is successful, it will require a restructuring of the State's formula for distributing education aid to municipalities. If the request for retrospective relief is successful, it would require paying the City of Dover the difference between the aid they received in each of those years and the aid they would have otherwise gotten, but for the cap. While the aggregate amount of that potential exposure has not yet been calculated for all fiscal years at issue, the total amount of aid to all municipalities withheld on the basis of the cap for fiscal year 2016 will be approximately \$10.44 million. Shortly after the suit was filed, the State entered into a stipulation agreeing that any final rulings regarding the constitutionality of the cap would apply not only to Dover, but to all other municipalities affected by the cap.

On September 6, 2016, the superior court issued a final order ruling that the cap is unconstitutional but limiting Dover to prospective relief. In effect, this ruling entitles to Dover to the \$1.377 million it would have received but for the cap in fiscal year 2016. It is the State's position that this ruling also entitles the 24 other municipalities to be paid the difference between the amount they would have received in fiscal year 2016 and the amount they actually received due to the cap; in total, that amount for the other municipalities is approximately \$9.065 million. On

September 26, 2016, the State agreed to settle the lawsuit with Dover by paying the \$1.377 million. The approximately \$9.065 million for the other municipalities would have to be appropriated by the Legislature in accordance with RSA 14:35-b was enacted by the Legislature in April 2017, paying Bedford and the other towns the 2016 adequacy payments but for the cap. This litigation is now concluded.

*Bedford School District and William Foote v. State of New Hampshire, et. al.* The Bedford School District and Mr. Foote, a taxpayer in Bedford, sued the State arguing that Bedford did not receive all of the education adequacy payments for fiscal year 2016 and would not receive all of the education adequacy payments for fiscal year 2017. A hearing was held on June 29, 2016, where Bedford's request for a preliminary injunction was denied. The State filed an Answer objecting to Bedford's claim for adequacy payments from fiscal year 2016 as being untimely filed thus barred by sovereign immunity. Bedford received its fiscal year 2017 adequacy payments in the ordinary course from funds already appropriated for that purpose. On April 6, 2017, the court issued an order granting Bedford's motion for summary judgment requesting payment of the adequacy payments for fiscal year 2016 but for the cap and granted Bedford attorneys' fees. In the meantime, HB 354 was enacted by the Legislature in April 2017, paying Bedford and the other towns the 2016 adequacy payments but for the cap. The State appealed the order on summary judgment and the order requiring the payment of attorneys' fees to Bedford. Briefs were submitted in November and December 2017 with oral argument not yet scheduled. On August 17, 2018, the Supreme Court dismissed Bedford's appeal, finding in favor of the State and requiring no further payment from the State. This matter is now closed.

*Dartmouth Hitchcock, et al v. Toumpas.* In August 2011, 10 of New Hampshire's 13 non-critical access hospitals and a "John Doe" individual Medicaid recipient filed a lawsuit in the Federal District Court for the District of New Hampshire against the Commissioner of the DHHS. The lawsuit challenges a number of legislative and agency actions since 2005 that have reduced the reimbursement rates for Medicaid in-patient and out-patient services and eliminated disproportionate share payments to non-critical access hospitals in the State budget for fiscal years 2012-2013. The claims are brought under the supremacy clause of the United States Constitution related to the Medicaid statute, 42 U.S.C. § 1396a(a)(30)(A) and 42 U.S.C. § 1396a(a)(13)(a), alleging that the changes are contrary to the intent of the Medicaid statute as the resulting payments are insufficient to ensure access to services to Medicaid clients, and further alleging that the changes cannot be implemented because the State did not give notice or do a State plan amendment regarding each change. On March 2, 2012, the Court issued a preliminary injunction ordering the State to provide notice of the current rates and its intention to continue those rates. The Court held a hearing on November 1, 2012, and invited the Secretary of the U.S. Department of Health and Human Services to provide information to the Court regarding whether CMS has primary jurisdiction in this matter. This hearing was continued to December 20, 2012. Prior to December 20, 2012 CMS approved several State Plan Amendments (SPAs), including 2010 SPAs that memorialized the 2008 rate reductions and several of the other issues raised by the plaintiffs. On March 13, 2013, CMS approved the 2011 SPAs containing the remaining changes that relate to the reductions in DSH for the last biennium. Following those actions, the plaintiffs voluntarily dismissed this lawsuit in November 2013; accordingly, this matter is concluded. However, two other lawsuits were filed by six of the ten plaintiffs, one in state court and one in federal court solely related to the 2008 rates. See "*Frisbie Memorial Hospital et al v. Toumpas*" and "*Frisbie Memorial Hospital et al v. Sebelius*."

*Frisbie Memorial Hospital et al. v. Toumpas.* Six hospitals, Frisbie, Wentworth-Douglas, Exeter, LRGH, Southern NH, and St. Joseph's, filed suit on October 10, 2013 in Strafford Superior Court against DHHS claiming that the 2008 rate reductions to inpatient and outpatient hospital rates are void due to lack of proper notice, for failure to submit a State plan amendment ("SPA"), and for failure to provide opportunity for comments before the changes were made. The plaintiffs claim they are entitled to payment at higher rates under the existing State plan language for the period July 1, 2008 to November 19, 2010 (the effective date of the SPA approved by CMS). The plaintiffs assert damages of approximately twenty million dollars. A motion to dismiss has been filed on behalf of the State. On June 23, 2014, the plaintiffs filed a motion to stay to provide time to implement the MET settlement (see *Catholic Medical Center et al v. DRA*). In addition, because St. Joseph's was not a party to the MET settlement, the matter was initially stayed to allow St. Joseph's time to decide if it wanted to join the settlement or continue with the litigation on its own. Pursuant to the settlement agreement with twenty-five hospitals, any judgment against the State from litigation brought by St. Joseph's would have been paid by the settling hospitals, up to a cap of \$4.5 million. St. Joseph's, however, joined the global settlement and agreed to its terms (see *St. Joseph's Hospital v. Dept. of Revenue Administration*). The parties filed a motion for administrative closure. Under both the global agreement and St. Joseph's agreement, this matter is to be administratively closed subject to a right to bring forward the action. The plaintiffs further agreed that if funding for fiscal years 2015, 2016, and 2017 as set out in the global agreement is met, the plaintiffs will move to dismiss this action, with prejudice, by July 1, 2018. In May

2018 the Hospitals and the State entered a new seven year agreement regarding payment of MET and DSH, which included resolution of MET and DSH payments for 2018 and replaced the June 2014 agreement. Therefore this litigation is completely closed.

