

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, April 13, 2012

MEMBERS PRESENT:

Rep. Ken Weyler (Chairman)

Rep. Beverly Rodeschin

Rep. Dan McGuire

Rep. Stephen Stepanek

Rep. Randy Foose

Sen. Chuck Morse

Sen. Bob Odell

Sen. President Peter Bragdon

Sen. Lou D'Allesandrdo

Sen. Raymond White

(Convened at 10:08 a.m.)

(1) Acceptance of Minutes of the March 9, 2012 meeting

CHAIRMAN WEYLER: Good morning. I'd like to open the hearing for April 13th for the Fiscal Committee. I'd like us all to rise for a moment. Please have a moment of silence for the brave officers from Greenland who were shot last night in pursuing their duties. Thank you.

(Moment of silence.)

CHAIRMAN WEYLER: We'll open the meeting on Tab No. 1, the minutes of the last meeting, March 9th. Is there a motion?

****** SEN. PRESIDENT BRAGDON: Move approval.

CHAIRMAN WEYLER: Okay. Senator Bragdon moves approval.

REP. MCGUIRE: Second.

REP. FOOSE: Second.

CHAIRMAN WEYLER: And Representative McGuire seconds. Any omissions or corrections? Seeing none; are you ready for the question?

All in favor say aye? Opposed no? The motion is adopted.

*** {MOTION ADOPTED}

(2) Old Business:

CHAIRMAN WEYLER: We'll move on to Tab 2. Does anyone wish to take anything from Old Business?

CONSENT CALENDAR

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

CHAIRMAN WEYLER: Seeing no requests, we'll move to Tab 3 which is a Consent Calendar. I have request to remove Items 96 and 98. Is there any further request to remove any item from that list on the Consent Calendar on Tab 3? Seeing none, are you ready for the question? Is there a motion to accept the remaining items?

** REP. STEPANEK: So moved.

SEN. PRESIDENT BRAGDON: Second.

CHAIRMAN WEYLER: Motion by Representative Stepanek, second by Senator Bragdon. Further discussion? Seeing none; all in favor of the remaining items say aye? Opposed no? The items are adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: We'll move on to Item FIS 12-096,

Joint Fiscal Committee

April 13, 2012

Department of Education. Is there someone here from the Department of Education to answer some questions? Thank you.

SUSAN FOLSOM, Acting Business Administrator,
Department of Education: Good morning. Susan Folsom,
Acting Business Administrator for the Department.

CHAIRMAN WEYLER: Susan Folsom.

MS. FOLSOM: Yes.

CHAIRMAN WEYLER: Thank you. Representative McGuire is recognized for a question.

REP. MCGUIRE: Thank you, Mr. Chairman. Thank you, Miss Folsom, for coming. What prompted my question is this phrase on Page 2 where it says we are designing on-line courses specifically tied to the needs of New Hampshire schools and educators. This is for professional development. And my question is we're a really tiny state, maybe half a percent of the size of the U.S. And I'm wondering in the case of on-line professional development of teachers, isn't that something that we're pretty the same, common, all over the U.S. and that maybe we could just use somebody else's on-line program rather than designing our own?

MS. FOLSOM: I really can't speak to the specifics of that question. Hum -- the grant was initiated through Alabama Public Television, and this is the ongoing outcome of that program that they started up with us. So I don't know if there's a national system in place that we could tag into versus having one unique for New Hampshire's teacher certification and ongoing professional development accreditation.

REP. MCGUIRE: So follow-up?

CHAIRMAN WEYLER: Follow-up.

Joint Fiscal Committee

April 13, 2012

REP. MCGUIRE: So you're saying the State of Alabama is also somehow using this for their teachers or you don't know?

MS. FOLSOM: The grant originally that was where the grant funding for the program came from. And it -- I don't know the specifics of what -- how Alabama Public Television was involved to get it rolling, but they had the seed money to establish this program. And, unfortunately, I don't have more specifics on how they used it or how they came into that role.

REP. MCGUIRE: Could maybe we get a letter or something just for interest?

MS. FOLSOM: We definitely can do that, yes.

REP. MCGUIRE: Thank you very much.

CHAIRMAN WEYLER: Thank you. Any further questions for Ms. Folsom? Seeing none; thank you very much. Moving on to --

REP. STEPANEK: Do we want a motion?

CHAIRMAN WEYLER: Oh, yes. We need a motion on --

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

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Senator D'Allesandro moves the item, seconded by Representative Stepanek. Any further discussion? Seeing none; all in favor say aye? All opposed no? The motion is adopted.

*** **{MOTION ADOPTED}**

CHAIRMAN WEYLER: All right. Moving on to Item 12-098, Department of Safety. I see Mr. Wes Colby here.

Joint Fiscal Committee

April 13, 2012

WESLEY COLBY, Director of Administration, Department of Safety: Good morning.

CHAIRMAN WEYLER: Good morning, Mr. Colby. We see that the ammunition fund is being cut in half. Are people still going to be able to qualify?

MR. COLBY: Yes. The issue is that the deliveries of ammunition were held up significantly due to the Iran-Iraq War. And so we had several years' worth that were encumbered ahead and a delay in getting them. And so it's felt that this year we don't need to spend all of this appropriation because we are receiving some of the backlog of ammunition. So the Colonel assures me there will be adequate ammunition and these funds are needed and the other likely funded org which is 4003 to fund some shortages we have there.

CHAIRMAN WEYLER: Thank you for the explanation. Any further questions?

REP. MCGUIRE: Yeah.

CHAIRMAN WEYLER: Representative McGuire.

REP. MCGUIRE: Thank you. Thank you, Mr. Colby. So this money is being added to holiday pay. Isn't that something that's very predictable beginning of the budget and you're adding 20% or so to that account?

MR. COLBY: This line item was cut significantly, very significantly in the budget we produced. It was cut by the Agency. And apparently they didn't look at the calendar when they made the cut and noticed that two of the holidays, Christmas and New Year's, fell on Sundays. There's a contractual obligation requires people would not otherwise be scheduled when the holiday falls on a weekend and that accounts for some of it. And it's -- it's not as predictable as you would think.

Joint Fiscal Committee

April 13, 2012

REP. MCGUIRE: All right. Thank you.

CHAIRMAN WEYLER: Any further questions? Are you ready to approve?

** REP. FOOSE: Move approval.

SEN. MORSE: Second.

CHAIRMAN WEYLER: Representative Foose moves approval, Senator Morse seconds. Is there any further discussion? Seeing none; you ready for the vote? All those in favor say aye? Opposed no? Approval is adopted.

*** {MOTION ADOPTED}

(4) **RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$50,000 from Any Non-State Source:**

CHAIRMAN WEYLER: We'll move on to Tab No. 4. Again, a Consent Calendar. I have a note to remove Items 113 and 114.

REP. MCGUIRE: And 130.

CHAIRMAN WEYLER: And 130 to be removed. The rest of the items remain on unless someone wants to remove another item. Seeing no request, I would entertain a motion to adopt the remaining items.

** SEN. PRESIDENT BRAGDON: So moved.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Representative Stepanek. Any further discussion? Seeing none, all those in favor say aye? Opposed no? The rest of the items are adopted.

Joint Fiscal Committee

April 13, 2012

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: We'll move on to Item 113 for the Department of Environmental Services.

REP. MCGUIRE: I removed this, but I don't particularly have a question. I just want to vote against it.

CHAIRMAN WEYLER: Oh, all right. If someone would move.

** REP. STEPANEK: So moved.

SEN. PRESIDENT BRAGDON: Second.

CHAIRMAN WEYLER: Representative Stepanek moves to adopt. Senator Bragdon seconds. All in favor say aye? Opposed no?

REP. MCGUIRE: No.

CHAIRMAN WEYLER: And the motion is adopted with one negative vote.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: All right. Moving on to Tab 114, Department of Justice. See who's here from there. Good morning.

ROSEMARY FARETRA, Director of Administration, Department of Justice: Good morning. For the record, my name is Rosemary Faretra, and I'm the Director of Administration.

CHAIRMAN WEYLER: Okay. Item No. 114, student loans. Who requested that?

REP. MCGUIRE: I did.

CHAIRMAN WEYLER: Representative McGuire is recognized

Joint Fiscal Committee

April 13, 2012

for a question.

REP. MCGUIRE: Thank you, Mr. Chairman.

MS. FARETRA: Okay.

REP. MCGUIRE: Thank you for coming. How many attorneys are with this -- are sharing this amount of money, this \$110,000?

MS. FARETRA: Approximately 20 to 22 would be sharing it. There would be some public defenders as well as county attorneys and would all be based on their applications that are submitted to us, and we evaluate the applications. Last year we had ten public offenders and we had eleven county attorneys.

REP. MCGUIRE: Follow-up?

CHAIRMAN WEYLER: Follow-up question.

REP. MCGUIRE: And are these all new hires this year or the past 12 months or is it over a longer period of time?

MS. FARETRA: I'm not sure of that, but I believe that they have been -- that they have been for a long period of time for the public defenders and county attorneys. In terms of the names of the people, I don't know how long that they have been employed with the counties or public defenders.

REP. MCGUIRE: One more follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: Do you have any data that shows that this program is effective? That the fact that we have it, we have more retention of attorneys than we would otherwise?

Joint Fiscal Committee

April 13, 2012

MS. FARETRA: This is only the second year of this program that we've had. When they apply for the loans, they have to agree to stay with us for three years or wherever they are for three years. So it's hard to say where this whole thing will fit within the programs.

REP. MCGUIRE: One more follow-up?

CHAIRMAN WEYLER: One more question.

REP. MCGUIRE: Do you have from more than two years ago data of how many attorneys leave their jobs within the first three years voluntarily?

MS. FARETRA: I do not.

REP. MCGUIRE: All right. Maybe we could get --

CHAIRMAN WEYLER: Is it possible to send that to the Committee?

MS. FARETRA: Sure.

REP. MCGUIRE: Thank you.

CHAIRMAN WEYLER: Thank you very much. I'll entertain a motion to adopt Item 12-114.

** SEN. D'ALLESANDRO: Move approval.

CHAIRMAN WEYLER: Senator D'Allesandro moves approval.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Second by Representative Stepanek. Further discussion? Seeing none, are you ready for the question? All in favor say aye? Opposed no?

REP. MCGUIRE: No.

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: The motion is adopted with one negative vote.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to tab -- to Item 12-130, the Public Utilities Commission.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: Mr. Chairman, there is no representation here from the PUC at this time, but the Director of the Office of Energy and Planning, Joanne Morin, indicated she could probably respond to your questions.

CHAIRMAN WEYLER: All right. Thank you for volunteering to answer.

JOANNE MORIN, Director, Office of Energy and Planning: Good morning. And we also have staff from PUC here.

DEBRA HOWLAND, Executive Director, Public Utilities Commission: Hi, how are you today?

CHAIRMAN WEYLER: Identify yourselves, please.

MS. MORIN: Joanne Morin, the Director of Office of Energy and Planning.

MS. HOWLAND: Debra Howland, Executive Director, Public Utilities Commission.

CHAIRMAN WEYLER: Thank you. Representative McGuire had a question on this.

REP. MCGUIRE: Yes. Thank you, ladies, for coming. Maybe this isn't appropriate, but I have one of these central pellet heating systems in my house. Am I eligible for this?

Joint Fiscal Committee

April 13, 2012

MS. MORIN: Well, these are for installations. When was it installed? You have to go through the application system. I'll have to talk to PUC and whether they handled retroactive ones, but it was to try to get people to install them. When did you install it?

REP. MCGUIRE: When the house was built roughly three years ago.

MS. MORIN: Okay. And it's for the furnace, it's not just a stove.

REP. MCGUIRE: No. You're right. It's central heated.

MS. MORIN: Well, I mean, give me a call. We'll call you and we'll see if it falls under. I mean, there's -- you know, times of -- usually we -- you can't do these things retroactive. It has to be incent new ones, but we can certainly see what we've done and look into it.

REP. MCGUIRE: How many -- follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: How many such people get this incentive?

MS. MORIN: And I wish I had my slides for G & C which I should have brought for you. I think we've had somewhere in the order of 30 or 40 stoves across the state. We have statewide coverage. There was -- it was a little bit of a slow start, but then there were some marketing that was done independent of the program by forestry advocates and so forth and we've had a larger uptake. So it's been a very successful program. The idea behind it was to get enough furnaces installed so that it was economical to do both delivery of pellets to kind of transform that market and that seems to be working. So I will follow-up with an e-mail to you with the slide show with a PowerPoint that give all the numbers and show you where the -- where they have been installed and so forth. That's very informative.

Joint Fiscal Committee

April 13, 2012

And I apologize for not having that here this morning. I didn't realize this item would be on as well.

REP. MCGUIRE: Thank you.

CHAIRMAN WEYLER: Thank you. Further questions from anyone? Entertain a motion to adopt the item.

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

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Senator D'Allesandro moves to adopt. Representative Stepanek seconds.

