

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Monday, May 21, 2012

MEMBERS PRESENT:

Rep. Ken Weyler (Chair)

Rep. Dan McGuire

Rep. Carol McGuire

Rep. Bill Belvin

Rep. Randy Foose

Sen. Chuck Morse

Sen. Bob Odell

Sen. Peter Bragdon

Sen. Lou D'Allesandro

Sen. John Gallus

(Convened at 10:02 a.m.)

**1. Acceptance of Minutes of the April 13, 2012, meeting
and the April 26, 2012 meeting.**

CHAIRMAN WEYLER: Call the Fiscal Committee to order for Monday, the 21st of May. Can't forget that date, my daughter's birthday.

I thank you all for coming and I thank you for the items that we probably won't be bringing up for discussion which we have in our informational items where you have given us updates on your progress on the requests we have made through the budget process. We appreciate all the efforts that go into those reports and your efforts to bring them forward, and I wanted to point that out if I haven't done it previously.

All right. First item we have before us is acceptance of the minutes. I'll entertain a motion.

**** SEN. GALLUS: Move the minutes.**

REP. FOOSE: Second.

CHAIRMAN WEYLER: Motion by Representative (sic) Gallus, second by Representative Foose, to accept the minutes. Any changes requested? Seeing none; are you ready for the question?

All in favor say aye? Opposed no? The minutes are adopted.

*** {MOTION ADOPTED}

2. Old Business:

CHAIRMAN WEYLER: Moving on to Tab 2. Does anybody request the removal of any items under Old Business? Seeing none; we'll move on to Tab 3, which is a Consent Calendar.

CONSENT CALENDAR

3. RSA 9:16-a, Transfers Authorized:

CHAIRMAN WEYLER: Does anyone wish to remove any items from the Consent Calendar on Item 3? Seeing none; I'll entertain a motion to adopt those items under Tab 3.

** SEN. D'ALLESANDRO: So moved.

SEN. GALLUS: Second.

CHAIRMAN WEYLER: Representative -- Senator D'Allesandro moves, Senator Gallus seconds to adopt the items under Tab 3.

(Senator Bragdon enters the committee room.)

CHAIRMAN WEYLER: Any further discussion? Seeing none; are you ready for the question?

Joint Fiscal Committee

May 21, 2012

All in favor say aye? Opposed no? The items are 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: Moving on to Tab 4. Again, the Consent Calendar items. All the items can be accepted in one and I understand there's some to be removed. I recognize Representative McGuire.

REP. DAN MCGUIRE: Thank you. 182 and 183.

CHAIRMAN WEYLER: Senator McGuire wishes to remove Items 182 and 183 from the Consent Calendar. Does any member wish to remove any other item? Seeing none; I will entertain a motion to adopt the remainder of the items under Tab 4.

** SEN. BRAGDON: Move approval.

SEN. GALLUS: Second.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Senator Gallus, to approve the remaining items. Further discussion on those items? Seeing none; are you ready for the question?

All in favor say aye? Opposed no? The remaining items are adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: And now we'll ask for someone from the Department of Corrections to come forward for Item No. 182. See Commissioner Wrenn.

Joint Fiscal Committee

May 21, 2012

WILLIAM WRENN, Commissioner, Department of Corrections: Good morning, Mr. Chairman. Members of the Committee, good morning. I'm Bill Wrenn, Commissioner of the Department of Corrections. With me today is Gary Arceci from our Administrative Office that will be assisting me this morning with the questions.

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

REP. DAN MCGUIRE: Thank you, Mr. Chairman. Thank you, gentlemen, for coming. There wasn't a whole lot of detail in here about what the training entailed, how many people are being trained and so on. I'm wondering if you could fill in some blanks.

MR. WRENN: Well, the primary focus of the training will be with our Probation-Parole officers. And there's about approximately seven, eight officers that would be involved in that. Also, some of the Case Managers that are out at the Probation-Parole Office, District Office in some of our larger -- larger Districts would be involved in that training as well.

We are also talking about training and assistance for the Parole Board which has seven members and the Parole Board staff, and there's a new executive director that will be hired for the Parole Board that will be receiving this assistance and training as well. And there will also be some staff inside our facility as well, inside the prison that will also be trained. I don't have a number of those individuals, but it's going to be mostly our Case Managers, the ones that are actually involved in the risk assessment type of process with our inmates.

REP. DAN MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Further question.

REP. DAN MCGUIRE: What is the training to do? What

Joint Fiscal Committee

May 21, 2012

are they learning?

MR. WRENN: Well, actually, the training, it's going to have various forms because, obviously, the Probation-Parole officers are going to be trained in some different capacities than the inside, the prison staff. They're all going to be trained on a new risk assessment system that's going to be put into place. This is the Ohio Risk Assessment System. Right now currently we use what's called the LSI, LSI-R System. That's a proprietary system. It costs us \$2.25 per test. It's one test that tests everybody no matter what phase of their incarceration they're in, whether it's the beginning stage, ending stage, out in the community. Again, under supervision. It's just one test.

The Ohio System, first of all, it's a public domain test. There's no cost associated with it. So we won't be paying that \$2.25 per test. Besides that, there are five different types of tests. There's one test that is applied presentencing that we'll be able to utilize with the courts in providing the courts more information at sentencing time. There's an entry form that's used of this test. There's an end form, a different form used at the end. There's a different form for the community as well. So there's several different forms that kind of focus in on where that person is in that transition as opposed to just one test that's just applied at any time. So it's a more focused exam, we think more accurate exam, and certainly the cost associated with that is better than the LSI. That would tend to save us approximately \$8,000 a year just applying those.

Some of the other areas of focus, certainly looking at evidence-based practices to increase offender compliance with supervision. This would be applied more towards the Probation-Parole officers trying to work with offenders out in the community to get them to comply with the rules and regulations of Parole and Probation. Inside trying to get inmates to participate in programs while they're confined in there. Quite often we -- while we do offer these

Joint Fiscal Committee

May 21, 2012

programs for the inmates, sometimes the influence not to participate is -- is heavy inside the prisons. We have to try to counteract that influence as best as we can so they'll be looking at ways to better do that inside. Trying, obviously, to increase the rates of success, lower our recidivism, increase the rates of success when they leave.