*Frisbie Memorial Hospital et al v. Sebelius.* Six hospitals, Frisbie, Wentworth-Douglas, Exeter, LRGH, Southern NH, and St. Joseph's, filed suit on October 10, 2013 in federal court in an Administrative Procedures Act challenge to CMS's approval of two SPAs submitted in 2010 that authorized the State to add the current 2008 rates for inpatient and outpatient care. The plaintiffs allege that the notice of these proposed SPAs did not state that these rates would be embedded in these SPAs. The State is not a defendant in this lawsuit. These SPAs, however, are important to the State and the State will seek permission to intervene. If the plaintiffs are successful, additional claims would likely be made against the State for the period from November 2010 until March 20, 2012. The court granted the State's motion to intervene as an interested party. On June 23, 2014, the plaintiffs filed a motion to stay to provide time to implement the MET settlement (see *Catholic Medical Center et al v. DRA*). In addition, because St. Joseph's was not a party to the MET settlement, the stay is designed to provide St. Joseph's time to obtain new legal counsel, and determine if it will continue with the litigation on its own. The stay remains in effect. Pursuant to the settlement agreement with twenty-five hospitals, any judgment against the State from litigation brought by St. Joseph's will be paid by the settling hospitals, up to a cap of \$4.5 million. St. Joseph's has since settled with the State (see *St. Joseph's Hospital v. Dept. of Revenue Administration*), agreeing to the terms of the global settlement. The parties then filed a motion for administrative closure. Pursuant to both the global agreement and St. Joseph's agreement, this matter has been administratively closed subject to a right to bring forward the action. If funding for fiscal years 2015, 2016, and 2017 as set out in the global agreement is met, the plaintiffs will move to dismiss this action, with prejudice, by July 1, 2018. In May 2018 the Hospitals and the State entered a new seven year agreement regarding payment of MET and DSH, which included resolution of MET and DSH payments for 2018 and replaced the June 2014 agreement. Therefore this litigation is completely closed.

*Catholic Medical Center, et al. v. DRA.* Catholic Medical Center ("CMC"), Exeter Hospital ("Exeter"), Northeast Rehabilitation Hospital ("Northeast Rehab") and St. Joseph's Hospital ("St. Joseph's") filed three separate lawsuits challenging the constitutionality, both facially and as applied, of RSA 84-A, the MET. The hospitals claim the MET tax is unconstitutional under both state and federal law because: (1) it taxes hospitals for net patient services revenue ("NPSR") but does not tax other medical entities for the same revenue; and (2) there is an alleged different rate of taxation assessed between the hospitals and rehabilitation hospitals. Each hospital seeks full reimbursement of the tax it paid in fiscal year 2011. These respective amounts are: CMC - \$12,521,429; Exeter - \$10,269,562; Northeast Rehab - \$1,480,632; and St. Joseph's - \$8,693,811. The parties to the CMC litigation settled the 2011 claims and agreed that the remainder of the case would be only for fiscal year 2014 and beyond. The amount at issue for fiscal year 2014 is approximately \$200 million. The Northeast Rehab case is still separate but the parties in that case have also agreed to an agreed stipulation of facts and will litigate the case through cross-motions for summary judgment. After the parties filed cross motions for summary judgment, on February 7, 2014, the trial court in the Northeast Rehab case found a portion of the tax (revenue from outpatient hospital services) to be unconstitutional. It implicitly found the State's taxation of inpatient treatment to be constitutional. Finally, the trial court held that the MET did not constitute a double tax of for-profit hospitals. Both parties appealed this decision. On April 8, 2014, the trial court in the CMC case found the entire tax (inpatient and outpatient hospital services) unconstitutional.

The State entered into a global settlement with 25 hospitals including CMC, Exeter and Northeast Rehab. Litigation with these three hospitals will be stayed pending federal approval of changes to the State's distribution of DSH payments. Dismissal of the litigation will not occur until after the settlement is implemented, which may take several years. On September 15, 2014, the court issued an order temporarily staying the proceedings for six months pending CMS's review of the amended State plan. CMS has approved the State's plan, and CMC's and Exeter's cases have been administratively closed pursuant to the global settlement. Dismissal of the litigation will not occur until after the settlement is implemented, which may take several years. Northeast Rehab dismissed its litigation.

St. Joseph's did not agree to the settlement. The State filed a motion arguing that the trial court's decision is now moot in light of statutory changes to MET effective June 30, 2014. On September 15, 2014, the court issued an order temporarily staying the proceedings for six months or until CMS issued a determination relating to the settlement agreement. CMS approved the State's plan, and CMC and Exeter's cases were administratively closed. On July 14, 2015, the superior court granted the State's motion to dismiss St. Joseph's claim on grounds of

mootness. St. Joseph has not appealed that decision; therefore, St. Joseph's claims relating to the 2011 tax year are concluded. All that remains of this litigation are CMC and Exeter's claims, which are administratively closed pursuant to the global settlement agreement. Pursuant to the Agreement, CMC and Exeter's claims can only be revived if the Legislature fails to appropriate the requested funds and precludes the State from complying with the Agreement. In May 2018 the Hospitals and the State entered a new seven year agreement regarding payment of MET and DSH, which included resolution of MET and DSH payments for 2018 and replaced the June 2014 agreement. Therefore this litigation is completely closed.

*NHHA v. Sylvia Matthews Burwell*, USDC 15-cv-460-LM: New Hampshire Hospital Association ("NHHA") filed a lawsuit against Centers for Medicare & Medicaid Services (CMS) seeking to prevent the application of CMS answers to FAQ's 33 and 34 concerning audit requirements that require hospitals to exclude any payments related to Medicaid recipients from third parties (TPL), including Medicare or private insurance, from claimed uncompensated care, arguing CMS' had engaged in illegal informal rulemaking and that the substance was not authorized by the CMS statute. NHHA requested that the application of the audit requirements related to uncompensated care be enjoined prospectively to future years disproportionate share reporting and calculations and retroactively to the then pending 2011 audit findings that several million dollars would have to be recouped from the critical care hospitals and several of the major hospitals. The State was not a party to this lawsuit, but has acknowledged that it would be bound by any order issued to CMS, as the State has adopted the CMS requirements for calculation of uncompensated care as the basis for how disproportionate share (DSH) payments are made.