REP. MCGUIRE: Discussion?

CHAIRMAN WEYLER: Further discussion. Representative McGuire.

REP. MCGUIRE: So I'm going to vote against this simply because in my own personal experience I installed one of these systems just because it saved me a lot of money. Pellets are a lot cheaper than oil or propane or the other choices, and it's working great. So I don't see why we need to spend public funds to, you know, when people are already saving money as is.

CHAIRMAN WEYLER: Very good. Further discussion? Seeing none; are you ready for the vote? All in favor say aye? Opposed no?

REP. MCGUIRE: No.

CHAIRMAN WEYLER: One negative vote. The item is adopted. Thank you, ladies.

*** {MOTION ADOPTED}

(5) RSA 124:15 Positions Restricted:

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Moving on to Tab No. 5. One item.

** SEN. PRESIDENT BRAGDON: Move the item.

CHAIRMAN WEYLER: 12-138, moved by Senator Bragdon.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Second by Representative Foose. Any discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no. It's unanimous. The motion is adopted.

*** {MOTION ADOPTED}

(6) RSA 9:17-d Transfer of Appropriations, Supreme Court:

CHAIRMAN WEYLER: Moving on to Tab No. 6, transfer of appropriations for the Supreme Court.

** SEN. PRESIDENT BRAGDON: Move the item.

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Senator Bragdon moves the item. Representative McGuire seconds. Any further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? Adopted unanimously.

*** {MOTION ADOPTED}

(7) RSA 216-A:3-g Fees for Park System:

CHAIRMAN WEYLER: Moving on to Tab No. 7.

** SEN. PRESIDENT BRAGDON: Move the item.

CHAIRMAN WEYLER: Senator Bragdon moves the item.

Joint Fiscal Committee

April 13, 2012

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Representative Stepanek seconds Item 12-139. Is there any further discussion? Are you ready for the question? Seeing none; you ready for the question? All in favor say aye? Opposed no?. 139 is adopted.

*** {MOTION ADOPTED}

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

CHAIRMAN WEYLER: Moving on to Tab 8, Item 12-131.

** SEN. PRESIDENT BRAGDON: Move the item.

CHAIRMAN WEYLER: From Highway Surplus. Senator Bragdon moves, Senator Morse seconds.

SEN. MORSE: No, I didn't second.

CHAIRMAN WEYLER: You have a question?

SEN. MORSE: Is the Department coming up?

CHAIRMAN WEYLER: All right. Is there anybody here from Department of Transportation? All right, see Commissioner Colby -- Commissioner Clement. Going to call Wes a Commissioner.

MR. COLBY: That's all right.

CHAIRMAN WEYLER: And Patrick McKenna. All right. Did I get a second on that motion?

REP. FOOSE: Second.

REP. RODESCHIN: Yes, Foose.

CHAIRMAN WEYLER: Representative Foose. And Senator Morse is recognized for a question.

Joint Fiscal Committee

April 13, 2012

SEN. MORSE: Commissioner, I just want to get a little clarity because I've had more people stop in my office about this one. The \$7 million that we saved in the winter maintenance, do we have a plan coming forward on that that it's going to be used for projects in the community?

CHRISTOPHER CLEMENT, Commissioner, Department of Transportation: Yes. There will be a plan forthcoming. Basically, what our thought process was with the savings, roughly \$7 million in savings, we put those back out across the state for betterment type programs. So paving and shimming and that type of stuff that betterment programs are.

SEN. MORSE: So Senator Rausch and Representative Chandler will be very happy when you come forward with a plan.

MR. CLEMENT: I would expect that they would be, sir. Yes, sir.

SEN. MORSE: Okay. I support this item. And it -- they have been working with the Commissioner much more than we have, so.

CHAIRMAN WEYLER: I agree. Representative Stepanek for a question.

REP. STEPANEK: Thank you, Mr. Chairman. My question is we've got some preliminary data from you as far as what you're going to be doing as far as betterment which was approximately \$2.3 or four million?

MR. CLEMENT: That's right.

REP. STEPANEK: And there's approximately 4.6 million that you're still working on. At what point can we anticipate getting that report or that schedule from you?

Joint Fiscal Committee

April 13, 2012

MR. CLEMENT: I suspect, Representative, that we could probably get it to you the next two to three weeks once we have time to look at it and rescrub it and then make sure that it's, you know, that we've looked at it and we feel comfortable we can get it to you. Next two to three weeks.

REP. STEPANEK: Follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. STEPANEK: Could I suggest that that report be to us no later than our next Fiscal Committee meeting?

MR. CLEMENT: It would have to be because you'd have to approve it anyway. But I'd like to get it to you before then so you can look at it, see what our thought process is and why we are doing what we're doing. So if you have any questions prior to the next Fiscal we'd have those answers for you.

REP. STEPANEK: Okay. Thank you.

CHAIRMAN WEYLER: We'll be looking forward to it. Senator Bragdon.

SEN. PRESIDENT BRAGDON: Thank you, Mr. Chairman. I noticed, and I haven't really gotten an answer that makes sense so I want to ask about the \$40,000 for a maintenance contract for a single copier. I suspect it's a highly technical one for large scale printing or blueprints, but according to the wording it's \$40,000 for a maintenance contract on one copier. So I need a little more information on that.

PATRICK MCKENNA, Director of Finance, Department of Transportation: Yes, Senator. That is our engineering printer and copier. We do the large-scaled design prints for all of the construction projects that we have. It's a fairly sophisticated machine. We have been working and Konica is essentially the parent company of that machine.

Joint Fiscal Committee

April 13, 2012

We have been working with that company over the past probably 18 months to come up with a plan to replace that, either through a long-term lease or through a purchase back. They had -- the machine that we're using is over ten years old now. So the maintenance costs are actually exorbitant on that machine at that point. And when we do, we expect probably by July that we will have a replacement plan. That will bring the annual maintenance down to about 14,000 on that machine. We'll get a full credit for anything that we've paid in maintenance toward the future maintenance on that.

SEN. PRESIDENT BRAGDON: Okay. Thank you.

CHAIRMAN WEYLER: Any further questions? Okay. We did have a motion and a second. Is there further discussion? Seeing none; all in favor say aye? Opposed no? The item is adopted. Thank you, gentlemen.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to Tab No. 9.

REP. MCGUIRE: I believe there were two items.

SEN. PRESIDENT BRAGDON: There's two, yeah.

CHAIRMAN WEYLER: Second item -- did I skip one?

REP. RODESCHIN: Yes, you did.

** REP. MCGUIRE: I'll move approval.

CHAIRMAN WEYLER: Department of Transportation second item was 130 -- that was 131. Next we move to Item 12-137.

** REP. MCGUIRE: I'll move approval.

CHAIRMAN WEYLER: Represent McGuire moves approval.

Joint Fiscal Committee

April 13, 2012

SEN. MORSE: Second.

CHAIRMAN WEYLER: Senator Morse seconds. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The item is adopted unanimously. Thank you.

*** {MOTION ADOPTED}

(9) Chapter 223, Laws of 2011, Footnote C, and RSA 124:15, Positions Restricted:

CHAIRMAN WEYLER: Bringing me back to reality. All right. Item number -- Tab No. 9, first item is 12-141. Is there a motion?

** SEN. PRESIDENT BRAGDON: Move the item.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Senator Bragdon moves, Representative Stepanek seconds to approve Item 12-141. Any further discussion? Seeing none; you ready for the question? All in favor say aye? Opposed no? The item is adopted unanimously.

*** {MOTION ADOPTED}

(10) Chapter 223:11, III, Laws of 2011, Judicial Branch; General Fund Appropriation Reductions:

CHAIRMAN WEYLER: Moving on to Tab 10, recognize Representative Morse.

** SEN. MORSE: Senator. Motion to table.

CHAIRMAN WEYLER: Senator Morse. I remember when you were a Representative. Senator Morse is recognized.

SEN. MORSE: Move to table.

Joint Fiscal Committee

April 13, 2012

REP. MCGUIRE: Second.

CHAIRMAN WEYLER: Senator Morse moves to table, second by Representative McGuire. Non-debatable question. Are you ready for the question? All in favor say aye? Opposed no? The item is tabled.

*** {MOTION ADOPTED}

(11) Chapter 224:14, II and III, Laws of 2011, Department Of Health and Human Services; Program Eligibility; Additional Revenues; Transfer Among Accounts and RSA 124:15 Positions Restricted:

CHAIRMAN WEYLER: Moving on to Tab 11.

SEN. PRESIDENT BRAGDON: Mr. Chairman, I think the Senate Members will need to caucus on this particular item whether we want to table it and take it up later or give us time to caucus now. I leave that to your discretion.

CHAIRMAN WEYLER: You have my office available and how much time do you think you'll need?

SEN. PRESIDENT BRAGDON: Five minutes.

CHAIRMAN WEYLER: So granted. We will be in recess for five minutes.

(Recess at 10:30 a.m.)

(Reconvened at 11:44 a.m.)

CHAIRMAN WEYLER: Moving back in session for next item is Item 12-135. There anyone here from Department of Health and Human Services that can answer questions?

Joint Fiscal Committee

April 13, 2012

SHANTHI VENKATESAN, Department of Health and Human Services: For the record, I'm Shanthi Venkatesan, Office of the Commissioner, Department of Health and Human Services.

MELODY BRALEY, Division of Family Assistance, Department of Health and Human Services: I'm Melody Braley from the Division of Family Assistance. Good morning.

CHAIRMAN WEYLER: Question, Representative --
Question, Senator Morse.

SEN. MORSE: I'm not sure you can answer this question or Lisa has to answer it. It was the Senate's intent that there be a transition from Healthy Kids to the MCO. We realized the MCO is probably not going up on July 1st, but if they're going up on January 1st it seemed like you're putting a program in the middle. That wasn't our intent. And what we want to know is if we hold up this item this month how that affects what you're trying to do.

MS. BRALEY: These two positions that --

CHAIRMAN WEYLER: I guess we have someone else here to join you.

LISABRITT SOLSKY, Deputy Medicaid Director, Department of Health and Human Services: For the record, I'm Lisabritt Solsky. I'm the Deputy Medicaid Director. Thank you so much. Just to respond to the differential in the time line. One of the issues that we have faced with the inability to have managed care ready on July 1st, as was our intention and always our goal, is that our contract, our current contract with New Hampshire Healthy Kids was only funded through March 31st. And the contract itself actually goes through June 30th. So we've had to prepare to do the transition of the CHIP Program effective just July 1, irrespective of the start date for managed care. So these two positions will actually support the eligibility functionality at DHHS and backfill work that was previously

Joint Fiscal Committee

April 13, 2012

or I should say currently being performed by Healthy Kids Corporation.

CHAIRMAN WEYLER: Further.

SEN. MORSE: Lisa, if we don't fill these positions this month, these positions are needed in July or are they needed tomorrow?

MS. SOLSKY: These positions are needed for July. Of course, we'll need to post and recruit and do all of that activity. They're needed in July when Healthy Kids Corporation stops to perform -- stops performing these functions and when Health and Human Services staff will need to perform these functions. These are functions on the eligibility side of the dynamic. They're unrelated to the service side of the house and service delivery.

SEN. MORSE: I guess my question is, is there any way that -- I mean, the Senate's intent is that you deal with Healthy Kids until January. Is there a way to get to that?

MS. SOLSKY: Not absent additional appropriation. We're already making up the shortfall for April, May, and June. I don't expect that there's any way that we could continue to do that into State Fiscal '13 facing the shortfalls that the Commissioner has estimated to be at 30 to \$33 million.

SEN. MORSE: \$33 million for six months?

MS. SOLSKY: \$33 million for State Fiscal '13 is the estimated shortfall.

SEN. MORSE: It's \$70,000 though a month times six. Isn't that the shortfall?

MS. VENKATESAN: I think --

SEN. MORSE: What is the short -- I guess we don't need to debate that. The fact is we have met with Lisa and

Joint Fiscal Committee

April 13, 2012

we understand that part of it. But the -- if this doesn't need to happen this month, then I think the Senate would like to table.

MS. SOLSKY: If I could just repeat for your consideration that these positions support the eligibility function and are completely unrelated to the service delivery platform. Our eligibility staff need the support of those front-end folks to help answer the phone, open the mail, and get the applications processed on time and accurately. It has nothing whatever to do with service delivery.

SEN. MORSE: Just to point out, we learned about this a week ago. They were served a letter in January which we learned from your meeting. I mean, I don't think as far as the Senate is concerned we thought there should have been any transition except from Healthy Kids to the MCO. The first time we learned about it is at our meeting with you on Tuesday of this week. So I don't think we've been given any kind of explanation before this Tuesday and now I have fellow Senators that are extremely concerned about the Department's reaction. If this financial transaction doesn't need to happen before next Fiscal Committee, then I think we want to table it. We are very concerned about the actions of the Department.