The Probation-Parole officers will be trained in supervision contacts that could be more meaningful as opposed to just going and doing the search. But doing some different types of questioning and conversations with the offenders that they have on Probation-Parole to extract as much information as they can while they're there; assisting offenders and identified thinking that leads to misbehaving, building skills necessary for successful community re-integration. Those are just some of the different areas.

CHAIRMAN WEYLER: Follow-up question.

REP. DAN MCGUIRE: And do you have figures that show that this kind of training has reduced recidivism or something else positive elsewhere?

MR. WRENN: I don't, Representative, have those figures that would be applied elsewhere. What we would be doing is once the training is managed here, then we would be looking at those same statistics to see if there was any sort of impact whatsoever. Sometimes our impact is a little less than what it is in other states because we have a smaller group that we're dealing with. We sometimes have a better result than they do in some of the other states based on the training. But we would be measuring that out. And that's part of the other amount of money that's associated with this is making some changes to our CORIS computer system which would give us better information if this stuff is working and how quickly we'll be able to retrieve that information? We're all -- we were constantly trying to build better dashboards so that we can see what's actually

Joint Fiscal Committee

May 21, 2012

happening in our system as quickly as possible so we can adjust to that. This is going to help us do that. And this is going to help us see if we are being successful in these training efforts.

REP. DAN MCGUIRE: Thank you.

REP. BELVIN: Mr. Chairman.

CHAIRMAN WEYLER: Representative Belvin for a question.

REP. BELVIN: Thank you, Mr. Chairman. Commissioner Wrenn --

MR. WRENN: If I may, Mr. Chairman. Mr. Arceci just told me that he was informed there would be 120 people trained in this. So that's a better number than I gave. I'm sorry.

CHAIRMAN WEYLER: Thank you.

REP. BELVIN: Commissioner Wrenn, that's helpful. Hard data is always helpful. It's been a year since you had commented on Get Smart on Crime and reduced recidivism by selecting this portion of folks and inmates that are on parole and probation. Some will stay out, some will come back, get those folks that go either way. And in response to Representative McGuire's question you answered it in kind of a general way. Do you not have -- it's been a year since you've been doing this, do you not have some hard data you can share with us?

MR. WRENN: Well, we have hard data in what we've been doing up to this point. As you know, we've had some -- some changes that have been made. SB 500 came in and we have some good hard data on what was happening there. We -- we actually reduced our population by about 300 inmates in a year's time. Very successful releases of those inmates. You didn't hear the horror stories that were being portrayed at one point in time. That was a good sign. That was more than

Joint Fiscal Committee

May 21, 2012

what we thought we would lose. And we saw some real success with that story.

SB 52 came in and actually counteracted and neutralized some of SB 500's conditions; and now, unfortunately, our population is going backup again. And the 300 that we lost in that year, and now about six months has gone by, and our population has gone back and we've lost about half of what we gained. So I guess, Representative, my answer to you is now we are trying to craft some different approaches because we have to work within the confines of SB 52, and we don't want to lose all our gains. We want to try to reverse that -- that population increase again to get back down there again. 'Cause, obviously, SB 500 is not with us as it was in the beginning.

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

CHAIRMAN WEYLER: Further question. Seeing none; I'll entertain a motion to adopt Item 182.

** REP. BELVIN: So moved.

CHAIRMAN WEYLER: Okay. Motion by Representative Belvin, second by Representative McGuire to adopt Item 182. Further discussion? Seeing none; are you ready for the question?

All in favor say aye? Opposed no? The item is adopted. Thank you and thank you for your report on your progress on saving that 6 million. Appreciate that.

MR. WRENN: You're welcome. Thank you.

CHAIRMAN WEYLER: Appreciate the update. We'll next turn to the Insurance Department for a question on Item No. 183. I saw the Commissioner here awhile ago. You're on your own.

Joint Fiscal Committee

May 21, 2012

BARBARA RICHARDSON, Director of Operations, New Hampshire Insurance Department: I guess I am. I wasn't quite sure. I am Barbara Richardson from the Insurance Department.

CHAIRMAN WEYLER: Oh, I see the Deputy Commissioner. Here's the Commissioner. Got a question on Item 183, Commissioner Sevigny.

ROGER SEVIGNY, Commissioner, New Hampshire Insurance Department: Yes, sir.

CHAIRMAN WEYLER: Thank you for coming. Representative --

REP. BELVIN: You go ahead.

CHAIRMAN WEYLER: All right, Representative McGuire first for a question on Item 183.

REP. DAN MCGUIRE: Thank you. Nice to see you again. This, to me, feels like, I don't know, a tax increase, a fee increase or something because it's -- it reads like we're going to charge the applicants for insurance licenses more than we would have otherwise; is that right?

MR. SEVIGNY: No.

REP. DAN MCGUIRE: Okay.

MR. SEVIGNY: No. This is simply -- this is an item that was budgeted to begin with. It was missed when the budget was ultimately approved. It was missed by us. It was missed by everyone that looked to the budget. We are simply making the correction.

We -- what we have done in the past at times is moved money from one PAU to another. But that's not as transparent as doing it this way. We decided we would do it this way. What you see is nothing more than what was

Joint Fiscal Committee

May 21, 2012

budgeted.

REP. DAN MCGUIRE: All right.

CHAIRMAN WEYLER: Further question. Representative Belvin.

REP. BELVIN: Thank you, Mr. Chairman. Welcome. I note that you are anticipating another transfer of funds in Fiscal Year 2013. Is that, again, because of this budgeting circumstance?

MS. RICHARDSON: That's exactly correct.

REP. BELVIN: Thank you.

CHAIRMAN WEYLER: Would you identify yourself.

MS. RICHARDSON: I'm sorry. I'm Barbara Richardson. I'm the Director --

MR. SEVIGNY: Barbara is Director of Operations at the Department. She works on putting our budgets together.

CHAIRMAN WEYLER: Thank you very much. Further questions from the Committee? Seeing none; I'll entertain a motion to adopt Item 183.