Following a Preliminary Injunction hearing in January 2016, on March 11, 2016 the New Hampshire Federal District Court enjoined CMS from enforcing these audit requirements on procedural grounds for failure to use formal rulemaking and also found a likelihood of success on the merits.

In August 2016, CMS filed a notice of rulemaking to adopt a rule that would memorialize its position. On April 3, 2017 CMS published notice adopting the final rule, which became effective on June 2, 2017.

As a result of the Court's order, not only is recoupment of the 2011 overpayments based on TPL enjoined, but the hospitals were allowed in the current year, and will need to be allowed going forward as long as the injunction is in place, to claim uncompensated care without deducting these third party payments. In the last fiscal year this resulted in approximately a \$17 million increase in the DSH payments owed to hospitals. The State has filed a motion for permissive intervention indicating that it supports CMS statutory authority to adopt the substance of FAQ 33 and 34. That motion was denied.

On March 3, 2017, the federal court granted the hospitals' summary judgment motion in part, finding that CMS did not have authority to adopt these substantive interpretations by FAQ. This final order assumed that CMS could adopt its interpretation through rulemaking. A permanent injunction has been entered. The court rejected a request by the Hospitals to challenge the validity of the newly enacted rule in this action. CMS appealed to the First Circuit Court of Appeals the portion of the decision rejecting their authority to enforce the FAQ's. Briefs were filed, and oral argument was held on January 9, 2018. Although CMS has indicated it does not seek to enforce the FAQ's retroactively against the New Hampshire Hospitals, if CMS were to prevail on its appeal, it is unclear whether they would have the legal option to do so. The State filed an amicus brief in partial support of CMS's authority for the policies. As such, it is not possible to predict the outcome of this case at this time.

*NHHA v. Centers for Medicare and Medicaid Services (Azar)*, USDC 1:17-cv-349-JD: On August 10, 2017, the New Hampshire Hospital Association (NHHA) filed a new lawsuit against Centers for Medicare & Medicaid Services (CMS) seeking to challenge the validity of the recent adoption by rule on June 2, 2017 of the policies in FAQ's 33 and 34. (See above case). The rule requires hospitals to exclude any payment related to Medicaid recipients from third parties (TPL), including Medicare or private insurance, from claimed uncompensated care. The Hospitals argue that CMS failed to comply with the Regulatory Flexibility Act and other statutes that require financial impact analysis during rulemaking and that the substance of the rule is not authorized by the CMS statute. CMS answered and a briefing schedule was set, however oral argument, which was set for April 17, 2018, was canceled by the court given decisions in other courts.

Similar litigation has been brought against CMS in several other jurisdictions. On February 9, 2018, the court for the Western District of Missouri issued a decision ruling against CMS on this issue and enjoining CMS from enforcing the Final Rule. On March 6, 2018, the D.C. District Court issued a decision which also found the rule

exceeds the statutory authority and is invalid. In addition, the D.C. Court considered nationwide impact and vacated the rule. CMS appealed the Missouri and D.C. court decisions. The D.C. Circuit case has been briefed and oral argument is scheduled for April 9, 2019. CMS acknowledged that, while the D.C. decision stands, it cannot impose the rule anywhere. CMS requested that oral argument and decision in the New Hampshire federal litigation go forward. However, on September 25, 2018, the New Hampshire District Court issued an order denying the cross motions for summary judgment, finding the case moot in light of the decisions from other districts, and dismissing the case. Judgment has been entered against CMS.

No stay was obtained by CMS of the D.C. District Court order. Therefore, the CMS rule did not apply at the time the MET and DSH payments were made in April and May 2018. The possible impact to the State budget of the CMS rule being invalidated going forward could be similar to the impact of the preliminary and permanent injunction mentioned in the prior case remaining in place. For example, since the CMS rule was not applied to fiscal year 2018, the financial impact on the State share would have been approximately \$29.7 million. However, in May 2018, the Hospitals and the State entered a new seven year agreement regarding payment of MET and DSH, which included resolution of MET and DSH payments for 2018 and replaced the June 2014 Agreement. As such, although the appeal in this litigation is still pending, the May 2018 settlement results in the total level of DSH or other payments generated from the MET tax no longer being dependent on the federal definition of uncompensated care. Therefore, while it is not possible to predict the outcome of this case at this time, it is unlikely that it could have a significant effect on State's obligations while the May 2018 settlement is in place.

*Woods, et al. v. Commissioner of Department of Corrections.* Four female New Hampshire inmates filed a class action lawsuit, in state court, seeking declaratory and injunctive relief to remedy claimed violations of their constitutional, statutory and judicially decreed right to facilities, conditions of confinement, programs, and services that are on parity with those that the State of New Hampshire provides to male New Hampshire prison inmates. Plaintiffs claim that female inmates do not have access to vocational training, education, and other programs, services and facilities comparable to what is provided to male inmates, and claim that Defendant has therefore violated: (1) their rights under New Hampshire's Equal Rights Amendment, Part I, Article 2 of the State Constitution; (2) the Equal Protection Clause of the New Hampshire Constitution, Part I, Article 12; and (3) RSA 622:33-a, III; and (4) RSA 21-H:11. The State filed an answer on November 2, 2012. Petitioners filed a motion for class certification in February 2013. The State filed an objection in March 2013. The case has been stayed given the construction of a new women's prison on the grounds adjacent to the Men's Prison –Concord. The groundbreaking ceremony occurred on August 18, 2014. The new women's prison is now complete and housing the women inmates, but the parties continue to discuss how the implementation of programs will be monitored going forward. Trial is scheduled for September 2019. It is not possible to predict the outcome of this case at this time.

The parties are currently in settlement discussions, which may result in the case being stayed for a period of three years assuming certain informational benchmarks are attained.