MS. SOLSKY: I appreciate that. I will relate that to the Commissioner and I will be happy to meet with other members of the Senate again to explain the very challenging circumstances that we're in. It wasn't until only a couple of weeks ago that it was clear that managed care would not go forward on July 1st, and so we had to pivot our plan so that we could meet our expected savings for State Fiscal '13 that were resulting from the requirement to do a transition. So, again, these positions are in anticipation of all of the eligibility functionality being owned by DHHS effective July 1. And these days it is a very long process to post and recruit and fill a position. I would expect almost without action today we would fall short of the goal

Joint Fiscal Committee

April 13, 2012

of having those positions filled on July 1st.

CHAIRMAN WEYLER: Further questions? Representative Stepanek. I'm sorry.

SEN. MORSE: That's all right.

REP. STEPANEK: Thank you, Mr. Chairman. My question would be were you anticipating that these positions for eligibility, which have nothing to do with the service side of it, in fact, were going to be handled by the managed care company?

MS. SOLSKY: No. The managed care companies cannot do eligibility. The -- only State staff can manage eligibility. The managed care companies don't even do enrollment. They just do service delivery and care coordination.

REP. STEPANEK: Follow-up, Mr. Chairman?

CHAIRMAN WEYLER: Follow-up.

REP. STEPANEK: Well, then I'm confused because if this was not going to be part of managed care, they weren't going to take over these functions, why are we just learning now about these two positions when they were going to be filled by HHS all along?

MS. SOLSKY: The work is presently being performed by staff at Healthy Kids Corporation. We have a co-located office right now with Healthy Kids Corp. staff and DHHS staff. And the front-end staff and Healthy Kids have been supporting with answering the phones, opening the mail, and making sure that the applications get to the workers on the DHHS side. With the termination of the contract on June 30th, we need to bring those staff back on to State grounds into a new site and we will no longer have the support of the Healthy Kids Corporation staff to do that front-end work with the phones and the mail and so on.

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Follow-up.

REP. STEPANEK: Thank you, Mr. Chairman. Again, I come back to the fact that whether or not the managed care system went on-line July 1st or not, you still would have had to take over these functions; is that not correct?

MS. SOLSKY: That is correct.

REP. STEPANEK: Then why are we just hearing about it now?

MS. SOLSKY: It's not clear to me what -- when we would have come before.

REP. STEPANEK: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. STEPANEK: During the budget season. I mean, if you were always anticipating taking over these functions throughout this whole negotiating period, why wasn't this brought up during the budgetary process when we were negotiating managed care, because you always anticipated having to take on these positions?

MS. SOLSKY: I think the answer to your question is within the body of your question. The eligibility function is unrelated to managed care. We wouldn't have had a conversation about the needs on the eligibility side of the house in the context of the managed care procurement.

REP. STEPANEK: But --

CHAIRMAN WEYLER: Follow-up.

REP. STEPANEK: Follow-up. But -- and I don't want to get into a debate on this, but at the end of the day you knew that the contract with Healthy Kids was going to terminate.

Joint Fiscal Committee

April 13, 2012

MS. SOLSKY: Correct.

REP. STEPANEK: You knew that managed care was going to go into effect July 1st. Since you've already said that managed care has no impact on these people, that you would have needed these people whether managed care went on or not, why are we just finding out about this now? Why didn't we find out about this much earlier because you knew about this much earlier because you never anticipated that managed care would take over this. The State was going to have to take over this; correct?

MS. SOLSKY: That is correct.

REP. STEPANEK: I'm confused.

MS. SOLSKY: I am, too.

CHAIRMAN WEYLER: Senator Morse.

** SEN. MORSE: I move to table.

CHAIRMAN WEYLER: Motion to table. Non-debatable. Is there a second?

SEN. ODELL: Second.

CHAIRMAN WEYLER: Second by Senator Odell. Are you ready for the question? All in favor say aye? Opposed no? The motion is tabled.

MS. SOLSKY: Thank you.

CHAIRMAN WEYLER: Thank you.

*** {MOTION ADOPTED}

(12) Chapter 224:203, Laws of 2011, Department Budgets; Transfer of Federal Funds:

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Okay. Moving on to Tab 12, Item 12-102. Is there a motion?

** SEN. PRESIDENT BRAGDON: Move the item.

CHAIRMAN WEYLER: Senator Bragdon moves. Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN WEYLER: Second. Representative -- Senator D'Allesandro seconds Item 12-102. Is there any further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to Item 12-103. Is there a motion?

** REP. FOOSE: Move approval.

SEN. PRESIDENT BRAGDON: Second.

CHAIRMAN WEYLER: Representative Foose moves approval, Senator Bragdon seconds. Is there further discussion? Seeing none; all in favor say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

(13) Chapter 224:203, Laws of 2011, Department Budgets, Transfer of Federal Funds and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Fund Over \$50,000 from any Non-State Source:

CHAIRMAN WEYLER: Moving on to Tab 13, Item 12-104.

** SEN. PRESIDENT BRAGDON: Move the item.

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Senator Bragdon moves approval of the item.

REP. STEPANEK: Second.

CHAIRMAN WEYLER: Seconded by Representative Stepanek.

REP. MCGUIRE: I had a question.

CHAIRMAN WEYLER: Representative McGuire has a question on Item 12-104, the Department of Safety. And Mr. Colby is coming forward to answer your question. Thank you, Mr. Colby.

MR. COLBY: Good morning.

REP. MCGUIRE: Thank you, Mr. Chairman. Thank you, Mr. Colby. Can you explain in the FEMA letter what is the meaning of the phrase "12-month lock-in"?

MR. COLBY: Lance. I have Lance Harbour here with me who runs this program and let him answer that question for you. Lance, he's asking what a "12-month lock-in" means?

LANCE HARBOUR, Emergency Management Protection Planner, Department of Safety: Sure.

CHAIRMAN WEYLER: Under Federalese. Sometimes that's a different language.

MR. HARBOUR: You're exactly right. After we had a declared disaster, this 12 months represents the 12 months from the date of the disaster declaration. And after we have had a declaration where public assistance has been authorized, our program receives 15% of that total amount to do mitigation projects, do the hazard mitigation grant program throughout the state. So at that 12 months that pretty much tells us exactly what we're going to have in total to be able to administer that program.

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Tells you but you don't get all the money immediately.

MR. HARBOUR: No, we actually -- we actually will be submitting projects right about that time that we get that total amount.

MR. COLBY: It could go up if the public assistance for that disaster continues to have payments made against it. There could be an increase in that lock-in because we are entitled to get 15% back of whatever that disaster ends up being out for public assistance.

CHAIRMAN WEYLER: Further questions?

REP. STEPANEK: Thank you, Mr. Chairman. So just to clarify. From the moment the declaration is declared -- disaster is declared, you have 12 months in which to determine the total amount of the claim?

MR. HARBOUR: No. What happens is, is the disaster is declared and then FEMA comes to town and they administer their public assistance program in coordination with the state. And as they go out and they write-up these different projects throughout the state, that whatever they payout in public assistance starts -- they start obligating those projects and so that amount starts to increase. So we receive a 30-day lock-in or a 30-day notice, a six-month notice, and then a 12-month notice. And that kind of gives us an idea of how much of that -- what that 15% is reflecting based on what's been obligated so far through that public assistance program. And the public assistance program, just to clarify, that is the FEMA program like in tropical storm Irene after all of those roads and things, public infrastructure were damaged, that program pays to bring those public-owned facilities backup to pre-disaster condition.

MR. COLBY: At 75%.

Joint Fiscal Committee

April 13, 2012

MR. HARBOUR: At 75%, correct.

MR. COLBY: But of that, every time there's a presidentially declared disaster, there's a hazard mitigation program established to follow it. So you can go out in these communities and try to repair some areas that reoccurring every time we have a disaster tend to recreate damage. We increase culvert sizes, whatever. And the FEMA establishes that hazard mitigation program at a value of 15% of what they paid for public assistance for that disaster. So it follows it to try to prevent reoccurring disasters down the road.

CHAIRMAN WEYLER: Further discussion? Seeing none; are you ready for the question? All those in favor approving Item 12-104 say aye? Opposed no? The item is adopted. Thank you, gentlemen.

*** {MOTION ADOPTED}

(14) Chapter 224:213, Laws of 2011, Department of Justice; Outside Counsel:

CHAIRMAN WEYLER: All right. Moving on to Tab 14. I recognize Senator Morse.

** SEN. MORSE: I move to table.

CHAIRMAN WEYLER: Senator Morse moves to table --

SEN. PRESIDENT BRAGDON: Second.

CHAIRMAN WEYLER: -- Item 12-125, second by Senator Bragdon. This is a non-debatable item. We'll wait till Senator Morse returns to his seat.

(Senator Morse and Mr. Pattison have a discussion.)

CHAIRMAN WEYLER: Senator, are you ready for the question?

Joint Fiscal Committee

April 13, 2012

SEN. MORSE: Yes.

CHAIRMAN WEYLER: Are you ready for the question? All in favor tabling 12-125 say aye? Opposed no? The item is tabled.

*** {MOTION ADOPTED}

(15) Chapter 224:371, Laws of 2011, Department of Administrative Services, Transfer Among Accounts:

CHAIRMAN WEYLER: Moving on to Tab 15, which is Item 12-140. Is there a motion?

** SEN. PRESIDENT BRAGDON: Move the item.

CHAIRMAN WEYLER: Senator Bragdon moves to approve.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds. Further discussion? Seeing none; you ready for the question? All in favor say aye? Opposed no? The Item 12-140 is adopted.

*** {MOTION ADOPTED}

(16) Miscellaneous:

(17) Informational Materials:

Audits:

CHAIRMAN WEYLER: The remaining items are informational material. Does anybody have any questions of any of the informational materials? Seeing none.

The next thing on the agenda are the Audits which the Audit Division has been busy. We will recognize its Chief, Mr. Mahoney, who will decide what order he's going to present them in and who is going to join him.

Joint Fiscal Committee

April 13, 2012

RICHARD MAHONEY, Director of Audit Division, Office of Legislative Budget Assistant: Thank you, Mr. Chairman. Good morning. Good morning, Committee Members. For the record --

CHAIRMAN WEYLER: Good morning. Look forward to your work.

MR. MAHONEY: For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant. As you know, our office is responsible to conduct the single audit of Federal Financial Assistance Programs on a yearly basis, and we do so under contract with KPMG. Joining us this morning to present the report for KPMG is Greg Driscoll. Greg is a partner with KPMG and Karen Farrell, Senior Audit Manager.

CHAIRMAN WEYLER: Thank you. And which one will we begin with?

GREG DRISCOLL, KPMG: The single audit. The big thick one with the nice salmon cover. I think that's salmon.

CHAIRMAN WEYLER: Looks like a year's work.

MR. DRISCOLL: It was pretty close to that. Yes, it was. As Dick said, this is -- we refer to this as the Federal Single Audit. What the thrust of this audit is is for the Federal award programs for which the State has expenditures, we're required to test the State's compliance with the requirements that are associated with those Federal programs.

We'll walk you through some of the basics as we go. But just to take you through the book, not to steal Ed's thunder, to take you through the book to make sure everybody understands what you have in front of you because there are several tabs and several components to the report here and we'll speak to a couple and Ed will speak to a

Joint Fiscal Committee

April 13, 2012

couple.

If you follow the tabs, the first tab is actually the State's financial statements. These we presented and Ed presented at the last month's Fiscal Committee meeting. You'll see our audit opinion on those financial statements is included in the front and there's a somewhat abridged version of the State's Comprehensive Annual Financial Report in that section which you received last month. So this is just a repeat or repackaging of what you already saw last month in March.

The next tab labeled Reports on Compliance and Internal Control. These are the two audit reports that we issue as part of this single audit package and we'll come back to those because that's going to be the focus of our comments in a little bit.

The next tab Schedule of Expenditures of Federal Awards. This is the itemized schedule of expenditures for each of the State's Federal Award Programs by what they refer to as CFDA number which is the Federal program identification number and by Federal Agency.

The next tab is what you might be most interested in. This is the finding section that we'll talk about in our comments. At the beginning there's just a summary of the auditors' results which we'll walk you through. But the lion share from F-7 back to F-146 are the findings that we identified through our test work on the State's compliance with the requirements of its Federal award programs.

Lastly, the State is required to keep a tally of its progress in remediating findings from prior years. So that last major section in the back is a recount of the State's progress to resolving the findings that were identified as part of the prior audits. And then the Appendix are just some tables and tabs that makes this monstrous report easier to follow.

Joint Fiscal Committee

April 13, 2012

So with that, I'm going to take you back to the reports on compliance and internal control. That is the thrust of our work here and will be where the lion's share of our comments will be. As part of this section you have two different reports on internal control and compliance. The first, which I'll speak to, actually relates to the financial statement audit. And this is our report on internal control over financial reporting and on compliance that we prepared based on the results of our financial statement audit. You had the opinion on the financial statements at the last meeting when the financial statements were presented. And this report, even though it's a byproduct of that financial statement audit, typically it gets packaged with this single audit. So I'll walk you through this.