** SEN. BRAGDON: So moved.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Senator Gallus. Further discussion? Seeing none, are you ready for the question? All in favor say aye? Opposed no? The item is adopted. Thank you very much.

*** {MOTION ADOPTED}

MR. SEVIGNY: Thank you.

5. RSA 14:30-a, VI, Fiscal Committee Approval Required for

Joint Fiscal Committee

May 21, 2012

**Acceptance and Expenditure of Funds Over \$50,000 from
Any Non-State Source and RSA 124:15 Positions
Restricted:**

CHAIRMAN WEYLER: Now we'll move on to Tab 5. First item is number 12-167, ARRA funds continuing.

** SEN. BRAGDON: So moved.

REP. DAN MCGUIRE: Second.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Representative McGuire, to adopt Item 12-167. Any further discussion? Seeing none; are you ready for the question?

All in favor say aye? Opposed no? Item 167 is adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Next Item 12-168.

** SEN. BRAGDON: Move the item.

SEN. GALLUS: Second.

CHAIRMAN WEYLER: Senator Bragdon moves, Senator Gallus seconds, to adopt Item 12-168. Further discussion from the Committee? Seeing none; are you ready for the question?

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

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Next item is 12-185.

** SEN. BRAGDON: Move the item.

SEN. GALLUS: Second.

Joint Fiscal Committee

May 21, 2012

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Senator Gallus, to adopt Item 12-185. Representative Carol McGuire has a question.

REP. CAROL MCGUIRE: Yes, I'm curious.

CHAIRMAN WEYLER: Let me get someone from the Department of Education so that they can answer your question.

REP. CAROL MCGUIRE: Thank you.

CHAIRMAN WEYLER: Thank you very much. Would you identify yourself, please.

CHERI WHITE, Administrator, Bureau of Food & Nutrition, Department of Education: Cheri White. I'm the Administrator at the Department of Education, the Bureau of Nutrition.

CHAIRMAN WEYLER: Representative Carol McGuire recognized for a question.

REP. CAROL MCGUIRE: I have two questions. One is that you've got a part-time temporary position that you're paying \$60,000 a year. What kind of a person -- what are the qualifications for this job?

MS. WHITE: This person is going to -- USDA, which is the Agency that administers the Child Nutrition Program, has a new regulation for meal patterns.

CHAIRMAN WEYLER: Put that microphone directly in front of you. Thank you.

MS. WHITE: Is that better?

CHAIRMAN WEYLER: Yes.

Joint Fiscal Committee

May 21, 2012

MS. WHITE: Okay. And because of this new regulation, it's going to require that we have a part-time person go out to certify schools for the -- to make sure that the regulation's met. And, in turn, the schools are going to get an increase in reimbursement for that. So this person is going to act kind of like an auditor of sorts of the books but it's not a true audit. We call them reviews.

CHAIRMAN WEYLER: Further question.

REP. CAROL MCGUIRE: Yes, thank you, Mr. Chair. I was also wondering why this wasn't included in the original grant application. Sounds like something that's necessary to fill the requirements of the grant.

MS. WHITE: This is a totally different pot of money that USDA set aside for this particular purpose. So it hasn't have anything to do with the original grant.

REP. CAROL MCGUIRE: Thank you.

CHAIRMAN WEYLER: Further questions on Item 185. Seeing none; thank you, Ms. White. Any further discussion? Are you ready for the question?

All in favor of adopting Item 185 say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to Item 192.

** SEN. BRAGDON: Move the item.

CHAIRMAN WEYLER: We've had extensive --

REP. FOOSE: Second.

CHAIRMAN WEYLER: -- discussion on this. And we're assured that it is not committing us to the Affordable Care

Joint Fiscal Committee

May 21, 2012

Act which was our fear. Motion by Senator Bragdon, second by Representative Foose, to adopt Item 12-192. Further discussion? Seeing none; are you ready for the question?

All in favor say aye? Opposed no? The Item 192 is adopted.

*** {MOTION ADOPTED}

6. RSA 21-P:12-d, Fire Standards and Training and Emergency Medical Services Fund:

CHAIRMAN WEYLER: Moving on to Tab 6. Item is 169.

** SEN. BRAGDON: Move the item.

SEN. D'ALLESANDRO: Second.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Senator D'Allesandro, to adopt Item 169. We have a question from Senator Carol -- Representative Carol McGuire. We'll ask for somebody from the Office of Safety. See Mr. Wes Colby is available.

WESLEY COLBY, Director of Administration: Good morning.

CHAIRMAN WEYLER: Good morning, Mr. Colby. Representative Carol McGuire is recognized.

REP. CAROL MCGUIRE: Thank you, Mr. Chair. Thank you for being here. I'm concerned about you're claiming that you'll be funding these positions with the Electrician's Board funds.

MR. COLBY: Yes.

REP. CAROL MCGUIRE: Where --

MR. COLBY: The Electrician Board is fee funded, but

Joint Fiscal Committee

May 21, 2012

the Statute requires the fees be put into the Fire/EMS Fund. So we are going to the Fire/EMS Fund to pull out additional funds that we need. We are short of benefit money. In other words, the people that are employed there now took different benefits than the budget was created for. There was an open position. The open position was budgeted at two-person plan and there's a person taking a family plan. And there's also been a retiree, in addition to what was anticipated when the budget was passed, and we very carefully make sure that the retiree healthcare cost is apportioned to the funding sources that they retired from so as not to hit the Highway Fund. And we go through a detailed analysis every month of that bill to make sure it gets charged to the appropriate fund, and we're short \$5,000 in making that payment for retiree healthcare.

REP. CAROL MCGUIRE: Thank you. I had another concern in that we have passed Senate Bill 226 which is reassigning the Electrician's Board from the Department of Safety to the Joint Board and will this affect -- this will affect you for next year, I believe.

MR. COLBY: No. I'm not -- I'm not totally familiar with how that passed in terms of how the funding and where the funding goes for the revenue from that fund going into '13. I'd have to review that Bill. But this is to get through '12 and for '12 it is with the Department of Safety.

REP. CAROL MCGUIRE: Correct. Thank you.