*XTL-NH, Inc. v. New Hampshire State Liquor Commission and Exel Inc.* In March 2012, the NHSLC issued an RFP requesting bids for a 20-year warehousing services contract. In June 2012, XTL-NH, Inc. ("XTL") and four other vendors submitted bids under the RFP. On November 20, 2012, following a thorough review of each bid, the NHSLC awarded the warehousing contract to Exel, Inc. ("Exel"). XTL finished second under the NHSLC's bid scoring system. XTL challenged the award and participated in the two-level protest process outlined in the RFP. On March 8, 2013, the NHSLC denied XTL's protest. On March 12, 2013, XTL filed a civil action requesting that the Court enjoin performance of the contract between NHSLC and Exel and order the NHSLC to award the contract to XTL. XTL contends that as the lowest responsible bidder, it is entitled to the contract. Further, XTL argues that NHSLC improperly modified the RFP to favor Exel's bid in violation of New Hampshire's competitive bidding laws. The injunction was denied. Trial was scheduled for January 2015. On April 4, 2014, the NHSLC filed a motion for summary judgment contending that: XTL's requests for injunctive relief and monetary damages were barred by sovereign immunity and that XTL was not entitled to lost profits or attorneys' fees. On July 16, 2014, the Court ruled on the NHSLC's motion for summary judgment. The Court found that XTL cannot obtain injunctive relief or attorneys' fees in this matter, but that XTL can seek monetary damages, including lost profits. On November 14, 2014, the plaintiff filed a motion for interlocutory appeal regarding the trial court's July 16, 2014, order. The motion was denied. XTL filed a motion for partial summary judgment six weeks before the trial was set to begin. NHSLC filed a cross motion for summary judgment. Following the submission of summary judgment memoranda, the court heard oral argument on the cross-motions on November 10, 2015. On January 4, 2015, the

court issued its order on the cross-motions for summary judgment, denying both parties' motions. On May 23, 2016, the Merrimack Superior Court commenced an eight day trial. The parties filed post-trial memoranda on July 22, 2016. On September 8, 2016, the Court issued an order rejecting XTL's claims and finding for NHSLC. In doing so, the Court found that the RFP, evaluation process, and contract award to Exel were lawful and in compliance with New Hampshire competitive bidding law. On October 7, 2016, XTL filed a timely appeal of the trial court's order through which it raised five appellate issues. The NHSLC subsequently filed a narrow cross-appeal raising one issue. The parties submitted their briefs and the New Hampshire Supreme Court held oral arguments on November 14, 2017. The Supreme Court affirmed the decision of the lower court in favor of NHSLC. This matter is now concluded.

*Katherine Frederick v. DHHS.* The complaint, filed on September 21, 2014, alleges that the plaintiff suffered damages as a result of DHHS's failure to allow the plaintiff to breastfeed her child. She alleges wrongful discharge and violations of 29 U.S.C. §207(r), 29 U.S.C. §215(a)(3), the Family Medical Leave Act, Title VII, and RSA 275-E. The State has filed a motion seeking dismissal of all claims to which the plaintiff has filed an objection. It is not possible to predict the outcome of this case at this time. The court dismissed the plaintiff's original complaint filed holding that the law does not recognize a right to breastfeed (as opposed to expressing milk) in the workplace. The court did, however, provide the plaintiff with leave to file an amended complaint, which she did in November 2015. Plaintiff's new complaint raised claims under the ADA, Title VII, and for wrongful termination. DHHS filed a motion to dismiss these claims on exhaustion and statute of limitations grounds, as well as for the failure to state a claim upon which relief can be granted. On August 16, 2016, the court granted DHHS' motion as to the Title VII claim, but denied it with regard to the ADA and wrongful termination claims. On October 26, 2016, DHHS filed a motion for summary judgment on the pleadings, asserting Eleventh Amendment immunity. On May 6, 2017, the court granted DHHS's motion, thereby ending the litigation. The plaintiff has re-filed her claims in state court within one year of the May 6, 2017 order, asserting RSA 508:10 applies.

The State moved to dismiss the action on sovereign immunity grounds. The trial court initially denied the motion to dismiss. The State moved for reconsideration. The plaintiff objected. On February 21, 2019, the trial court issued an order granting the State's motion for reconsideration and dismissing the case in its entirety as barred by the three-year statute of limitations in RSA 541-B:14.

*Conduent State and Local Solutions, Inc. v. Dept. of Transportation et al.* In this case, filed in October 2015, Conduent sued the State to challenge the selection of another vendor for the contract award of the operation of the back office systems for the E-Z Pass program in New Hampshire. The contract award was for design, testing, installation and maintenance services for the operation of the NH E-Z Pass Back Office for the Turnpike System, in the amount of \$51,889,724.83. Conduent alleged the bidding process was flawed and specifically brought claims to invalidate the bidding process and seeking damages. After the defendants filed several motions for summary judgment, the court dismissed many of the equitable claims made by the plaintiff. The plaintiff decided to file a notice of voluntary non-suit of the non-dismissed claims without prejudice and is appealing the single issue of whether the Department of Transportation had legal authority to procure this contract on a "best value" basis. Briefs for both the appellant and appellees were filed with the New Hampshire Supreme Court, and oral arguments were held on May 9, 2018. On October 16, 2018, the New Hampshire Supreme court affirmed the trial court' decision in favor of the Department of Transportation.

*Conservation Law Foundation, Inc. v. Pease Development Authority, et al and Notice of Intent to File Suits Against PDA.* On November 10, 2016, CLF filed its Complaint pursuant to Section 505 of the Federal Water Pollution Control Act ("Clean Water Act") alleging the following violations: (1) discharging stormwater from systems of conveyances to the waters of the United States without a permit; (2) failure to obtain coverage under the required Clean Water Act National Pollutant Discharge Elimination System ("NPDES") permit; and (3) failure to comply with the specific requirements of any such permit. CLF alleged that each separate violation of the Clean Water Act subjects PDA to a penalty of up to \$37,500 per day per violation for all violations occurring from January 12, 2009 through November 2, 2015 and \$51,570 for penalties that are assessed on or after August 1, 2016, for violations that occurred after November 2, 2015. CLF sought the full penalties allowed by law. In addition to civil penalties, CLF sought declaratory relief and injunctive relief to prevent further violations of the Clean Water Act. CLF seeks an order from the court requiring PDA to correct all identified violations by implementing permitting requirements; and seeks recovery of costs and fees associated with this matter. On February 8, 2017, PDA filed a motion to dismiss the Complaint on 11<sup>th</sup> amendment grounds. The Court granted PDA's motion to dismiss as to all

retrospective relief. The claim for prospective injunctive relief remains. The matter is currently stayed and the parties are engaged in settlement discussions. It is not possible to predict the outcome of this case at this time.