It is a report. It's got two sections. Again, internal control or financial reporting and compliance. So walking through paragraph by paragraph, the first two paragraphs just sets out the scope. Talks about that we audited the State's financial statements. Mentions the portions of those financial statements which we were not responsible to audit, because they were audited by either other audit firms or by other teams from KPMG and this outlines that the items that we are identifying in this report would not include anything that was identified as part of those audits because they issue separate reports on those entities.

So, for example, the item -- the component of the State's financial statements that another KPMG team audits is the New Hampshire Retirement System and they would have a report like this separate solely relating to the New Hampshire Retirement System.

The internal control over financial reporting section, this we do not give an opinion per se on the State's internal control or financial reporting. But what we are required to do is to identify controlled deficiencies that rise to a level of significance such that they are called

Joint Fiscal Committee

April 13, 2012

either significant deficiencies or material weaknesses. So all this report does, it doesn't give an opinion on internal control, it just identifies those items. And if you look at the third paragraph in this section, you'll see we identify two items which back in that finding section are identified as findings one and two that identify two controlled deficiencies that rose to a level of significance that we determined they would be material weaknesses.

The first one, item one, is on logical access to NHFirst. Some password authentication policies and procedures that were deficient that the State over the last two years has worked very hard to correct and remediate and the second relates to a material weakness over internal controls over reporting for highway capital assets. Those two findings were also included in last year's report. And while progress has been made to remediate those control findings, they still exist. So the good news though is if you look at this report last year there were actually ten items that were identified as significant deficiencies or material weaknesses. A number of those were the result of the impact of the implementation of NHFirst, and kind of the catch-up for some of the policies and procedures and working out the kinks in the first year of financial reporting under the new system and many of those have been remediated at this point. So you're going from 10 to 2 which is always positive from the financial statement side.

The second part of this report we're required to identify any instances of non-compliance with laws, regulations, contracts and grants that we identify as part of this financial statement audit. And similar to last year, we identified no such instances of non-compliance. Non-compliance with Federal requirements for the single audit we'll get to in the next opinion. But as far as the financial statement audit goes, there were no instance of non-compliance noted.

So that report, again, relates to the financial

Joint Fiscal Committee

April 13, 2012

statement audit, although packaged with the single audit.

The next report, which Karen is going to speak to, talks about our findings and our opinion related to compliance with the requirements for Federal award programs. So I'll turn it over to Karen for that report.

KAREN FARRELL, KPMG: What I'd like to do is walk through a report on D-3 with you. And this report is solely related to the Federal programs and it relates to the 26 major programs that we audited this year. Last year we actually audited 27, and the number of major programs remains high because ARRA spending continues.

So the first -- this opinion actually has really three parts to it. The first part has to do with compliance. What we do here is actually give our opinion on the State's compliance with the Federal laws and regulations. And this really answers the question, did the State comply with the specific compliance requirements that are contained in OMB Circular A-133. So of the 26 programs that we audited, 18 actually were unqualified. So you did comply.

The next page, D-4, there's a summary of the eight programs that actually had qualifications for a specific compliance requirement. So there's a table here that actually discusses the -- or refers to the finding number, where in the findings in the back, I think it's in the F section that Greg had mentioned, it will list the actual criteria that we measure the compliance requirement against, the condition that occurred, the effect, and then any corrective action plan that will be taken.

The program name is also described and then the compliance requirement. Six of these eight are actually qualified for non-compliance with the same requirements that they were qualified for in the prior year. And just to sum up what the non-compliance was. Four were related to sub-recipient monitoring which is when the State passes through funds to a third party who has some responsibility

Joint Fiscal Committee

April 13, 2012

for the operation of the program and the monitoring of third party really just wasn't there.

One was related to Davis Bacon which is when the State is responsible for obtaining and reviewing certified payrolls from contract -- excuse me -- from contractors, two are related to reporting and one was related to matching, when the State either needs to put up its own funds or fund in this instance from a third party in support -- show the support for those funds and match appropriately against the Feds.

The paragraph below the table also talks about other instances of non-compliance, but these were not significant enough for us to qualify the opinion. There were 34 findings related to other compliance issues and there were 36 in the prior year.

The second part of this opinion is related to internal control over compliance. And the State is responsible for establishing and maintaining effective internal controls over compliance with the Federal program. And as Greg mentioned, although we don't issue an opinion on this, we're actually required to test the controls over compliance and then report on the deficiencies. And the deficiencies are categorized into two categories. One is a material weakness and the other significant deficiency. And material weakness actually more severe and the definition is really when there's a reasonable possibility that the material non-compliance could exist and wouldn't be detected or corrected on a timely basis. So on the bottom of Page D-5 we highlight the findings that are material weaknesses. And there were 13 in the current year compared with 11 in the prior year.

The top of the next page, D-6, we disclose the findings that are significant deficiencies. And these are less severe than a material weakness; but yet, they're still important enough to report. And there's a point of comparison. There were 38 in the current year versus 33 in

Joint Fiscal Committee

April 13, 2012

the prior year.

The next section of the report is really our in relation to opinion on the Schedule of Expenditures of Federal Awards which is in the next section at E-1 which actually leaves out the Federal expenditures that were made during the year. And what that means is our in relation to opinion is that the CDFA, which is subject to the audit of the financial statements in relation to that audit is fairly stated in all material respects.

MR. DRISCOLL: Thanks, Karen. Before we turn it over to Ed for some analysis from the State's point of view, I'll walk you through one last section that is our responsibility and that's the F section behind the Current Year Findings and Questioned Costs tab. If -- you know, what we talked about in the opinion is a little bit tough to grasp with all the words and those itemized numbers. These next couple of pages give you a nice snapshot of the overall results of the audit, both the financial statement audit and the audit of the Federal award. So you'll see nice little simple check boxes as to where the material weaknesses and significant deficiencies were found in each of the audits. You have a nice short listing of the programs that received a qualified opinion over compliance. Because for one of the compliance requirements we believe based on our test work the State did not comply with the requirement. And then if you switch to F-2, F-3 and F-4, you'll see the list of programs that were audited as part of this audit. Again, I believe Karen said there were 26 in total as compared to 27 from last year.

And then, lastly, behind F-5 you will see the itemized findings, generally presented criteria, what the requirement was, condition, what we found, a cause and effect section, along with a recommendation. And then each of the findings had a response from the appropriate Agency's management. And we'll, hopefully to your benefit, we won't go through all 55 findings. We'll leave it to you to have questions if there are particular ones you'd like

Joint Fiscal Committee

April 13, 2012

to discuss. So that's the extent of our prepared remarks. We're certainly more than happy to take questions once Ed wraps up with his discussion.

ED CARTER, State Comptroller, Department of Administrative Services: Good morning. For the record, my name is Ed Carter. I'm State Comptroller. Good to be here again. I just wanted to make a couple of comments regarding the report and then we'll certainly take questions. I thought there may be some, perhaps, that I would be best to answer. But I would just like to start by thanking KPMG for their outstanding performance on auditing this. This is a very grueling audit to go through these single audits and they do it admirably, organized, and in constant communication with my office.

These are very voluminous. You're talking about hundreds of programs and thousands of Federal regulations. If we had a perfect audit, I wager I would say to you we are spending too much on compliance. We don't have a perfect audit. And I would say at this time we probably are moderately in compliance with our programs, fair to moderately in compliance. I would like that to be in good compliance. Again, not excellent because I don't think -- it's very difficult to get to that point and it would take quite an investment. But as long as we are receiving the funds we need, we are not having any of those funds disqualified or significant amounts disqualified, there are going to be certain lapses and findings that KPMG comes up with. We will endeavor to correct those and carry on.

As Karen mentioned, sub-recipient monitoring is something that came up a few years ago that we really need to do a better job of. People are very attentive to what they're seeing and what is performed within the state but when funds are passed through the state down to a sub-recipient, there often is a lapse of checking qualifications of that sub-recipient and the other monitoring techniques.

Joint Fiscal Committee

April 13, 2012

The Davis Bacon is very similar. That also is checking of a contract. So those are the things we've been trying to strengthen the last couple of years. It can take a couple of years to resolve an issue, to actually change your procedures to such an extent to have an impact to resolve that item.

Over the last five years, we have had varying -- varying results but overall improving, I would say. In the middle of that you have to remember also that ARRA came along and introduced a bunch more programs with very stringent requirements very fast. Made it very difficult to understand all of those requirements and respond to them and be compliant, entirely compliant.

Over the past several years, we've had more and more added to the bunch, if you will. You've got in this year's comments you have 55 -- 55 total comments. However, of those 55, half of them approximately had been made in the prior year. They were repeats. As I said a moment ago, it can take a few years to resolve a condition. When you consider, you take out all the repeats and just look at unique findings each year, we have actually improved over the past couple. In 2010, we had 54 unique findings. This year we had 29 unique findings. My numbers might be a little bit off because picking the bones out of this can be -- can be a challenge.

Another point I'd like to just emphasize, and I will give more comprehensive report on this at one of the next two fiscal meetings when we present the management letter, the management report. That is distinct from the internal -- from the single audit. The auditors prepare a management report -- a management letter resulting from the CAFR audit specifically. Now, it bleeds over into these and that's why some of those are repeated here.

Last year, we had a management letter that had, I believe, 12 total comments of which ten were material or significant deficiencies. Material weakness or significant

Joint Fiscal Committee

April 13, 2012

deficiencies. Ten of them. This year we had two. A lot of that is attributable to the ERP System we put in. We are just struggling to get all the controls in and everything else and we made great headway in doing that. But I believe that was significant progress. Those are the extent of the comments I wanted to make specifically.

CHAIRMAN WEYLER: Thank you, Comptroller Carter. Any questions? Representative McGuire.

REP. MCGUIRE: Thank you. Thank you for coming.

MR. CARTER: Sure.

REP. MCGUIRE: This year we had or this budget season we had a significant problem with the Medicaid Enhancement Tax. We were fined for something that happened years ago. Is there anything here that potentially puts us in a shape like that so that three years down the road they're going to say, well, you shouldn't have -- you know, we are not going to approve money we are getting right now?

MR. CARTER: Yes. You're referring to the Medicaid Enhancement Tax and the reimbursement to hospitals for uncompensated care?

REP. MCGUIRE: Yes.

MR. CARTER: Which is all kind of a turnkey process, very involved and the audit of -- the audited general in the year 2000 -- for the year 2004 which was conducted subsequently and came out with findings in 2007, found that we were in significant non-compliance. The procedures that would have to be implemented to basically prevent that from happening is scrutiny. We have to be diligent at the executive levels and at all our levels of management to make sure that the manner in which we are implementing that program is complying. And I think that's what was falling short. There also, I must add, was a significant amount of or lack of clarity within the regulations of Medicare and

Joint Fiscal Committee

April 13, 2012

Medicaid. They are very difficult to follow. They will contradict themselves. They will say absolutely this is fine to do and then two years later they'll say no, you can't do that. Those kinds of things exist. But I can't point to something specific to say we have implemented this so that will never happen again. But I know HHS under Commissioner Toumpas has done a great deal of work to bring it into a level of compliance so that we will not have these findings again.

MR. DRISCOLL: From an audit perspective, the scopes of the audit are a little different. Where -- what -- those DSH types of audits or an IG inspection and Federal HHS IG inspection of the DSH Program, the objectives of that audit are a little different. The scope is a little deeper dive than what we have. So a little bit of a different objective and scope from those types of audits.

REP. MCGUIRE: Okay. One other question?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: What's the significance of the word single? I didn't quite understand that.

MR. DRISCOLL: Single is you're giving opinions on single programs. So it's all -- well, it used to be in the old days back before 1984 all of these programs used to have separate audits done. So you would have 27 audits of programs. So now when the Single Audit Act came in in 1984 that brought all those individual audits under the umbrella of a single one audit here. Rather than 26, however many programs, individual audit reports, they are now under the umbrella of one single audit.

MR. CARTER: If I could clarify further? Again, prior to 1984, each Federal Department had their own obligation to pursue compliance with their own programs and they did so in a variety of ways, usually by commanding audits. As Greg indicates, there was an Act that brought all of that

Joint Fiscal Committee

April 13, 2012

together under the IG and now the -- this report will go to our cognizant agency which is HHS. HHS is a cognizant agency for every state. From there, they extract all of their related program findings. Then they pass it on to the other Federal -- Federal departments. And I end up getting letters down the road for the next year from each of those asking current status, et cetera, et cetera, and I work with the Agencies to give those responses.

CHAIRMAN WEYLER: Senator Odell.

SEN. ODELL: Thank you, Mr. Chairman. Could someone just direct me to the summary page where I would find --

MR. DRISCOLL: Sure, it's F-1. It's behind the Current Year Findings and Questioned Costs tab. It's the very first page behind that tab.

SEN. ODELL: F-1?