CHAIRMAN WEYLER: Anything further? Before he goes, I'd like to recognize Mr. Colby for his many years of service. Understand he's retiring and he won't be with us again and has such an extensive knowledge of all the budgets that he's come before us, and I think he's done an excellent job. Wish to commend him for his long service and his abilities.

MR. COLBY: Thank you very much.

Joint Fiscal Committee

May 21, 2012

CHAIRMAN WEYLER: We'll miss you, sir.

MR. COLBY: Thank you.

CHAIRMAN WEYLER: Senator D'Allesandro.

SEN. D'ALLESANDRO: I want to echo the sentiments of the Chair. Wes has been a terrific, terrific State employee. Wonderful help in terms of budgeting and reporting and so forth and so on. Always above the call of duty. And the State is certainly going to miss him. We thank him for his service. We are very indebted to him for his service. We look forward to him having a very prosperous good time.

MR. COLBY: Thank you very much.

CHAIRMAN WEYLER: All the best. Thank you very much.

All right. I'll entertain a motion. I guess we already have a motion on that. Any further discussion? Seeing none; all in favor say aye? Opposed no? Item 169 is adopted.

*** {MOTION ADOPTED}

7. **RSA 106-H:9, Funding; Fund Established, and RSA 124:15, Positions Restricted:**

CHAIRMAN WEYLER: Going over to Tab 7 and Item 12-150.

** SEN. BRAGDON: Move the item.

SEN. GALLUS: Second.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Senator Gallus, to adopt Item No. 150. I have a question on it. Is there someone here from -- is this going to be Wes again or is somebody here from 911?

Joint Fiscal Committee

May 21, 2012

MR. COLBY: Going to be Wes again, at least initially.

CHAIRMAN WEYLER: All right. We haven't finished with you yet. This money that's being spent, is it also possible that this could result in a decrease in the tax that is presently charged so that this Agency is supported?

MR. COLBY: Let me introduce Bruce Cheney who is the Director of the Division of Emergency Services and Communication at Safety. But I'll take the first crack at that and say this is such a small sum in the overall scheme of things that it wouldn't result in a penny reduction in the surcharge. There's a million -- about a million five hundred twenty-five thousand lines that we're charging now at 57-cents a month. So the penny on a million five hundred twenty-five thousand lines wouldn't be -- it wouldn't make a significant difference. We are having some lapses in this fund, in this account -- in these accounts at the end of June. The problem is they're in accounts that we can't transfer from. There's payroll money, there's benefit money, there's some other funds that will be lapsing back to the fund that were appropriated. It's just that under the rules of 9:16 we can't transfer those funds to this purpose, if that helps.

CHAIRMAN WEYLER: It does. I appreciate it. And is there a steady reduction in the number of telephone lines that are paying this tax?

MR. COLBY: What we have seen is a reduction in the land lines and an increase in the cell lines. And as you know, there's been a Bill that Director Cheney has been very directly involved in trying to get the surcharge applied to VoIP and/or to prepaid because there's been a leakage, obviously, to VoIP; but the grand total I have not seen a decrease in. We're still -- we've been hanging at about a million five hundred twenty-five thousand. It should be more than that if VoIP was included. I don't know if you want to --

Joint Fiscal Committee

May 21, 2012

BRUCE CHENEY, Director, Division of Emergency Services and Communication, Department of Safety: And prepaid would also have a significant impact. Because more and more people are drifting to prepaid. But at the moment we're hanging right at the point we've been for about three years, I think. Three years, four years.

MR. COLBY: So the point we are trying to make is that the people that have the cell phone or land line are paying to access 911, but the users of VoIP and prepaid are accessing it free.

CHAIRMAN WEYLER: So the cell phones aren't paying.

MR. COLBY: Cell phones are paying.

MS. CHENEY: Post paid cell phones are paying now. Prepays are not. And VoIP and prepaid are the two hardest for us to deal with because VoIP, as I hope most of the Committee Members know, you can take your computer and go somewhere else. We get it all the time where somebody will call from Florida, but because they're VoIP phone is registered in New Hampshire, we're handling the call, and then notifying Pinellas County or something in Florida, so. And locating them so becomes a problem in the midst of that call. And prepaids, because there's no data about who it is or where they're from, we have to spend extra time with them. So they get more service, and they pay nothing.

CHAIRMAN WEYLER: I hope we can solve that problem. Is there legislation before us?

MR. CHENEY: There was, yes, sir. There is. I shouldn't say. I don't know what's up.

CHAIRMAN WEYLER: Representative McGuire for a question.

REP. DAN MCGUIRE: Thank you, Mr. Chairman. Thank you,

Joint Fiscal Committee

May 21, 2012

gentlemen. Can you tell us roughly how many 911 calls there are every year?

MR. CHENEY: There's somewhere between a half a million and 600,000 a year.

CHAIRMAN WEYLER: Thank you very much.

REP. DAN MCGUIRE: So -- follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. DAN MCGUIRE: So it's -- I guess it's costing us \$20 a call. Does that sound about right? If we're spending --

MR. CHENEY: I haven't done the math, but I'll -- I haven't done the math. I don't know.

MR. COLBY: We collect about \$10 million a year and right now we're spending more than that. So the fund is on a decreasing trend.

REP. DAN MCGUIRE: That was going to be my follow-up. It seems like we're spending 20% more than we're taking in. We're taking in ten and a half million. We're spending 12.9 million. So that's a two and a half million difference. Is there any prospects for saving money in this area and getting down the cost per call?

MS. CHENEY: We had two agencies added to us last year which have affected the fund. So I don't know that -- I mean, I'm not sure how I could make savings in this short-term. I don't know that we've seen enough of these other two bureaus to be able to tell you, yes, we can make economies. We were doing all right in the 911 Fund. But for the other stuff, we need a little more time to figure out how to economize it.

MR. COLBY: What used to be State Police Communications

Joint Fiscal Committee

May 21, 2012

was moved to 911 in this current budget. The nexus being that 911 uses the same tower infrastructure and communications infrastructure that State Police does and so it was felt there was a nexus with 911. But that is a financial obligation that 911 at the present time can't carry for the long run.