*T.C. et al. v. State of New Hampshire, Department of Health and Human Services, Division of Children, Youth, and Families (“DCYF”) et al.* In or about October 2016, this lawsuit was filed in New Hampshire state superior court by four plaintiffs, who are identified by the initials T.C., D.C., N.B., and J.B. T.C. and D.C. are the biological grandparents and the adoptive parents of N.B. and J.B. The complaint contained multiple counts of negligence, negligent training and supervision, and breach of fiduciary duty against defendants DCYF and Easter Seals New Hampshire, Inc. The plaintiffs allege that the defendants’ negligence in, among other things, permitting the children to have unsupervised visits with their biological parents resulted in the sexual abuse of N.B. and J.B. on multiple occasions. The abuse occurred at the hands of N.B. and J.B.’s biological parents. On or about December 12, 2016, DCYF answered the complaint and also moved to dismiss the plaintiffs’ claims against DCYF.

On or about January 6, 2017, the plaintiffs moved to amend their complaint, seeking to add a request for declaratory relief on the interpretation and constitutionality of the confidentiality provisions in RSA 169-C:25 and RSA 170-G:8-a. At the same time, plaintiffs amended their complaint to add claims against a third defendant, the Court Appointed Special Advocates of New Hampshire, Inc. On or about January 17, 2017, DCYF objected to the motion to amend.

By order dated April 12, 2017, the court denied DCYF’s motion to dismiss and granted the plaintiffs’ motion to amend. On or about September 15, 2017, the plaintiffs filed a second amended complaint, which includes a claim by T.C. and D.C. for negligent infliction of emotional distress against all defendants, including DCYF.

On February 27, 2018, two of the four plaintiffs filed a voluntary nonsuit (D.C. both individually and on behalf of N.B.) with regard to its claims against DCYF, and filed the separate action described below.

In January 2018, following a period of discovery, the parties engaged in settlement negotiations and reached an agreement to settle this lawsuit for a total of \$3.375 million. In May 2018, the court approved the settlement. The State thereafter issued the settlement payment to the plaintiffs and, in June 2018, the parties submitted a stipulation for docket markings, thereby terminating the case.

*D.C. et al. v. State of New Hampshire, Department of Health and Human Services, Division of Children, Youth, and Families (“DCYF”) et al.* On or about February 27, 2018, this lawsuit was filed in New Hampshire state superior court by two plaintiffs, who are identified by the initials D.C. and N.B. D.C. is the biological grandparent and the adoptive parent of N.B. The complaint contained multiple counts of negligence, negligent training and supervision, and breach of fiduciary duty against defendants DCYF and Easter Seals New Hampshire, Inc. The plaintiffs allege that the defendants’ negligence in, among other things, permitting the N.B. to have unsupervised visits with the biological parents which resulted in the sexual abuse of N.B. on multiple occasions.

As indicated above, the parties engaged in settlement negotiations and reached an agreement to settle this lawsuit for a total of \$3.375 million. In May 2018, the court approved the settlement. The State thereafter issued the settlement payment to the plaintiffs and, in June 2018, the parties submitted a stipulation for docket markings, thereby terminating the case.

*C.C. v. DCYF.* Two separate cases involving the same plaintiff have been filed against DCYF and other defendants in Merrimack County Superior Court, alleging negligence in the placing of the plaintiff in a foster home and a residential facility. DCYF has moved to dismiss both cases as barred by sovereign immunity, including under the three-year statute of limitations contained in RSA 541-B:14 and the discretionary function exception to RSA 541-B.

*Additional litigation and threatened litigation relating to the Department of Health and Human Services, Division of Children, Youth, and Families (“DCYF”).* DCYF is currently defending or has been advised of several claims relating to physical and sexual abuse of children either directly or indirectly under the supervision of DCYF. Other than the litigation described above (*T.C. et al. v. State of New Hampshire, Department of Health and Human Services, Division of Children, Youth, and Families (“DCYF”) et al.*) none of these claims appear to individually exceed \$2 million; however, the aggregate of the claims may be more than \$2 million cumulatively. It is not possible to predict the outcome of these cases at this time.

*Town of Hampton, New Hampshire v. State of New Hampshire.* On February 14 2018, the Town of Hampton filed this lawsuit against the State, seeking various forms of declaratory, injunctive, and monetary relief. According to the complaint, the lawsuit arises out of a 1933 deed in which a portion of Ocean Boulevard in Hampton was transferred from the Town to the State, as well as a series of “long standing issues affecting the Town from the presence of the [State’s] property and operations occurring in Hampton.” The Town seeks “a determination of the respective rights and obligations of the Town and the State with respect to a number of aspects of the State’s activities.”

The Town’s complaint contains five separate counts. Through those counts, the Town seeks declarations and related injunctive relief that the State is liable for all maintenance of Ocean Boulevard, including maintenance for the sidewalks, crosswalks, and the “proper drainage of water that runs off of Ocean Boulevard and its sidewalks,” the recovery of monetary damages from the State based on the State’s collection of revenues from certain paid parking spaces in the Town, monetary damages representing the fair value of various municipal services (including fire, police, and public works) provided by the Town, and monetary damages based on a “fair share of the revenues received over the last three years” from the State’s operation of business activities on the subject property. The Town also claims, on equal protection grounds, that the State’s distribution to municipalities of Meals and Rooms Tax revenues pursuant to RSA chapter 78-A is unconstitutional as applied to the Town. The Town seeks a declaration that it is entitled to a greater distribution based on the Town’s “large seasonal visitor population” as opposed to the Town’s smaller “year-round population.”

On May 1, 2018, the State filed a motion to dismiss the Town’s lawsuit in its entirety. The Town subsequently filed a motion to compel responses to certain discovery requests, which the Town contended were needed in order to adequately respond to the State’s motion to dismiss. In July 2018, the court denied the Town’s motion to compel. The Town thereafter filed a voluntary nonsuit without prejudice, and indicated that it intends re-file the lawsuit at a later date. It is not possible to predict the outcome of the threatened litigation at this time.