MR. DRISCOLL: F-1, yes. It's the summary of auditors.

SEN. ODELL: I'm looking for the financials, summary of the numbers. In a single audit is there a summary of all the programs for the year in terms of the grants to the State of New Hampshire?

MR. DRISCOLL: Meaning what the expenditures were for the year?

SEN. ODELL: Yeah, or the receipts.

MR. DRISCOLL: Ed, is there a summary in the front?

MR. CARTER: Yes, the CDFA has it.

MR. DRISCOLL: The CDFA -- well, the detail by program is in the E section --

SEN. ODELL: Right.

Joint Fiscal Committee

April 13, 2012

MR. DRISCOLL: -- behind Schedule of Expenditures and I believe, Ed, you know, the book a little better than I do. I believe that summarized --

MR. CARTER: Greg. E-1.

MR. PATTISON: B-4.

MR. CARTER: Try B-4.

MR. DRISCOLL: B-4. B-2 through B-4 has it summarized by State Agency.

SEN. ODELL: Mr. Chairman, so that means that total expenditures, total receipts for State of New Hampshire in Fiscal Year 2011 was \$2,270,000,000?

MR. DRISCOLL: Total expenditures. Not receipt.

MR. CARTER: There might have been a timing difference in the receipt.

MR. DRISCOLL: We are testing expenditures, not necessarily the receipts.

SEN. ODELL: The money comes in, this is the count of how much we spent.

MR. DRISCOLL: Correct.

SEN. ODELL: Thank you.

MR. DRISCOLL: You're welcome.

CHAIRMAN WEYLER: 30% of our spending.

SEN. ODELL: More like half. It's -- it looks like half.

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Yeah, close to half. Further questions? Representative McGuire.

REP. MCGUIRE: Thank you. On F-1 it says that there were problems with -- found with the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund. Can you give more detail about what those problems were?

MR. DRISCOLL: Sure. And I think that the best spot to do is to go back to the qualification just to jog my memory as well. So if we go back to D-4, the significant issues were in the reporting area. Okay. There were, I believe, eight findings related to the two revolving loan funds; but the most significant were the three there in that table on D-4, 49, 50 and 54, and those related to reporting and in two main things. There is an annual financial status report that is required to be filed for each of the grants, and particularly for drinking water for, I believe, virtually all of the grants. They just flat weren't filed. And so that seemed to rise to a level of material non-compliance.

The other item was related to Section 1512 reporting, which is the ARRA reporting requirement where quarterly required to report the expenditures under the ARRA program. We saw errors in the report as compared to the accounting records. So again, that rose to the level of qualifying for the reporting requirement. There are probably four or five other less material instances of non-compliance as you go to the back. I think there is one on loan forgiveness and amortization schedules that didn't match and the deposit of fees in separate accounts, but the reporting was where the most material findings. The Clean Water/Drinking Water findings, so you don't have to leaf through it, are towards the back. I believe they are 49 through the end. Take it back. They start a little earlier than that. 47 through the end. So from F-126 through F-146 are the specific findings related to Clean Water and Drinking Water.

REP. MCGUIRE: Follow-up?

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Follow-up question.

REP. MCGUIRE: So you're saying that DES just simply didn't file the report on this program?

MR. DRISCOLL: That was what we found, yes.

REP. MCGUIRE: Is there any response from them as to why or were they late the previous year?

MR. DRISCOLL: I think it's just resources. But there will be a response in the finding. So if we go to 50. It's 1512. I apologize. Yeah, it's 54 and 55. So it's just they acknowledge that they were supposed to be filed, and they just did not monitor the filing requirements appropriately due to staffing vacancies. There are no questioned costs associated with the reporting.

CHAIRMAN WEYLER: Further questions from the Committee?

** REP. RODESCHIN: I move to accept the report, place it on file, and release in the usual manner. I think I got back in time to make the motion.

CHAIRMAN WEYLER: Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN WEYLER: Senator D'Allesandro seconds. Further discussion? Looks like a year's work.

MR. DRISCOLL: It was. Thank you.

CHAIRMAN WEYLER: Going to be a week's reading.

MR. DRISCOLL: We'll be ready to start the next one in another six weeks. Thank you very much.

MS. FARRELL: Thank you.

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Seeing no further discussion, are you ready for the question? All in favor say aye? Opposed no? The report is adopted as specified in the motion.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Mr. Mahoney will introduce the next audit. Senator Morse for a question.

SEN. MORSE: Mr. Chairman, can we set some dates for Fiscal while we are all here?

CHAIRMAN WEYLER: Good idea. All right.

SEN. MORSE: What I would suggest is -- I know we want to meet in five weeks, but I would suggest that we set an interim date that only for tabled items. And if any work can be done on those items, great. If not, we come, open up and leave. So I would suggest just because Finance meets on Thursday in the Senate, if we would meet on the 26th at three o'clock, I'm hoping it's a short meeting. But I would think we could meet for tabled items only. So everybody understands that. And then if we could set the other date for the next Fiscal meeting, we can vote on it all now.

CHAIRMAN WEYLER: Okay. Motion by Senator Morse to set the Thursday, April 26th, at 3 o'clock for Fiscal Committee to discuss tabled items and take any reports and only restricted to those items. Is there a second?

SEN. PRESIDENT BRAGDON: Second.

CHAIRMAN WEYLER: Second by Senator Bragdon. Any further discussion? Any conflicts anybody knows of at this time? All right then. We will set that date. Want to set a date now for the next meeting of the Fiscal Committee for all other items?

SEN. MORSE: Might as well.

Joint Fiscal Committee

April 13, 2012

MR. PATTISON: Five weeks would be the 18th of May.

CHAIRMAN WEYLER: May 18th would be the next meeting at 10 o'clock. Anybody have any problem with that? We don't know Committees of Conference, but we'll just avoid those dates, if possible, or that time. The 18th of May at 10 o'clock for the next Fiscal meeting for the any other items. Anybody have a conflict at this time? Seeing none, we'll set those dates. 18th, Friday, at 10 o'clock and 26th of April at 3 o'clock. Just restricted to the tabled items. Thank you, Senator Morse.

Okay. Back to Mr. Mahoney.

MR. MAHONEY: Thank you, Mr. Chairman. The next audit on our agenda is the Turnpike System Management Letter. Joining me this morning to present the report to the Committee is Senior Audit Manager, Jean Mitchell, with our office. And we're also joined at the table by Patrick McKenna and Len Russell from the Department of Transportation.

CHAIRMAN WEYLER: Welcome.

JEAN MITCHELL, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Chairman Weyler, Members of the Committee. My name is Jean Mitchell. I'm here to present to you the Fiscal Year 2011 Management Letter of the Turnpike System. This Management Letter is a byproduct of the Fiscal Year 2011 audit of the system. The Turnpike System Comprehensive Annual Financial Report was presented to the Committee at the January 2012 meeting. I'd like to start on the Table of Contents.

This report contains 11 comments. One is a material weakness, eight are significant deficiencies, and two are State Compliance Comments. It should be noted that the Turnpike System agrees with all 11 comments and no comments suggest legislative action.

Joint Fiscal Committee

April 13, 2012

Going to Page 2 is Observation No. 1. This Observation is a material weakness. While improvements were evident in the Turnpike System's financial accounting and reporting processes during Fiscal Year 2011, instances were noted where Turnpike needs to continue its efforts to address weaknesses in its processing and reporting of financial transactions. Item numbers 1 through 5 in the report outline the weaknesses noted and include expenses being paid based on budgeted amounts rather than actual amounts. The inability to provide system-generated reports and properly account for and record Federal capital contribution, challenges related to the accounting and reporting of capital assets, and the need to record material and significant year-end adjustments.

We recommend that Turnpike continue in its efforts to improve its financial accounting and reporting processes and strengthen that effort through improved policies and procedures.

Observation No. 2 begins on Page number 7. This begins our significant deficiencies. This comment addresses weaknesses in the Open Road Tolling System known as ORT. That was put into operation at the Hampton Tolls in June of 2010. Turnpikes relies on a number of information systems to determine, accumulate, and report operational and financial activity of the ORT. The ORT concerns are outlined in items numbered 1 through 4 of the comment. They include the ORT system having not fully met operational acceptance criteria as of December 29th, 2011; incomplete documentation and data to support the testing that has been performed; and certain contract deliverables not being met, as well as ORT lane audits not being performed.

Observation No. 3 begins on Page 10. It speaks to the need to improve controls over quarterly lane audits that Turnpikes conducts to compare, observe transactions to those captured in the tolling system. We reviewed the June 30, 2011, lane audits and noted errors outlined in detail on Page 10. We also noted that 13% of the

Joint Fiscal Committee

April 13, 2012

transactions tested by Turnpikes relate to mismatched transactions, where the vehicle class detected by the toll sensor does not match the class indicated on the transponder. Turnpikes reported that it is its policy to charge the transponder account the higher vehicle class toll rate when a mismatch is determined. We recommend that Turnpikes review its lane audit protocols to ensure that policies and procedures are being followed.

Observation No. 4 begins in the middle of Page 12. This Observation recommends that Turnpikes works with its ORT system vendor to implement an automated error alert message to notify management if the data transfer between information systems fail.

On Page 13 you will find Observation No. 5. We recommend Turnpikes develop an appropriate disaster recovery and business continuity plan and perform a formal risk assessment of the ORT system. The disaster recovery plan was one of the outstanding contract deliverables as of December 29, 2011, referred to in Observation No. 2.

Observation No. 6 is located at the bottom of Page 14. This notes the need for Turnpikes to establish policies and procedures for accounting and reporting of capital assets that are replaced, sold, or removed from service.

At the top of Page 16 is Observation No. 7. This Observation recommends Turnpikes establish a review and approval control over its monthly revenue reconciliation process.

In Observation No. 8 on Page 7, we note that Turnpikes and the State Treasury have made improvements during the year in their cash reconciliation process. However, during testing we did note a \$560,000 overstatement in Turnpikes' cash that first appeared on a December 2009 bank reconciliation. It was not corrected until November of 2011 subsequent to auditor inquiry.

Joint Fiscal Committee

April 13, 2012

The last internal control comment is Observation No. 9 on Page 18. We recommend Turnpikes establish policies and procedures for payments of services received from other governmental organizations based on actual services received instead of budgeted amounts.

Our State Compliance Comments begins on Page 20. The first one notes two instances where Turnpikes was not in full compliance with certain requirements in the general bond resolution related to the revenue bonds. These issues were included in a debt covenant letter that was presented to the Committee during the January 2012 meeting.

Our final comment, Observation No. 11, states that Turnpikes' transponder inventory fund at June 30, 2011, exceeded the \$1 million balance in the statute.

Behind the tab is the current status of the Fiscal Year 2010 Management Letter of the Turnpike System. Of the six Observations, three are fully resolved, two are partially resolved, and one is fully resolved.

I'd like to thank the Committee for its time this morning. I'd also like to thank the Turnpikes System management and staff for all their help and cooperation during the audit process. And we can certainly address any questions you might have right now.

CHAIRMAN WEYLER: Representative McGuire.

REP. MCGUIRE: Thank you, Mr. Chairman. Thank you. I think this was number three regarding the differences between -- a mismatch between the transponder and the number of axles on the vehicle is what I thought I heard. Does this mean that somebody is driving through with a truck when they have a transponder from a car or something like that?

MR. MCKENNA: Yes. Representative, that's -- that's partially correct. It's essentially a class of the vehicle

Joint Fiscal Committee

April 13, 2012

itself. In our response you'll note that -- that Turnpikes System has found and detected the software issue there and has approved this software fix. It was fully implemented on February 13th of this year. So we don't anticipate that this will be a problem in the future.

REP. MCGUIRE: Follow-up?

CHAIRMAN WEYLER: Follow-up.

REP. MCGUIRE: So the system has a way of detecting that the vehicle is a bigger vehicle than a car? Is that --

MR. MCKENNA: That's correct.

REP. MCGUIRE: Oh, that's interesting.

MR. MCKENNA: There are different rates on the tolls for different vehicles.

LEN RUSSELL, Department of Transportation: Axles.

MR. MCKENNA: Based on axles.

CHAIRMAN WEYLER: Comments? Mr. McKenna or Mr. Russell going to speak for Turnpike?

MR. MCKENNA: Certainly. Members of the Committee, Mr. Chairman, thank you. We appreciate the work that both internally our staff in Turnpikes and Finance and Contracts did to work with LBA over the audit period. We appreciate the work that the Legislative Budget Assistant and their staff did and their diligence in the review. Most of the items that are in here were part of the letter that came forward to the Fiscal Committee in January. We responded specifically on all of the financial areas. I would note that we have also secured and implemented some fixed assets software on a -- what we would consider to be an interim step between the spreadsheet collection of infrastructure

Joint Fiscal Committee

April 13, 2012

assets and ultimately what the State system will be implemented statewide. So we believe we're also dedicating staff time for that as well, and we're working through that. It's implemented. And we see that as being very beneficial to the Department and the State. I don't have other comments specific to the findings. We have submitted in writing and it's recorded in here all of the Department's responses and we'd be happy to answer any questions.