CHAIRMAN WEYLER: Follow-up.

REP. DAN MCGUIRE: So are you saying the 12.9 million is more than covering the 600,000 calls. It's doing other things as well?

MR. CHENEY: Yes, it is.

MR. COLBY: Yes, it's covering an accounting unit that used to be in State Police that during this last budget cycle was moved to 911 and it was then called State Police Communications. And it covers --

MR. CHENEY: Broadband and microwave primarily.

MR. COLBY: Yeah. The nexus to it is that, broadly speaking, that they both use the same microwave technology -- you know, system to transmit the data to the local police stations and fire departments. But the cost has moved over to 911.

MR. CHENEY: If I might just add to that. Besides answering calls in the 911 System, we maintain the database of all land line calls in the state at a substantial savings to the State that the old Verizon charge was a million something a year. We do it for less than half a million now. We also provide an addressing assistance to cities and towns, mapping and addressing assistance to cities and towns, which is part of the cost of that system. So it's not just answering the phone but all the back room work that has to be done to be able to answer the phone.

REP. DAN MCGUIRE: Thank you.

Joint Fiscal Committee

May 21, 2012

CHAIRMAN WEYLER: Senator Gallus for a question.

SEN. GALLUS: My question has been answered. Thank you.

CHAIRMAN WEYLER: Further questions. Further discussion? We had a motion and a second on this. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The item is adopted. Thank you very much.

*** {MOTION ADOPTED}

8. RSA 216-A:3-g, Fees for Park System:

CHAIRMAN WEYLER: Next item on Tab 8, 12-186.

** SEN. BRAGDON: Move the item.

SEN. GALLUS: Second.

SEN. BRAGDON: Have a question.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Senator Gallus, to move the item and need to see someone from the Department of Resources, Division of Parks and Recreation. I see Tom Martin.

TOM MARTIN, Administrator IV, Office of Commissioner, Department of Resources and Economic Development: Good morning.

CHAIRMAN WEYLER: How are you, sir?

MR. MARTIN: Great.

CHAIRMAN WEYLER: This other gentleman?

JOHN DEVIVO, General Manager, Cannon Mountain Ski Area, Department of Resources and Economic Development:

Joint Fiscal Committee

May 21, 2012

Good morning. I'm John DeVivo, General Manager up at Cannon Mountain Ski Area and Franconia Notch State Park.

CHAIRMAN WEYLER: Thank you. Senator Bragdon.

SEN. BRAGDON: Thank you, Mr. Chairman. Thank you for taking the question. In reading some backup information, there was a note that the complimentary ticket program for legislators was eliminated due to a ruling that it was against legislative ethics rules. But on the next page it says that Members of the Executive Council, Members of the DRED Advisory Committee and Members of Cannon Mountain Advisory Committee can get up to five complimentary day passes. And I guess I was wondering if anybody had checked, 'cause I think the Legislative Ethics Rules aren't much different from the Executive Department Ethics Rules, has anybody checked to see if there was an ethics violation potentially there?

MR. DEVIVO: We have not. The Legislative Ethics Committee ruling, that came out of an inquiry made by Representative Gionet, I believe.

SEN. BRAGDON: Okay. Thank you.

CHAIRMAN WEYLER: You wish to take some action?

SEN. BRAGDON: Oh, no. No, I don't think so. I hadn't thought that far ahead.

CHAIRMAN WEYLER: We could take care of that another time.

SEN. BRAGDON: Yeah, I know. Plenty of time for that.

CHAIRMAN WEYLER: All right. Further questions of these gentlemen? Seeing none; Representative Dan McGuire.

REP. DAN MCGUIRE: So I'm in favor of leasing Cannon so that we have the same good results that we did with Sunapee

Joint Fiscal Committee

May 21, 2012

at Cannon. Is that more likely or less likely to happen with this item, do you think?

MR. DEVIVO: I have no answer for that.

SEN. BRAGDON: Good answer.

REP. DAN MCGUIRE: All right.

CHAIRMAN WEYLER: Anything further? Seeing no further discussion, are you ready for the question? All in favor say aye? Opposed no?

REP. DAN MCGUIRE: No.

CHAIRMAN WEYLER: One negative vote.

REP. CAROL MCGUIRE: Two.

CHAIRMAN WEYLER: Two negative votes. Item 186 is adopted.

MR. DEVIVO: Thank you.

*** {MOTION ADOPTED}

9. RSA 228:12, Transfers from Highway Surplus Account:

CHAIRMAN WEYLER: Moving on to Tab 9, number 187. And I have conversation with the Chairman of the House Public Works Committee and he is highly in favor of it and delighted it is taking place.

** REP. FOOSE: Move approval.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Motion to approve by Representative Foose, second by Senator Bragdon. Is there any further discussion? Seeing none; all in favor say aye? Opposed

Joint Fiscal Committee

May 21, 2012

no? The item is adopted. And I appreciate DOT sending me the list of projects. Thank you very much to the DOT.

*** {MOTION ADOPTED}

10. Chapter 224:14, II and III, Laws of 2011, Department Of Health and Human Services, Program Eligibility; Additional Revenues; Transfer Among Accounts:

CHAIRMAN WEYLER: Moving on to Tab 10. Several items. The first one is 12-170.

** SEN. BRAGDON: Move the item.

REP. DAN MCGUIRE: Second.

CHAIRMAN WEYLER: Senator Bragdon moves, Representative Dan McGuire seconds adoption of Item 12-170. 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: Next item on the tab is 171.

** SEN. BRAGDON: Move the item.

CHAIRMAN WEYLER: Senator Bragdon moves.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds, adoption of Item 12-171. Further discussion? Seeing none; are you ready for the question?

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

Joint Fiscal Committee

May 21, 2012

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Next item on that tab is number 172.

** SEN. BRAGDON: Move the item.

REP. DAN MCGUIRE: Second.

CHAIRMAN WEYLER: Senator Bragdon moves adoption, Representative Dan McGuire seconds. Further discussion? Seeing none; are you ready for the question?