*Estate of Champney v. Department of Safety.* There is the potential for litigation, brought on behalf of the estate of Jesse Champney, arising from an officer-involved fatal shooting. On December 24, 2017, Mr. Champney fled from State Police during a pursuit related to an alleged stolen vehicle. After Mr. Champney’s vehicle came to a stop off the road, a State Police officer attempted to take him into custody, and Mr. Champney fled on foot. Mr. Champney refused to surrender and threatened to shoot the Trooper. The officer shot him, and he died at the scene. It is not possible to predict the outcome of the case at this time.

*Cianbro Corporation v. NHDOT and MDOT.* This matter is a contract dispute concerning the Sarah Mildred Long Bridge which connects Maine and New Hampshire over the Piscataqua River. Cianbro is the prime contractor on the bridge replacement project, and has brought a Request for Equitable Adjustment through the MDOT internal adjudication process. Cianbro has sought an additional \$16.9 million and 164 additional days to complete the work. Cianbro contends that the design plans were faulty, making it impossible to complete the project as specified within the time and cost constraints of the contract. The project has been plagued by time delays, additional costs, and substandard work, all of which the DOTs believe is attributable to Cianbro’s poor performance and mismanagement of time. Although MDOT has administered the project, both MDOT and NHDOT have split all costs 50/50. If Cianbro is successful in its Request for Equitable Adjustment, NHDOT will be responsible for half of the \$16.9 million bill. The timeframe for completing the administrative adjudication process is difficult to estimate. It will take at least one year for the claim to move through the internal process. After that time, there is a possibility of an appeal to the Maine Superior Court which could take one more year.

*John Doe, on behalf of himself and all others similarly situated v. Commissioner Jeffrey Myers, Southern New Hampshire Medical Center, and the New Hampshire Circuit Court District Division.* An individual, who was admitted to Southern New Hampshire Medical Center’s Emergency Department after a suicide attempt, sued in the Federal District Court for the State of New Hampshire alleging habeas corpus relief, declaratory judgment, and appointment of a class for unconstitutional deprivation of liberty interests and lack of procedural due process based on an alleged systemic practice where individuals who may be experiencing mental health crises are involuntarily detained in hospital emergency rooms without the State providing them with due process, appointed counsel, or an opportunity to contest their “detention.” This practice is sometimes referred to as “psychiatric boarding.” Plaintiff is represented by the New Hampshire American Civil Liberties Union (“ACLU”) who is also asking for class certification for similarly situated individuals in New Hampshire. The ACLU alleges that, as of October 31, 2018,

approximately 46 adults and 4 minors were “boarded” in emergency rooms. The State will be defending both the Commissioner and the Circuit Court system.

The complaint includes 5 counts requesting relief: Count I, a class action claim alleging violations of the Fourteenth Amendment to the United State Constitution for deprivation of liberty; Count II, a class action procedural due process claim under the New Hampshire Constitution Part I, Article 15; Count III, a class action claim alleging violations of RSA 135-C:31, I; and Count IV, an individual claim on behalf of John Doe for habeas corpus relief. On November 13, 2018, Count IV was voluntarily dismissed by Plaintiff as he moved to a voluntary stay status at the hospital. The overall relief requested is declaratory judgments regarding the various counts and injunctions to discontinue the alleged violations. There is also an accompanying motion for class certification.

The State accepted service of the complaint and is in the process of negotiating the responsive pleading dates. Objections, a motion to dismiss, and other responsive pleadings are expected to be filed by late January 2019. Responsive deadlines have been stayed for 60 days to determine if the parties can reach an agreement to settle the case. It is not possible to predict an outcome of this case at this time.

*New Hampshire Lottery Commission v. William Barr, Attorney General.* In January 2019, the United States Department of Justice (“USDOJ”) issued a memorandum adopting as an official position of the agency a very broad interpretation of the federal Wire Act, 18 U.S.C. § 1084. This interpretation reverses a prior interpretation of the USDOJ from 2011 finding that the Wire Act applies only to sports betting and therefore does not prohibit States from selling lottery tickets over the Internet. The USDOJ’s recent reversal of the 2011 interpretation appears to prohibit the use of wire transmissions to engage in state conducted lottery activity. The New Hampshire Lottery Commission has sued the Attorney General and the USDOJ in the United States District Court for the District of New Hampshire to declare this new interpretation of law erroneous and for a declaration that the Wire Act does not extend to state-conducted lottery activity. If the USDOJ’s new interpretation is correct, and the Wire Act does extend to state-conducted lottery activity, New Hampshire may lose substantial revenues. Under the narrowest interpretation of the USDOJ’s opinion, the State would face a loss of approximately \$6 to 8 million annually. Under the broadest interpretation of the USDOJ’s opinion, the State could face a loss of approximately \$90 million annually. The case has been structured, will be fully briefed by April 8, 2019, and will be argued on April 11, 2019. The parties expect an order to issue on or before May 31, 2019.

## **Other Matters**

*Department of Education Financial Review.* On September 8, 2016, the New Hampshire Department of Education (NHDOE) participated in a Pilot Fiscal Review of its grant administration and fiscal management process, which was conducted by the U.S. Department of Education’s Office of State Support (OSS). The primary goal of the fiscal review was to ensure that implementation of Title I, Part A; Title II, Part A; Title III, Part A; and School Improvement Grants was consistent with the fiscal and administrative requirements contained in the Uniform Administrative Requirements, Cost Principles and Audit Requirements (Uniform Guidance) and the Education Department General Administrative Requirements (EDGAR). The funds at issue total \$3.3 million dollars in federal dollars and are related to potential unsupported personnel expenditures made using funds from the programs included in the fiscal review. NHDOE will be conducting an independent audit of its personnel expenditures related to these programs. Once this audit is complete, a further determination will be made as to whether additional corrective action, such as repayment of program funds, may be necessary. Until the audit is complete, it is not possible to predict the outcome of this review.