CHAIRMAN WEYLER: Any further questions?
Representative McGuire.

REP. MCGUIRE: Thank you. Patrick, what level of assets are in this database? Does it go down to, I don't know, furniture and that kind of thing?

MR. MCKENNA: Yes. Yes, it does. What we are implementing is actually a software package that have implemented in other places that work. It's one that many audit firms use when they're coming in to test fixed assets. It is not a system that will automatically record them. We still have to, through analysis, through some 35 systems that store and maintain this data, be it bridges, highways, office equipment, and others, but it gives us a better way to retain that information to make sure that the depreciation is calculated properly, and to put in place the procedures as several of them recommended by LBA for the removal of assets. We retain the assets at historic value and there hadn't been in place, really, throughout the history of the Turnpikes that process of removal because we also show the full accumulated depreciation. So the net asset value on the books has been accurate. And we do need to improve that process to remove those assets so they're not recorded either in accumulated appreciation or the asset listing.

REP. MCGUIRE: Can I assume you're using the same thing at DOT for the highway system?

Joint Fiscal Committee

April 13, 2012

MR. MCKENNA: Yes, absolutely. And the -- just for the Committee's information, that software was -- we received five licenses for \$4,000.

REP. MCGUIRE: Thank you.

MR. MCKENNA: You're welcome.

CHAIRMAN WEYLER: Anything further? Mr. Russell, any further comments?

MR. RUSSELL: I'll just add my two cents. I just want to thank the LBA staff, too. And, of course, our staff that I thought this year was an exceptional year. We do have a complement of staff that are eager to address these issues. A lot of these issues that are brought up are year, after year, after year, some going as far back as ten years. And I feel confident that this year we are on a track to get those straightened out.

CHAIRMAN WEYLER: Excellent.

MR. RUSSELL: I want to thank you.

CHAIRMAN WEYLER: Representative Rodeschin is recognized for a motion.

** REP. RODESCHIN: To accept the report, place it on file, and release in the usual manner.

CHAIRMAN WEYLER: Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRMAN WEYLER: Second from Senator D'Allesandro. Any further discussion? Seeing none; all in favor of the motion say aye? Opposed no? Adopted unanimously. Thank you very much.

*** {MOTION ADOPTED}

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: Mr. Mahoney will introduce the next audit.

MR. MAHONEY: Thank you, Mr. Chairman. The next audit on our agenda is our performance audit of the Public Utilities Commission and its administratively attached agencies. Joining me this morning to present the report is Vilay DiCicco. Vilay is a Senior Audit Manager with our office.

We'll also be joined at the table by Commissioner -- Chairman of the Commission, Amy Ignatius.

AMY IGNATIUS, Chairman, Public Utilities Commission: Good morning.

MR. MAHONEY: And the --

RORIE PATTERSON HOLLENBERG, Acting Consumer Advocate, Office of Consumer Advocate: Rorie Patterson Hollenberg, Acting Consumer Advocate.

CHAIRMAN WEYLER: Acting what?

SEN. MORSE: Consumer Advocate.

CHAIRMAN WEYLER: Consumer Advocate. Thank you.

VILAY DICICCO, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, and Members of the Committee. My name is Vilay DiCicco and this morning I will be presenting the performance audit of the Public Utilities Commission and its administratively attached agencies, the Office of Consumer Advocate and the Energy Efficiency and Sustainable Energy Board.

The purpose of our audit was to determine whether the Public Utilities Commission, the Office of Consumer Advocate and the Office of the Energy Efficiency and

Joint Fiscal Committee

April 13, 2012

Sustainable Energy Board were efficient and effective during Fiscal Years 2010 and 2011. Our Executive Summary of the report is found on Page 1.

We found the PUC was effective and efficient in acting as the arbiter between the interests of consumers and regulated utilities. Both utilities and consumers were generally satisfied with the PUC's processes for handling filings and consumer complaints. We did find several areas in which the PUC could improve its internal procedures to increase its efficiency and effectiveness.

The Office of Consumer Advocate or OCA was generally efficient and effective, although we found its effectiveness was hindered by the lack of direct access to consumer complaint information which is maintained by the PUC. As a result, it could not analyze information to identify trends in consumer complaints. The all-volunteer Energy Efficiency and Sustainable Energy Board or EESE Board was established to promote and coordinate energy efficiency, sustainable energy, and demand response. However, we found it could not fulfill its statutory obligations due to insufficient statutory authority and budgetary resources.

Our Recommendation Summary starts on Page 3. Our report contains 16 Observations and Recommendations, five of which may require some legislative action. The PUC concurred with four of the fifteen Observations affecting its operation. It concurred, in part, with nine and did not concur with two. The OCA concurred, in part, with the one observation affecting its operation and the EESE Board concurred with the observation affecting its operation.

Starting on Page 7, we present some background information on the PUC, the OCA, and the EESE Board. The PUC has jurisdiction over rates, service, safety and financing for regulated electric, natural gas, telecommunications, water and steam utilities in the state. To fulfill its responsibilities the Commission investigates

Joint Fiscal Committee

April 13, 2012

and rules on issues ranging from proposed rates and charges, rules and regulations, debt financing, ownership and other utility related matters. The Commission does not regulate cable TV, cellular, out-of-state long distance or Internet service providers.

The OCA is administratively attached to the Commission and consists of the Consumer Advocate and four personnel. The Consumer Advocate position is currently vacant. The office is responsible for advocating for reasonably priced, safe, and reliable service. It has the power to petition, intervene, or appear in any proceeding concerning utility rates, tariffs, charges, and customer service. The 25 member volunteer EESE Board is statutorily established to review energy efficiency, conservation, demand response, and sustainable energy. It's also charged with compiling a report of these resources, developing a plan to achieve energy efficiency, and developing a plan for economic and environmental sustainability of the State's energy system. The EESE Board has not been appropriated any funds since its creation in 2008.

Our Observations start on Page 11 with the PUC. The first four Observations address areas where the PUC should improve compliance with laws and administrative rules or clarify its rules and policies. In this section we recommend the PUC and the Legislature review its contracting practices, clarify when secretarial letters should be used rather than issuing formal orders, clarifying its rules regarding safety inspections, and establishing rules regarding when costs can be passed down to consumers for rate case expenses.

Our next two Observations discuss staffing, and we start with Observation 5 on Page 17, which discusses the need to review utility analyst positions in the Consumers Affairs Division and hearings examiners in the Legal Division. We found the current classifications do not accurately reflect actual job responsibilities. And we found reclassifying utility analyst positions could save

Joint Fiscal Committee

April 13, 2012

the PUC as much as 150 -- \$115,000 during the two-year audit period. Hearings examiners also did not conduct hearings as they are classification specified. So we recommend updating job descriptions for these two positions, utilizing hearings examiners consistent with their job description, and reclassifying positions as appropriate.

Observation 6 starting on Page 21 discusses personnel practices and staffing. The Commission has not conducted a comprehensive agency-wide staffing analysis in 11 years. We also found the Commission hired some personnel meeting only minimum qualifications at higher than the minimum step. We recommend the PUC conduct a staffing analysis and ensure personnel are hired at the lowest step possible. We also recommend the Department of Administrative Services consider amending its rules to require documentation to justify hiring personnel at above the minimum step.

Our next three Observations starting with Observation 7 on Page 25 discusses the need to develop division specific policies and procedures, supplementing the PUC's ethics policy with additional procedures and developing policies and procedures for using audio equipment in the hearings room. We also recommend the Legislature update RSA 363:12-b which places prohibitions on some positions from accepting employment with regulated utilities after leaving PUC.

Observation 10 on Page 30 discusses ways in which the PUC can improve adjudicatory timeliness. Utilities reported the adjudicatory process was not efficient and hearings were not held timely and orders were not issued timely in non-rate related cases. So we recommend the PUC use tele and video conferencing, determine whether hearings can be presided over by one or two commissioners instead of all three, utilizing hearings examiners, and actively reducing the number of postponements or extensions, and including only needed staff in deliberations. We also recommend the Legislature consider establishing time frames for non-rate

Joint Fiscal Committee

April 13, 2012

related cases.

Our next observation, Observation 11 on Page 32, addresses the energy efficiency programs, such as Energy Star and the compact fluorescent light bulb rebates which are managed by the utilities. We found the program could benefit from active management between filings which going forward will occur every two years. We recommend that PUC delegate some of its authority to a manager independent of the utilities to monitor the program and transfer the responsibilities for the programs from the Electric Division to the Sustainable Energy Division whose mission and expertise more closely align with the program goals. We also recommend that PUC utilize a method other than the adjudicatory process to review and approve these programs as it has been thought to be the least effective way to design them.

Observation 12 on Page 35 discusses the need to strengthen controls over information technology, such as better controls over portable assets and encrypting devices, defining when portable assets can be taken home, reducing the number of unneeded portable assets and ensuring better accountability.

We also recommend implementing transaction logging and edit controls as well as testing or advising the continuity of operations plan.

Our last two Observations in this section discuss the Consumer Affairs Division. Consumers we surveyed reported better communication was needed during the complaint process, and we found Consumer Affairs Division did not always ensure all fields in their database were complete and did not track some outcomes. We recommend the PUC document the complaint outcomes to ensure results are appropriate and ensure all fields in their database are complete.

Our next section in the report start on Page 30 --

Joint Fiscal Committee

April 13, 2012

sorry -- 43 and it discusses the Office of Consumer Advocate. We found the OCA's ability to fulfill its statutory function was limited as it had no direct access to consumer complaint information which is reported directly to the PUC. Without adequate information -- input from residential rate payers or direct access to consumer complaints, the OCA cannot effectively identify trends. Direct interaction with consumers can enhance the effectiveness and efficiency of the OCA's advocacy. We recommend the Legislature consider moving the Consumer Affairs Division functions and its staff to the OCA.

Our last Observation, which is on Page 51, discusses the Energy Efficiency and Sustainable Energy Board, the EESE Board. Statute tasks the Board with numerous responsibilities. However, we found it did not have sole authority in many areas and acted more as a clearinghouse for energy issues. The Board also was not appropriated funds to fulfill its obligations; and, therefore, many of its duties were not fulfilled. We recommend the Legislature consider the purpose, the objective, and function of the Board and whether they can be accomplished with the limited resources and authority assigned.

On Page 55, we discuss three issues we consider noteworthy but were not developed into formal observation and the PUC may wish consider these. The remainder of our report contains our scope, objectives and methodology, a letter from the PUC, the results of our five surveys, and the current status of the prior audit findings.

We would like to thank the PUC, the OCA, and EESE Board staff for their cooperation during the audit process, and this concludes my presentation. We'd be happy to answer any questions you may have.

CHAIRMAN WEYLER: Questions from the Committee?
Representative McGuire.

REP. MCGUIRE: Thank you, Mr. Chair. Thank you for

Joint Fiscal Committee

April 13, 2012

coming.

Observation No. 1 seems to be a little bit of a disagreement between the PUC and the LBA. Would this be a good subject for legislation to clear up whether Governor and Council should approve these contracts?

MS. DICICCO: I believe it is. One of our recommendations is recommending that the Legislature consider whether the PUC should be required to submit all of its contracts above the State policy threshold to the G & C, and whether it should be using competitive bidding for services over \$2,000.

REP. MCGUIRE: All right.

CHAIRMAN WEYLER: After the orange sheet you'll see five recommendations requiring legislative action. Normally, I follow-up on these by filing legislation. I'll be consulting with Representative Garrity, make sure that people in Science and Technology are aware of the audit and if they're wanting to join or even be the prime sponsors of proposed legislation which will be before us probably next year. Any further questions for Miss DiCicco?

REP. RODESCHIN: There's another one.

REP. MCGUIRE: I'll ask another one. On Page 9 there's -- it shows the expenses of the Department -- of the PUC. And there's a considerable decline from '10 to '11, which I guess looks -- sounds good. Was there a lowering of taxes or something like that or fees charged on electricity that caused this?

MS. DICICCO: The main reason for the decline is if you look at the line items which talk about the Greenhouse Gas Emissions Reduction Fund and the Renewable Energy Fund, those sources of funds were significantly decreased which as a result the grants that were awarded for those -- that year went down, also.

Joint Fiscal Committee

April 13, 2012

CHAIRMAN WEYLER: We changed those by law. We were phasing out RGGI.

REP. MCGUIRE: Terrific. Thank you.

REP. STEPANEK: Actually, if I could weigh in on that? The primary reason for those funds decreasing is because the amount of money from auctioning the RGGI credits off, the carbon credits, has dramatically dropped. And therefore, the amount of money that's being distributed through RGGI back to the states has dramatically dropped. And that's the primary reason for that reduction, I believe. We have been unsuccessful in scaling back or changing RGGI at this point in time.

REP. MCGUIRE: So the market is getting its RGGI mark.