All in favor of 172 say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

11. **Chapter 224:203, Laws of 2011, Department Budgets; Transfer of Federal Funds:**

CHAIRMAN WEYLER: Moving on Tab 11. First item is 12-173.

** SEN. BRAGDON: Move the item.

CHAIRMAN WEYLER: Senator Bragdon moves.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds adoption of Item 173. 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: Next item is number 188.

Joint Fiscal Committee

May 21, 2012

** SEN. BRAGDON: Move the item.

CHAIRMAN WEYLER: Senator Bragdon moves.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose seconds. Further discussion on item number 188? Seeing none; are you ready for the question?

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

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Next item is number 191.

** SEN. BRAGDON: Move the item.

REP. FOOSE: Second.

CHAIRMAN WEYLER: Motion by Senator Bragdon, second by Representative Foose.

REP. DAN MCGUIRE: I have a question.

CHAIRMAN WEYLER: And there is a question. Is anybody here from Department of Ed?

GAIL TAYLOR, Program Assistant II, Bureau of Accountability, Department of Education: Good morning.

CHAIRMAN WEYLER: Good morning. Could you introduce yourself and hold the mic very close.

MS. TAYLOR: My name is Gail Taylor. I work for the charter school office at the Department of Education.

CHAIRMAN WEYLER: Thank you, Miss Taylor, and the other?

Joint Fiscal Committee

May 21, 2012

SUSAN FOLSUM, Accountant III, Bureau of Business Management, Department of Education: Sue Folsum, Accountant, Business Office.

CHAIRMAN WEYLER: Ms. Folsom. Thank you for coming. Representative Dan McGuire is recognized for a question.

REP. DAN MCGUIRE: Thank you, Mr. Chairman. So I read the words common core standards in here which is something that I thought we were not doing. So I wanted to ask you about that. Am I wrong?

MS. TAYLOR: Currently, we are not doing the common core; but we are in negotiations with the other states to come up with a common core to replace the NECAP test.

REP. DAN MCGUIRE: Follow-up.

CHAIRMAN WEYLER: Follow-up.

REP. DAN MCGUIRE: So is this funding that or this not related?

MS. TAYLOR: No, sir. No.

CHAIRMAN WEYLER: It appears from the item that we're sending someone out to audit to see if the common core is being used. But I don't believe that we required the charter schools to use it.

MS. TAYLOR: What we're doing with this funding is according to the charter law we have to -- any school that has been in existence five years needs to go through a formal review process to be renewed. So what we're doing is we did an RFP to get an outside company to come in and do three charter school renewals that are up for renewal. And part of that renewal is to look at their academic standards over the past five years, make sure that they have met the qualifications of the New Hampshire framework. And I guess

Joint Fiscal Committee

May 21, 2012

we just threw that common core in because that's the way we're going now.

CHAIRMAN WEYLER: Because we always have requests from the charter schools to try to give more money and it appears like this is taking money away that could help fund students.

MS. TAYLOR: This is a requirement of the charter law is to have an outside reviewer when the charter school is up for renewal.

CHAIRMAN WEYLER: The State law or the Federal law?

MS. TAYLOR: Actually, the State law, 193.

CHAIRMAN WEYLER: Thank you.

MS. TAYLOR: I'm sorry, 194-B:10. So these three schools in order to continue needs to be reviewed.

CHAIRMAN WEYLER: Thank you.

REP. BELVIN: Mr. Chairman.

CHAIRMAN WEYLER: Representative Belvin for a question.

REP. BELVIN: Thank you. Welcome. The last statement is in the event that Federal funds become no longer available general funds will not be requested to support this program. Could you comment on expectations for Federal funds?

MS. TAYLOR: We have an \$11.6 million grant that was established in 2010, and that's for five years. So for the next five years we feel that this is going to be substantial, and we'll continue to get these grants. What happens after that, I don't know. I can't comment on that.

REP. BELVIN: Thank you.

Joint Fiscal Committee

May 21, 2012

CHAIRMAN WEYLER: Further discussion? Seeing none; are you ready for the question? The motion is to adopt Item 12-191. Seeing no further discussion, all in favor say aye? Opposed no? The item is adopted. Thank you very much.

*** {MOTION ADOPTED}

MS. TAYLOR: Thank you.

MS. FOLSUM: Thank you.

12. 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 Funds Over \$50,000 from any Non-State Source:

CHAIRMAN WEYLER: Moving on to Tab 12, item number 189.

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

REP. DAN MCGUIRE: Second.

CHAIRMAN WEYLER: Senator D'Allesandro moves, Senator Dan -- Representative Dan McGuire seconds to adopt Item 12-189. Is there further discussion? Seeing none; are you ready for the question?

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

*** {MOTION ADOPTED}

13. Miscellaneous:

14. Informational Materials:

CHAIRMAN WEYLER: And we are finished with the regular agenda. Is there anybody wishes to question any item on the

Joint Fiscal Committee

May 21, 2012

information items while we have this large group of experts available? Seeing none. We are ready to move on to the audits.

Audits:

CHAIRMAN WEYLER: We'll recognize auditor general.

RICHARD MAHONEY, Director, Audit Division, Office of Legislative Budget Assistant: Thank you, Mr. Chairman. Good morning to you, Committee Members. For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant. I'm joined this morning with Scott Warnetski who's a Senior Audit Manager with KPMG. Scott is here to present the State Management Letter which is a byproduct of the audit that KPMG conducted of the State's Comprehensive Financial Report for the year ended June 30th, 2011.

CHAIRMAN WEYLER: Good morning, gentlemen.

SCOTT WARNETSKI, Senior Audit Manager, KPMG: Good morning. So in front of you, you should have the document entitled State of New Hampshire Management Letter. I will be talking off of that document about our few comments today.

The report starts off with on Page 3 our material weaknesses. I wasn't going to spend any time and go through these. From what I understand, these have been presented to this Committee at the last meeting as part of our single audit package, the Federal award findings and included these findings as well.

So if it pleases the Committee, I was going to move right on to the comments that would be new to you at this point which start on Page 9.