*Potential Liability Relating to Conway Bypass Corridor Project.* During fiscal year 2017, the State recorded an expense of \$21 million to recognize the impairment of certain assets that had been previously capitalized as part of the State department of transportation’s project to upgrade the Conway, New Hampshire bypass corridor. This project had multiple segments, some of which were completed, and some were not completed in the timeframes required by the U.S. Department of Transportation Federal Highway Administration (“FHWA”). Capitalized expenses which met the State’s definition for impairment included both preliminary engineering and right of way related expenses. The State is in the process of determining what portion, if any, of either the preliminary engineering or right of way related expenses that were incurred utilizing federal funds, would result in a potential liability to FHWA. As certain segments of the project were completed, only the bypass segment of the expenditures is at risk of being deemed ineligible by FHWA. The State has been advised that formal guidance in making this determination is forthcoming from FHWA, however, the State has not received this guidance or any

demand for payment as of this date. As such, the State is unable to determine the likelihood of an unfavorable outcome, or the amount or range of any liability if an unfavorable outcome occurs.

*Conservation Law Foundation v. N.H. Fish and Game Dept.* (Powder Mill Hatchery). Conservation Law Foundation (“CLF”) sued the N.H. Fish and Game Dept. (“F&G”) in federal court alleging violations of the clean water act with respect to multiple pollutants. The State is seeking to dismiss many of the monetary claims on the basis of sovereign immunity. With respect to future discharges, the State already anticipated that it would have to make significant capital improvements to meet the limits set forth in the NPDES (point source) permit to be issued by the U.S. EPA. These improvements may cost several million dollars. F&G is waiting (and has been waiting for several years) to see what the NPDES permit requirements will be. Although the State does not anticipate significant expenditures to resolve the lawsuit, there will likely be overlap between what F&G accepts in settlement or is ordered to do and what it will do anyway to meet the NPDES permit requirements.

## FINANCIAL STATEMENTS

*Fiscal Year 2014.* The State issued the financial statements for the fiscal year ended June 30, 2014 on December 31, 2014 with an unqualified auditor’s opinion from KPMG. In March 2015, the State received a statewide management letter from KPMG detailing concerns identified during the fiscal year 2014 audit. The management letter identified as significant certain Payroll and Human Resources Control deficiencies and a deficiency in the Reporting of Jointly Owned Highway Capital Assets. It also noted other findings (not Material Weaknesses or Significant Deficiencies). In reference to the Payroll and Human Resources Control deficiency, the State continues to experience post-implementation challenges as a result of the new payroll system implemented in February 2013 which have been compounded by the decentralized human resources and payroll practices throughout State government. The State has remedied some of these issues already and continues to work diligently on the remaining issues identified. The State has also taken measures to address the Capital Asset Reporting deficiency. The management letter is available at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

In the audit of the Liquor Commission conducted by the Audit Division of the Office of Legislative Budget Assistant, the State received a management letter identifying a material weakness and several significant deficiencies regarding financial management and certain internal controls. The State has experienced significant turnover of Liquor Commission financial personnel but it continues to pursue internal control improvement efforts. The management letter is available at <http://www.gencourt.state.nh.us/LBA/AuditReports/financialreports.aspx>.

*Single Audit.* The fiscal year 2014 Single Audit of Federal Financial Assistance Programs conducted by KPMG resulted in certain compliance findings (material weaknesses and significant deficiencies) identified during the audit and can be found within the audit report located on the State’s website at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

*Fiscal Year 2015.* The State issued the financial statements for the fiscal year ended June 30, 2015 on January 15, 2016 with an unqualified auditor’s opinion from KPMG. In March, the State received a statewide management letter from KPMG detailing concerns identified during the fiscal year 2015 audit. The management letter identified certain significant deficiencies and other findings (not material weaknesses). The State has remedied some of these issues already and continues to work diligently on the remaining issues identified. The management letter is available at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

In the audit of the Liquor Commission, similar to fiscal year 2014, the State received a management letter identifying a material weakness and several significant deficiencies regarding financial management and certain internal controls. The State has continued to experience turnover of Liquor Commission financial personnel but it continues to pursue internal control improvement efforts.

Also, as a result of the fiscal year 2015 audit conducted over the State Revolving Fund (“SRF”) by the Audit Division of the Office of Legislative Budget Assistant, the State received a management letter identifying a material weakness and several significant deficiencies regarding financial management and certain internal controls. The management letter is available at <http://www.gencourt.state.nh.us/LBA/AuditReports/financialreports.aspx>.

*Single Audit.* The fiscal year 2015 Single Audit of Federal Financial Assistance Programs conducted by KPMG resulted in certain compliance findings (material weaknesses and significant deficiencies) identified during the audit and can be found within the audit report located on the State's website at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

*Fiscal Year 2016.* The State issued the financial statements for the fiscal year ended June 30, 2016 on January 31, 2017 with an unqualified auditor's opinion from KPMG. In May 2017, the State received a statewide management letter from KPMG detailing concerns identified during the fiscal year 2016 audit. The management letter identified certain control deficiencies and other observations (not material weaknesses). Subsequent to the audit, the State experienced turnover in some key financial management positions, but has implemented additional internal controls to remedy some of these issues and continues to work diligently on the remaining issues identified. The management letter is available at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

In the audit of the Liquor Commission, similar to fiscal years 2014 and 2015, the State received a management letter identifying a material weakness and several significant deficiencies regarding financial management and certain internal controls. The Liquor Commission has taken steps to strengthen its financial reporting controls, including engaging financial consultants to assist in the preparation of the fiscal year 2017 financial statements, as well as assist in other internal control improvement efforts.

Also, as a result of the fiscal year 2016 audit conducted over the State Highway Fund by the Audit Division of the Office of Legislative Budget Assistant, the State received a management letter identifying a material weakness and several significant deficiencies regarding financial reporting and certain internal controls. The management letter is available at <http://www.gencourt.state.nh.us/LBA/AuditReports/financialreports.aspx>.

*Single Audit.* The fiscal year 2016 Single Audit of Federal Financial Assistance Programs conducted by KPMG resulted in certain compliance findings (material weaknesses and significant deficiencies) identified during the audit and can be found within the audit report located on the State's website at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

*Fiscal Year 2017.* The State issued the financial statements for the fiscal year ended June 30, 2017 on December 22, 2017 with an unqualified auditor's opinion from KPMG. The 2017 audited financial statements were filed with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access System on December 27, 2017.