REP. STEPANEK: Absolutely.

CHAIRMAN WEYLER: That and the economy.

REP. MCGUIRE: Interesting. Thank you.

CHAIRMAN WEYLER: All right. Let's hear from Commissioner Ignatius.

MS. IGNATIUS: Thank you very much. Good morning, Chairman Weyler, and all the Members of the Committee. My name is Amy Ignatius. I'm the recently confirmed Chairman of the PUC. And with me also is my fellow Commissioner Michael Harrington, and our Executive Director Deborah Howland seated back.

We are happy to answer questions and to respond to the audit itself. I am extremely proud of the work of the Commission, of the people who work there, of the work that we do, and we welcome scrutiny. We welcome anybody asking hard questions because we do the same thing everyday at the Commission. And I have actually a handout that -- maybe

Joint Fiscal Committee

April 13, 2012

that's what you're receiving right now. Maybe I should have given you a copy as well. That goes through that same summary sheet but takes the step further of showing you where we are in implementing recommendations that we agree with, steps that we've already taken or will be taking in response. Because we do take this seriously and we want to make the Commission as effective as it can be.

As you heard the finding is that overall we are effective and we're efficient, but we can obviously always look for ways to continue to be even more so. And that we have processes that balance the interest of consumers and regulated utilities, but we always have to be looking at our processes and make them more efficient, more timely, and more responsive.

There was a consistent theme in the comments that you heard and you'll see when you have a chance to really pour through the audit and that's write it down, have written policies for the things that you're already doing. So it's not that what we're doing is wrong, but there are times where we do it because that's the way we do it. And we should find ways to put all of that into writing and we are going to -- we have already started some of that and will continue to do so.

We were able to work very cooperatively with the LBA staff and able to resolve a number of differences of opinion that had to do with how we interpreted either our operations or the meaning of statutes. We have a tremendously complex area of things we cover and so we struggled our way through it month after month. And we appreciate their willingness to hear us out.

I think one of the things that is really important to think about when you look at the Commission and its operations is to understand that over the past 20 years the Legislature has greatly expanded our duties. And there are things we do now that we never did, never dreamt of doing. We now deal with emergency response. There's a whole new

Joint Fiscal Committee

April 13, 2012

world of competitive supply issues for tele-communications, gas, and electricity that we now take on. We have the whole new Sustainable Energy Division. And we have a significant role in regional issues where we act as an advocate for New Hampshire's interest in regional electricity and energy matters. I just want to give you one example of what that means. It's something we don't usually think about. We just think of rate cases and more traditional retail relationships. This was one that was led by Commissioner Harrington to get the regional energy regulator of the grid, of the power grid that goes through the New England region, ISO-New England, to incorporate energy efficiency, reduction of energy usage into its planning for transmission. So rather than taking a constrained area and building a whole lot more at enormous expense, we have been pushing the ISO to think about ways of reducing energy and solve the problem without all of that construction.

The process has been successful. It now is calculated to expect to be to \$260 million saved to the region over the next ten years and New Hampshire's share is \$26 million over ten years that New Hampshire rate payers will not have to spend on upgraded transmission. That's something that Commissioner Harrington and others who worked on this regional effort really brought about. And it's just a tremendous savings and an example of how fighting hard, even from New Hampshire, against the vastly greater region, has had some real success.

All of those new duties have changed what we do and I'm proud to say that over those 20 years we haven't changed our staffing level one bit. We have the same number of people even as we've increased and taken on new and fairly complex matters. So we're working to be as efficient as we can. We are working to respond and be flexible to changes. And there will be more to come, I'm sure. And we are working to respect the fact that budgets are tight and that we have got to do more with less and we have got to do it more effectively.

Joint Fiscal Committee

April 13, 2012

On any of the specific issues I'll answer any questions you have. I -- I -- you'll see from the handout that we're already under way on a number of them. They'll take -- some of them have been finished. The check mark means it's done or it's formally underway. And on ones that will take longer, obviously, we'll work with the Legislature. We'll work cooperatively with Department of Administrative Services on any sorts of issues. And we are happy to update you to the extent that's helpful or to work with Senator Odell's Committee and Representative Garrity's Committee which are the primary entities that we deal with on substantive matters that we undertake. So I'm happy to answer any questions now or at any point in the future.

CHAIRMAN WEYLER: Thank you, Commissioner. I see in your recommendations that you're not in agreement on all the Legislature suggestions and I don't see one on number 16 which talks about the Energy Efficiency and Sustainable Energy Board. The question's whether we should give them more authority or whatever.

MS. IGNATIUS: Representative, it's a good question. I didn't address that because it wasn't addressed to us. They're administratively attached, but we don't otherwise have authority over them. The EESE Board has an enormous task and no support. The auditors are absolutely right. It was envisioned to be a sounding board. A place where all interested people come together and if that's -- for that function I think it does well without needing a lot of other money. We provide some administrative help. We do the minutes and we get the notices out. We use our offices and set up the chairs, and that's about it. If they want to undertake more work, real research, bring in expertise, write reports, things beyond that clearinghouse function, then I think -- I think you do need some additional staff support or budget item to be able to retain outside consultants. They really don't have any ability to do that. So it's all volunteer and people have spent a lot of time participating. At some point they may -- they may get fatigued. But so far they still do an awful lot of work

Joint Fiscal Committee

April 13, 2012

just because they think it's something that is valuable for everyone to undertake.

CHAIRMAN WEYLER: Thank you. Questions for the Commissioner? Representative McGuire.

REP. MCGUIRE: Thank you, Mr. Chairman. Thank you, Commissioner, for coming. This is slightly off topic, but I know that New Hampshire's largely a rural state. I'm wondering if there's any ongoing projects to increase the availability of natural gas around the state, and in particular, if there's things that you or we could do to help that along?

MS. IGNATIUS: That's a very interesting question. I know that there had been an effort to bring natural gas into the North Country within Berlin. And there had been expansions into the Tilton-Laconia area maybe ten years ago or so. They're very expensive projects to expand. So I don't know of any currently taking place. There's been some upgrades. There's a compressor station now in Pelham that was put in a year or two ago to make sure there's adequate pressure. So that -- so that that's sort of one step involved in being able to expand. Let me just -- are there any other projects?

MICHAEL HARRINGTON, Commissioner, Public Utilities Commission: Not that I'm aware of at this time, no.

MS. IGNATIUS: You know, I think we'd be open to looking at it if there are areas that are particularly interested. It's really a matter of cost.

REP. MCGUIRE: Thank you.

CHAIRMAN WEYLER: Representative Rodeschin.

REP. RODESCHIN: Isn't some of the problem Vermont? They don't want you -- people that have land there, they don't want the gas to come through their property? Seeing

Joint Fiscal Committee

April 13, 2012

I live on the western side of the state.

MS. IGNATIUS: I'm not going to answer that question if I don't have to.

REP. RODESCHIN: Why?

MS. IGNATIUS: I don't know about what Vermont's view is.

REP. RODESCHIN: That's what I hear back on the western side of the state. They don't want the gas to come through their state.

CHAIRMAN WEYLER: We have already got it on the eastern side. Senator Bragdon.

SEN. PRESIDENT BRAGDON: Just point out, Mr. Chairman, the purpose here is to discuss the audit and we could have lovely policy discussions all day long about where they can find gas.

REP. RODESCHIN: I didn't bring it up.

SEN. PRESIDENT BRAGDON: Which might be related actually, but.

CHAIRMAN WEYLER: Thank you. Any comment on the audit from Office of Consumer Affairs?

MS. HOLLENBERG: Good morning. Again, my name is Rorie Hollenberg. I am the Acting Consumer Advocate at this time. I serve as Assistant Consumer Advocate as well, and I'm proud to appear on behalf of the OCA and my dedicated hard-working colleagues, one of which is here with me today, Christina Martin, who some of you may have connected with on behalf of constituents. She's really the face of the Office of Consumer Advocate.

I'm pleased -- we were pleased, really, with the

Joint Fiscal Committee

April 13, 2012

opportunity that we had to work with the audit. We do attempt to have processes and procedures in place to do things well and efficiently. We are a group of five individuals, and we work very hard to do that. So we were happy to have auditors come in and look at how we were doing in our performance during the audit period. We found the audit process to be reasonable, efficient, and cooperative. And we also found the individuals with whom we worked with the audit folks to be very professional and respectful.

There is the one finding in the audit report related to the Office of Consumer Advocate which is consistent, actually, with the OCA's efforts in recent years to increase its access to information about residential rate payers. We typically act in a very reactive way at the OCA to filings of the utilities and cases initiated on behalf by the Commission itself and ordinarily are not able to act proactively on behalf of groups of residential customers because we aren't the Agency that receives individual customer complaints at this time. And what little -- what information we do receive about individual customer complaints tends to be very high level, aggregated, and general information.

We do, the OCA and the PUC, have worked for several years on attempting to come up with a way that this information can be transferred between the PUC and the OCA so that it could be used more effectively and there has been attempts to do that. And the PUC has recognized in those efforts the importance of the OCA's access to this type of information. We just believe that there has to be a more efficient way of doing it than dealing with it on an individual basis, and sometimes dealing with it in a inconsistent way. So we're open to having a discussion about how we can accomplish that in effecting that goal. And I'm happy to answer any questions that you might have.

CHAIRMAN WEYLER: Thank you. Any questions from the Committee? Seeing none, I recognize Representative

Joint Fiscal Committee

April 13, 2012

Rodeschin for a motion.

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

REP. MCGUIRE: Second.

REP. RODESCHIN: I live close to Vermont so give me a call.

CHAIRMAN WEYLER: Second by Representative McGuire. Further discussion? Seeing none; are you ready for the question? All in favor accepting the report as in the motion say aye? Opposed no? The motion is adopted.

*** {MOTION ADOPTED}

MS. IGNATIUS: Thank you.

CHAIRMAN WEYLER: Thank you very much. I think we have one more left.

MR. MAHONEY: Yes, Mr. Chairman. The last audit on the agenda is our Financial Audit of the Banking Department. Joining me to present the report to the committee is Christine Young. Christine is a Senior Audit Manager with our office who was responsible for supervising the audit on a daily basis. And we are also joined --

CHAIRMAN WEYLER: Big group for one of the smallest audits.

CHRISTINE YOUNG, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Mr. Chairman, and Members of the Committee. For the record, my name is Christine Young, and I'm here to present the report on the audit of the Banking Department for the Fiscal Year ended June 30th, 2011.

If you turn to Table of Contents, you'll find this

Joint Fiscal Committee

April 13, 2012

report includes two material weaknesses, ten significant deficiencies, and four State Compliance Comments, one of which Observation No. 13 is considered to be a reportable non-compliant comment. The three asterisks identify findings that may require legislative action.

In the introduction on Page 1 of the report, it's important to note that this audit excludes the financial activity of the Public Deposit Investment Pool and the financial activity of the Noble Trust Company. The Bank Commissioner took control of the Noble Trust Company assets in February 2008 after a scheduled examination revealed irregularities in Noble's operations.

On Page 2 you'll find the Department is self-funded. The \$1 million deficiency of revenues over expenditures at June 30th, 2011, is supported by a deferred revenue accrual related to the Department's September 2011 billing of the Fiscal Year 2011 administrative assessment. I would now like to turn to discussion of the Observations and Recommendations beginning on Page 6.

Observation No. 1 is a material weakness. Here we note the lack of updated statutes, rules, and policies and procedures placed the Department at significant risk that it would not accurately record its financial operation and efficiently and effectively meet its regulatory responsibilities. We recommended the Department strengthen its controls through the adoption of policies and procedures intended to formalize and make routine its effort to maintain a current, relevant, and effective regulatory framework for efficient enforcement of the State's banking laws.

Observation 2 on Page 7 is also a material weakness. This comment lists several weaknesses in the Department's process for receiving, depositing, and recording checks received through the mail, the most significant of which included an improper segregation of duties. The two employees who prepare the initial recording of receipts

Joint Fiscal Committee

April 13, 2012

also record the transactions into the Department's revenue databases and regularly input revenue waivers into these databases. The incompatible duties of processing accumulated receipts and recording transactions in the databases increases the risk that Department revenues could be lost or stolen without detection.

Observations 3 through 5 starting on Page 9 discussed the need to establish written policies and procedures related to significant Department operations; such as the establishment of per diem rates for bank examinations performed by Department staff as noted in the first bullet on Page 9; the allocation of costs between the Department's two divisions, noted in the second bullet on that page; and the need to establish a formal written policy prohibiting Department examiners from performing outside work as required by statute which is discussed in a bullet at the top of Page 10.

At the bottom of Page 10 we also recommended the establishment of policies and procedures to ensure the Department responds timely to consumer complaints of unfair or deceptive acts or practices. And on Page 12 we recommended the Department establish formal fraud risk mitigation policies.