So Comment 2011-3 on Page 9 is something we observed when auditing the Liquor Commission's inventory, physical

Joint Fiscal Committee

May 21, 2012

inventory account procedures. Typically, when the counts are performed and there are variances or differences between the physical count and the records, it gets updated to the physical count. We noted some minor instances here where the records were not updated to reflect the physical count.

And following that on Page 10 are some improvements or some improvements that could be had over investment transactions. We noted some -- some approvals that weren't present for the purchase and sale of investments. These probably could be serious. However, we did note some mitigating controls in place that the Department did have when completing these transactions. So as with this one and the prior one, these are just what we call Management Letter comments. These don't rise to the severity of a significant deficiency or a material weakness. Okay. But they are presented, nonetheless, because we found them and we thought management and the State and the Fiscal Committee should know about them.

Following that on Page 11, 2011-5, this is not necessarily a finding of ours. This is more informational for the State as well as the Committee. The Governmental Accounting Standards Board, which promulgate the standards that the State follows in preparing its CAFR, is expected to release what we're calling their pension standard or revised pension standard. This will -- this could, I should say, dramatically alter the way the State reports its pension or accounts for its pensions. So based on the exposure draft that has been out there, the final -- the final pronouncement to come this summer, there could be some sweeping changes. The State would have to work with New Hampshire Retirement System to implement those changes. So the comment really here is geared towards the State getting in front of this and making sure that they work with the required parties ahead of time or right at the onset to effectively implement this which is anticipated not till two, three years down the road. So --

Joint Fiscal Committee

May 21, 2012

CHAIRMAN WEYLER: While you're on that subject, I've seen three items as to the deficiency in the State Retirement System and they range from two billion to ten billion.

MR. WARNETSKI: Hm-hum.

CHAIRMAN WEYLER: Ten billion, I believe, is based upon the 30-year double A bond rating. Is that the case?

MR. WARNETSKI: I'm not sure what you're referring to. I do know obviously what's reported in the CAFR which I don't know the number off the top of my head for accounting purposes. You don't have that with you, do you?

CHAIRMAN WEYLER: I'll probably give that question to Mr. Carter when it comes time for him to comment. So that rating on the bond rating is likely to become the rule under GASB then. Is that what you're telling us?

MR. WARNETSKI: Well, the rule is not set yet. There has been an exposure draft. What the rule does or could do, I should say, 'cause we don't know what's going to be until it's ultimately issued this summer, it has the potential of affecting the State's required contribution and how that number is calculated. So that could be a real effect as far as the amount that the State would be required to outlay in its annual pension funding of New Hampshire Retirement System. The standard, as written, could have wider effects on the Retirement System itself in how they deal with the cities and towns and as well as the State. But, really, this is, like I said, informational item because it has not -- it's not final. We understand what it says. In the interim that could change based on what GASB decides to do and maybe not to do. But, you know, I think that -- that discount rate, the amount, the investment return, if you will, that goes into calculating, this could change and could mean the State contributing more on an annual basis.

CHAIRMAN WEYLER: Thank you very much. Was there any

Joint Fiscal Committee

May 21, 2012

further items?

MR. WARNETSKI: No, that's the end of the Management Letter.

CHAIRMAN WEYLER: I'll ask Comptroller, Mr. Carter, to comment.

EDGAR CARTER, State Comptroller, Bureau of Accounts, Department of Administrative Services: Thank you for the question. It may be a bit premature to anticipate what that is going to mean. As Mr. Warnetski indicated, this is still only in draft stage and has not been fully issued. Also, we have not fully evaluated the impacts on the accounting for the State, and the respective accounting for the Retirement System would be the obligation of the Retirement System itself. So, unfortunately, I can't give you a precise on that.

CHAIRMAN WEYLER: Overall, it appears to be a good Management Letter?

MR. CARTER: I would like to just comment, yes, and I made this comment last time as well. But the last several Management Letters the State has received I think you would find that there were numerous, not only general management comments but also significant and material findings, and this letter is limited to two significant findings, significant material findings, which had been previously referred to and very limited other management comments. So I was actually fairly pleased in the progress we've made.

CHAIRMAN WEYLER: As are we. Appreciate all the efforts. Thank you very much. Any questions or comments from the Committee? Seeing none; I thank you very much, gentlemen. I'll recognize Mr. Mahoney for the next one.

REP. DAN MCGUIRE: Do we need to --

CHAIRMAN WEYLER: I recognize Representative Dan

Joint Fiscal Committee

May 21, 2012

McGuire for a motion.

** REP. DAN MCGUIRE: All right. I move we accept the report, place on file, and release in the usual manner.

CHAIRMAN WEYLER: Is there a second?

REP. CAROL MCGUIRE: Second.

CHAIRMAN WEYLER: Second from Carol McGuire. Further discussion? Seeing none; all in favor say aye? Opposed no? The motion is adopted. So, Mr. Mahoney, the next audit.

MR. MAHONEY: Thank you, Mr. Chairman. The next audit on the agenda is our Management Letter for the Lottery Commission. This report is a byproduct of the LBA's audit of the Lottery Commission for the year ended June 30th, 2011. Joining me this morning to present the report to the Committee is James Lariviere. Jim is a Senior Audit Manager with our office who was the "in charge" manager at the end of the engagement.

CHAIRMAN WEYLER: Thank you very much.

JAMES LARIVIERE, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, and Members of the Committee. Again, for the record, my name is Jim Lariviere and joining me is Charles McIntyre, the Executive Director, and Cassie Strong, the Chief Accountant at the Lottery Commission.

We are here to present to you the New Hampshire Lottery Commission Fiscal Year 2011 Management Letter. The Management Letter is a byproduct of the Audit of the Lottery's Comprehensive Annual Financial Report which was presented to the Committee at the January 20th, 2011, meeting.

I'd like to have you turn to the Table of Contents. In

Joint Fiscal Committee

May 21, 2012

looking at the Table of Contents, you'll see that the report includes nine comments under the caption of Internal Control and one State Compliance comment. The Lottery concurred with eight of the comments and did not concur with two.

Also included in the report are 19 Information Technology comments developed by an IT specialist hired by our office to review these controls at the Lottery. The use of an IT specialist was important for our Audit given the Lottery's implementation of a new gaming system with a new vendor in Fiscal Year 2011.