The State received a statewide management letter from KPMG in March 2018 detailing concerns identified during the fiscal year 2017 audit. The management letter identified certain control deficiencies and other observations (not material weaknesses). The State has implemented additional internal controls to remedy some of these issues already and continues to work diligently on the remaining issues identified. The management letter will be available at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

In the audit of the Liquor Commission, similar to fiscal years 2014 through 2016, the State received a management letter identifying a material weakness and significant deficiencies regarding financial management and certain internal controls. The Liquor Commission has continued to take steps to strengthen its financial reporting controls, including engaging financial consultants to assist in the preparation of the fiscal year 2017 financial statements, as well as assist in other internal control improvement efforts. Additional internal controls have been implemented to remedy several prior year issues and the Commission continues to pursue internal control improvement efforts in order to address the remaining issues identified. The management letter is available at <http://www.gencourt.state.nh.us/LBA/AuditReports/financialreports.aspx>

*Single Audit.* The fiscal year 2017 Single Audit of Federal Financial Assistance Programs conducted by KPMG resulted in certain compliance findings (material weaknesses and significant deficiencies) identified during the audit and can be found within the audit report located on the State's website at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

In addition to the Single Audit of Federal Financial Assistance Programs, KPMG was engaged to examine the State's assertions regarding the amounts of payroll costs charged to various federal programs administered by

the United States Department of Education (US DOE). The examination was required by the US DOE based on a review of state compliance performed by the US DOE Office of State Support. The subsequent report issued on September 6, 2018 is available on the State's website at <http://www.gencourt.state.nh.us/LBA/AuditReports/ContractedAudits/DOE%20Payroll%20Cost%20Audit.pd>.

The report identifies \$3.38 million of unsupported payroll costs spanning State fiscal years 2014 through 2016. The final determination regarding the ultimate liability to the State for the unsupported costs are dependent on language in the US DOE's rules.

KPMG has not been engaged to perform and has not performed, since the date of any report referenced herein, any procedures on the financial statements addressed in such reports. KPMG has also not performed any procedures relating to this Information Statement.

*Fiscal Year 2018.* The State has issued financial statements for the fiscal year ended June 30, 2018 on December 27, 2018 with an unqualified auditor's opinion from KPMG. The 2018 audited financial statements were filed with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access System on December 28, 2018.

The State expects to receive a statewide management letter from KPMG in March 2019 detailing concerns identified during the fiscal year 2018 audit. The management letter will identify certain control deficiencies and other observations (not material weaknesses). The State will implement additional internal controls to remedy these issues and will continue to work diligently on the issues identified. The management letter will be available at <http://www.gencourt.state.nh.us/LBA/AuditReports/contractedaudits.aspx>.

In the audit of the Liquor Commission, similar to fiscal years 2014 through 2016, the State received a management letter identifying a material weakness and significant deficiencies regarding financial management and certain internal controls. The Liquor Commission has continued to take steps to strengthen its financial reporting controls, including engaging financial consultants to assist in the preparation of the fiscal year 2017 financial statements, as well as assist in other internal control improvement efforts. Additional internal controls have been implemented to remedy several prior year issues and the Commission continues to pursue internal control improvement efforts in order to address the remaining issues identified. The management letter is available at <http://www.gencourt.state.nh.us/LBA/AuditReports/financialreports.aspx>

*Single Audit.* The fiscal year 2018 Single Audit of Federal Financial Assistance Programs is being conducted by KPMG and the report is expected to be issued in March 2019.

KPMG has not been engaged to perform and has not performed, since the date of any report referenced herein, any procedures on the financial statements addressed in such reports. KPMG has also not performed any procedures relating to this Information Statement.

## MISCELLANEOUS

Any provisions of the constitution of the State, of laws and of other documents set forth or referred to in the Information Statement are only summarized and such summaries do not purport to be complete statements of any of such provisions. Only the actual text of such provisions can be relied upon for completeness and accuracy.

This Information Statement contains forecasts, projections and estimates that are based on current expectations. In light of the important factors that may materially affect the financial condition of the State of New Hampshire generally and other economic and financial matters, the inclusion in this Information Statement of such forecasts, projections and estimates should not be regarded as a representation by the State that such forecasts, projections and estimates will occur. Such forecasts, projections and estimates are not intended as representations of fact or guarantees of results.

This Information Statement contains certain forward-looking statements that are subject to a variety of risks and uncertainties that could cause actual results to differ from the projected results, including without limitation general economic and business conditions, conditions in the financial markets, the financial condition of the State of

New Hampshire and various state agencies and authorities, receipt of federal grants, litigation, arbitration, force majeure events and various other factors that are beyond the control of the State and its various agencies and authorities. Because of the inability to predict all factors that may affect future decisions, actions, events or financial circumstances, what actually happens may be different from what is set forth in such forward-looking statements. Forward-looking statements are indicated by use of such words as “may,” “will,” “should,” “intends,” “expects,” “believes,” “anticipates,” “estimates” and other.

All estimates and assumptions in the Information Statement have been made on the best information available and are believed to be reliable, but no representations whatsoever are made that such estimates and assumptions are correct. So far as any statements in the Information Statement involve any matters of opinion, whether or not expressly so stated, they are intended merely as such and not as representations of fact. The various tables may not add due to rounding of figures.

References to web site addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader’s convenience. Unless specified otherwise, such web sites and the information or links contained therein are not incorporated into, and are not part of, this Information Statement.

Neither the State’s independent auditors, nor any other independent accountants, have compiled, examined, or performed any procedures with respect to the prospective financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability, and assume no responsibility for, and disclaim any association with, the prospective financial information.

The information, estimates and assumptions and expressions of opinion in the Information Statement are subject to change without notice. Neither the delivery of this Information Statement nor any sale made pursuant to any offering document of which the Information Statement is a part shall, under any circumstances, create any implication that there has been no change in the affairs of the State or its agencies, authorities or political subdivisions since the date of this Information Statement, except as expressly stated.

#### **ADDITIONAL INFORMATION**

Additional information concerning the State and certain of its departments and agencies, including periodic public reports relating to the financial position of the State and annual or biennial reports of such departments and agencies, may be obtained upon request from the office of the State Treasurer, William F. Dwyer, State Treasurer, State House Annex, Concord, New Hampshire.

**STATE OF NEW HAMPSHIRE**  
**AUDITED FINANCIAL STATEMENTS**  
**FOR FISCAL YEAR 2018**  
**(Included by Reference and Filed with the**  
**Municipal Securities Rulemaking Board)**