Observation 6 through 8 starting on Page 13 identify areas where the Department could establish or improve controls over its financial activities, the most significant of which include the Department's purchase of \$150,000 of software in 2010 that is not expected to be implemented until July of 2013, as noted in the third bullet on Page 13. Needed controls related to the transfer and storage of confidential information are discussed in the second group of bullets on Page 13. And the need to establish controls to support the Department's reliance upon a mortgage licensing service provider that collected and remitted \$667,000 of license fees to the Department during Fiscal Year 2011 is noted in Observation 7 on Page 14.

Joint Fiscal Committee

April 13, 2012

Observations 9 through 11 starting on Page 16 note deficiencies in the Department's accounting for revenues and expenditures, including improper accounts receivable reporting practices, as discussed in a bullet at the bottom of Page 16. And in bullet three on Page 17 we note the need to report control over the assets of the Noble Trust Company to the Department of Administrative Services.

The final internal control finding is Observation 12 on Page 19. This finding notes the Department had not completed its strategic plan and we recommended completion of the plan.

Page 21 is the start of the State Compliance Comments. Observation 13 identifies numerous required and discretionary administrative rules related to the Department's operations that had expired or had not been adopted leaving regulated entities with a lack of clear guidance on the rules that they're required to follow. A similar finding was also noted in our prior audit of the Department.

Observation 14 on Page 23 discusses the Department's annual assessment to institutions it regulates in order to recover costs of operating the Department. The comment notes the Department's assessment practices are not in strict compliance with statute. The Department calculates the assessment to regulated institutions based on actual expenditures incurred instead of appropriations. If the billings were based on appropriations, the Department could bill its assessment closer to the start of the Fiscal Year improving the State's cash flow.

We recommended the Department base its assessment on appropriations as provided for in the statute or seek to amend the statute if it intends to continue the current practice. We also recommended the Department establish administrative rules and policies and procedures for its assessments.

Joint Fiscal Committee

April 13, 2012

Observations 15 and 16 discuss additional instances of non-compliance with State statute.

On Page 26 is the opinion on the financial statement. The opinion reports that the financial statement in the report is fairly stated. The auditor's opinion is followed by the actual financial statement note disclosures and a supplementary budget to actual schedule.

The Appendix on Page 39 provides a status as of June 30th, 2011, of the comments included in the prior audit report.

That concludes my summary of the report. I'd like to thank the Department for their help and cooperation during the audit. And we'd be happy to answer any questions the Committee may have at this time.

CHAIRMAN WEYLER: Questions from the Committee?

SEN. PRESIDENT BRAGDON: I may have one, but I'd like to hear the response.

CHAIRMAN WEYLER: You want to hear the response from the Division?

RONALD WILBUR, Commissioner, N.H. Banking Department: Certainly. My name is Ron Wilbur. I'm the Commissioner of Banks. I'm joined today by Dawn Allen, who's our business manager, and Glenn Perlow. Glenn has joined the Department in October as our general counsel, a position that was absent for some six or eight months. Since then, Deputy Fleury has left the State service and I've assigned his duties to Glenn Perlow. So that's why we have a group that's sort of in transition.

I think I should begin by thanking the auditors that came in. The nature of our business, as we understand, there's always a certain tension between auditing and the organization. And we found that where there were areas of

Joint Fiscal Committee

April 13, 2012

disagreement or discussion it was handled professionally, and I think we came to conclusions that were responsible and reasonable. So we appreciate the way they handled the audit.

This has been, I would say, a year of firsts for me. I'm still in my first year as Commissioner. I will say that in my prior position as a CEO of a bank, this is not an audit I probably would have enjoyed receiving. But I can assure you that we are taking all of these recommendations seriously. There are one or two that we'd like to deal with the Legislature in terms of see if they might consider and allow our current practices to consider and we have discussed that with the auditors.

I should mention a couple of things that you may -- you may or probably are aware of at least one. During this past couple of years, it's been an unsettling time in the Department. There was a period of time without a Commissioner. There was a period of time without a general counsel. But since we really became fully staffed this past -- in particular this summer, and again with Glenn coming in, we have been addressing, I'm pleased to say, a number of these things even prior to the audit recommendations. For instance, we did adopt, we worked and started a new strategic plan in the fall that was actually during the audit on my desk waiting for a final cover letter. It has been adopted and implemented. Several of the items that are required or expected to be dealt with here. For instance, the rules which have been out of -- inconsistent for awhile, we have established a Rules Committee. I would expect within four to six weeks we'll begin the first phase of bringing up-to-date a number of the rules. We're also looking at the legislative recommendations that have been implemented, as you know -- or as recommended. As you know, the banking industry and the industries overall that we oversee are in a world of change. So without offering as an excuse, it is a challenge to keep up-to-date. But it is our intention to do our best to find those spots that were pointed out and perhaps more

Joint Fiscal Committee

April 13, 2012

that we should be looking at working with the various banking, credit union, mortgage bankers, et cetera, as we need to do some things.

So with that, again, I don't want to offer excuses, but I can assure you that we are taking this seriously. For me, and I think our staff in general, it provides a good set of guidelines and test for us, gives us some specific direction, and we will be proceeding to do our best to meet the recommendations. And with that, I would be happy to try to answer any questions you may have.

CHAIRMAN WEYLER: Any questions? Senator Bragdon.

SEN. PRESIDENT BRAGDON: Thank you, Mr. Chairman. Thank you, Commissioner. I'm particularly interested in Observation No. 4 about responding to consumer complaints. I think that all of our antennas are up as a result of what happened with FRM.

MR. WILBUR: Certainly.

SEN. PRESIDENT BRAGDON: In looking at the auditors' report there were 92 complaints that were still open. They selected five of them. Of the five, only one had been addressed timely by the Department. Two of the complaints had significant delays. One more than nine months. The other more than three months, between the time the Consumer Credit Department initially determined the entity was unlicensed and request for information and then two other complaints had significant delays between the time the CCD requested the information and for which a ten-day response was required and there was an order to show cause and it closes with this paragraph. The lack of timely response and follow-up to a consumer complaint increases the risk that consumers may be harmed by unfair or deceptive acts or practices.

That's clearly what we've seen recently, and we won't get into who's to blame because that consumed a lot of time

Joint Fiscal Committee

April 13, 2012

awhile ago. There's a lot going on. But, boy, this was a key component of that and I guess I'd like -- I know you're new, but I'd like your response to that to make me feel more comfortable --

MR. WILBUR: Certainly.

SEN. PRESIDENT BRAGDON: -- that we're not going to have the same thing happen again.

MR. WILBUR: Certainly. The first thing I would say we have, in fact, on my desk a final draft of my review and for Glenn in his capacity, really, as general counsel review of a complaint policy. And it deals with the different kinds of complaints and different kinds of regulated institutions we use. That will be put in place within a very short period of time. I'd be surprised if it isn't within a month. That will set specific guidelines and measurement factors for us internally to stay on top of.

I will say to you that one of my first impressions coming into the Department is much of the activity in the Department, as you all know, we have banks, credit unions, and trust companies, but the Consumer Credit Division is -- we have somewhere over 800 institutions to be licensed or registered. And that is -- that is where a significant amount of the activity, specifically, in the complaints area come. So we are -- we are doing several things. One, we are doing some reorganizing in the consumer credit area to put some more specific accountability in certain areas, one of which will be dealing with complaints. Secondly, Glenn has done -- has done, I think, a very nice job of reorganizing and re-coordinating the Legal Department which is also part of one of the steps in complaints is to send it to Legal.

So to answer to try to be -- try to be helpful, number one, when I came in and Bob -- Deputy Bob Fleury and I talked, this was obviously an area we needed to. We had quite a backlog. Don't hold me to it, but my memory is the

Joint Fiscal Committee

April 13, 2012

end of 2010 we had somewhere in the vicinity of 650 open complaints. Now, again, with all due respect to our group, they were challenged with many, many things. This is a good group I have found and they work very, very hard to get this pool of open complaints down and decide this in 60 days in the Consumer Credit Division Area, and I think we are down to a much more manageable and reasonable. I think it's around 200 now.

We receive a lot of complaints and issues so -- and particularly with the -- with the discussions of the AG settlement. We have seen a resurgence of interest and we are working with the AG's Office in terms of filtering appropriate complaints to banking versus the AG's. So I think that 200 is a pretty responsible and manageable area for us. But it does involve integration of legal, consumer credit division, and sometimes outside forces, places like the AG. So with the policy and some of the reorganization and with the very strict orders that we don't let this get backed up again, I'm feeling more confident that we won't see some of the issues that have cropped up in the past.

Glenn, I don't know, since Glenn has really had a role, whether you want to add anything to any of that.

GLENN PERLOW, ESQ., Legal Counsel, N.H. Banking Department: Well, only agreement. There are two kinds of entities in CCD, broadly speaking. There's licensed and unlicensed. Very different worlds. Obviously, we get great response from licensed entities. They have a lot more skin in the game, and we have shorter statutory time lines to deal with those. So I think -- I think the complaints that are looked at here, as I understand it, were largely unlicensed. First problem generally is you can't find them. We get a hint or a tip from a consumer and a lot of time it's been researching who they are and where they are and very often it's sort of a game of whack the ball. By the time you reach out, they have moved to another state or they have dropped out of business. That will always be a challenge. But I would echo the Commissioner's sentiments.

Joint Fiscal Committee

April 13, 2012

When I arrived, this was topic one that I was hearing. And I think there was around 200 to 250 complaints is an operative number. We will always be there. That's a sort of normal number. And so more we look at three months is a sort of a max time line that we want to see. You're always going to have outliers, but that's a standard we are holding ourselves to.

The complaint policies that Commissioner was referring to are in three parts that we are dealing with banking and the two kinds of CCD entities separately. And I think especially given this influx of complaints related to the servicing settlement, we feel on top of it, but we do recognize that the policies will help drive that to continue.

SEN. PRESIDENT BRAGDON: Thank you.

CHAIRMAN WEYLER: Representative Foose for a question.

REP. FOOSE: Thank you, Mr. Chairman. Welcome. You touched on it briefly, but are you also keeping data on the length of time complaints are open and is that shrinking?

MR. WILBUR: Yes. Specifically, the answer yes.

REP. FOOSE: Could you talk a little bit about that.

MR. WILBUR: Again, I may ask for Glenn's help on this. But there's a related element which is also commented upon in the audit. Our current -- our current databases are separate, and it's created some of the problems we have run into here, even some internal control issues where an individual might not be able to get into multiple bases. As was suggested, we had -- we received funding for a new, what we'll refer to as an enterprise kind of database which will open up the opportunity for us to really cross reference what might be in Legal, what might be in CCD, et cetera. That will help us, I think, keep better track. But I do -- we do look regularly at -- we have dockets that

Joint Fiscal Committee

April 13, 2012

will show us the number of complaints and the time frames. So we get a sense -- we have a sense and try to manage that. It is not perfect now, but we are looking at the new database system as being a real help in that. We are very -- I can't say enough -- we are very cognizant of the issue with complaints and trying to deal with those. I don't know if I addressed your question.

REP. FOOSE: A little bit. Thank you.

MR. WILBUR: Thank you.

CHAIRMAN WEYLER: Further questions? Representative Rodeschin is recognized for a motion.

** REP. RODESCHIN: We do have a quorum, so.

CHAIRMAN WEYLER: We do.

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

CHAIRMAN WEYLER: Is there a second?

SEN. PRESIDENT BRAGDON: Second.

CHAIRMAN WEYLER: Second by Senator Bragdon. All those in favor say aye? Opposed no? The report is adopted. Thank you all very much.

*** {MOTION ADOPTED}

(18) Date of Next Meeting and Adjournment

CHAIRMAN WEYLER: The next meeting will be on the 26th at three o'clock for tabled items only. The regular meeting will be on May 18th at 10 o'clock. We thank you all for your attendance and thank all the staff for your help. Any other items, Legislative Budget Assistant?

Joint Fiscal Committee

April 13, 2012

REP. RODESCHIN: I have a question. How many items do we have on the table? Jeff, how many items do we have on the table?

MR. PATTISON: There will be five, I believe. Two of which you'll take no action. Three we will hope to have some information on.

CHAIRMAN WEYLER: Thank you very much. Is there a motion to adjourn?

** REP. FOOSE: So moved.

REP. RODESCHIN: So move.

CHAIRMAN WEYLER: All right. Representative Foose and Representative Rodeschin seconds. All in favor say aye? We are adjourned.

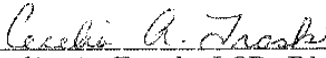
(Meeting adjourned at 12:36 p.m.)

Joint Fiscal Committee

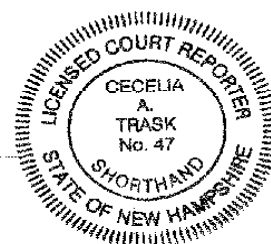
April 13, 2012

CERTIFICATION

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



Cecelia A. Trask, LSR, RMR, CRR
State of New Hampshire
License No. 47



Joint Fiscal Committee

April 13, 2012