As indicated on the Table of Contents, those comments begin on Page 19 of the report. I would like to now go through the comments in the report.

Observation No. 1 on Page 3 highlights examples where the Lottery's controls over the game draws should be improved. Specifically, there should be increased due care handling of game balls in the drawing machine, attentive observation of the game draws, compliance with policies and procedures, and proper segregation of duties between employees who perform game draws and those who control access to the room and monitor that access. Overall monitoring of the game draw control activities should improve controls over the game draws.

Observation No. 2 on Page 4 recommends the Lottery review its review and approval controls over the preparation of the Lottery's financial statements. Errors noted in the Lottery's preparation of the 2011 statement of cash flows indicate these controls should be improved.

On Page 6, Observation No. 3 addresses an instance where one of the Lottery's primary prize payment controls did not operate as expected. We noted one paid jackpot claim payment of approximately \$804,000 lacked evidence of management's review and approval. A similar comment was made in the Fiscal Year 2010 Management Letter.

Joint Fiscal Committee

May 21, 2012

Observation No. 4 on Page 7 recommends the Lottery establish policies and procedures for reviewing and improving instant ticket cost data entered into the gaming system. Ticket cost information should be entered into the system and reviewed when the ticket inventory is received.

Observation No. 5 beginning on the same page notes where the Lottery did not adhere to its policy of performing semi-annual risk assessment during Fiscal Year 2011. The Lottery only performed one assessment.

Also, we recommend the Lottery update and periodically test its Disaster Recovery Plan. This is also pointed out in the comments later in the report in the IT section.

Observations No. 6 and 7 beginning on Page 9 point out areas for improvement of controls over the Replay Program operated by the Lottery's advertising vendor. The Lottery did not concur with these Observations.

The Replay is an Internet-based program where players enter demographic and non-winning lottery ticket information for exchange for Replay points that can be used to purchase entries for drawings to win various merchandise prizes provided by advertising partners. The player demographic information is used by the Lottery's advertising vendor in marketing the Lottery's games.

During Fiscal Year 2011, the Lottery also used the Replay Program apparatus to select second chance game winners for certain of its instant ticket games. We have several concerns with the Replay Program. The Lottery does not have written agreement with the advertising vendor addressing important responsibilities. The Lottery relies on its advertising vendor for the security of the personal information of entrants contained in the system. The Lottery has documented -- has limited documented policies and procedures addressing the risk related to vendor or advertising partner performance. And the Lottery does not

Joint Fiscal Committee

May 21, 2012

perform tests of or have controls to ensure the security of the draw algorithm.

Similar comments about the Replay Program are included in prior Management Letters. We continue to believe the Lottery is exposed to increased risk from this program.

In Observation No. 7, we recommend the Lottery improve segregation of duties over the Replay Program's merchandise prizes.

Observation No. 8 beginning on Page 13 calls for improved controls over key cards used to regulate the restricted areas of the Lottery building.

Observation No. 9 on Page 15 notes that the Lottery did not require vendors to maintain its current insurance certificates on file even though those certificates were required by contract.

Observation No. 10 on Page 17 is a State Compliance Comment, which recommends the Lottery review with legal counsel whether its current practice of paying certain second chance prizes without requiring the winner to present a winning ticket is in compliance with its administrative rules.

The Table of Contents for the IT Observations is on Page 19. In the interest of time, I'll not review each one in detail. However, these comments generally suggest the Lottery in cooperation with the Department of Information Technology become more involved in the controls over its gaming system. The Lottery should have improved access to the system information, access and change management controls should be better monitored, and the Lottery should consider increasing the independence of the internal control system vendor from the gaming vendor to lessen the risk of conflicts of interest impacting the effectiveness of the internal control system.

Joint Fiscal Committee

May 21, 2012

I'd now like to have you please turn to Page 35 behind the tab. You'll find the current status of our prior audit findings. Six of the 11 comments also refer to current Observations in this report. Also, at the bottom you'll see that there's a status key and you'll see that there's five comments that were fully resolved.

This concludes my presentation. I'd like to thank the Lottery's Executive Director, Charles McIntyre, and his staff for their assistance and cooperation throughout the audit process, and I'd like to thank you, the Committee, for your time. We'd be happy to take any questions.

CHAIRMAN WEYLER: Thank you. Mr. McIntyre, your comments?

CHARLES MCINTYRE, Executive Director, New Hampshire Lottery Commission: Good morning, Mr. Chairman, Members of the Committee. With me as suggested by the LBA staff is Cassie Strong, our chief accountant, and George Roy, the Lottery's Chief Finance Officer is also here. Initially, I'd like to thank the LBA auditor staff who were visitors of ours for about eight months. They were professional the entire time. I had no difficulties with their staff. And I certainly appreciate their efforts and their hard work in this regard.

I often equated the audit team to a group of dentists in terms I'd rather go for a cleaning than a root canal. So, certainly, I review this as a cleaning and most of these findings we believe we have addressed previously to this date here, and we'll continue to work on doing so going forward. Certainly, speaking for Miss Strong, answer any questions you folks might have.

CHAIRMAN WEYLER: Questions from the Committee? Representative Belvin and then Representative McGuire and then Senator.

REP. BELVIN: Thank you, Mr. Chairman. Welcome.

Joint Fiscal Committee

May 21, 2012

MR. MCINTYRE: Thank you, sir.

REP. BELVIN: I am on Page 18 which is the response that was made to the question on Page 17, Prize Claim Should Be in Compliance With Rules. And I am personally not familiar with the Replay Program; but as I read the response here, it would seem that the Replay Program was repealed, and yet we have prior observations about its operations. So I'd appreciate brief comments on the status of the Replay Program, it's importance to you, and it's function at the present time?

MR. MCINTYRE: For us, the Replay Program is vital as a broad category. It would constitute a loyalty program where individuals who don't win on a ticket can enter into a drawing and be eligible for promotional items and the like.

Prior to my tenure at the Lottery, this was used as a device to award prizes that were contained within a prize structure of a given game. I believe that to be a flaw on a couple of levels, of least of which in terms of player loyalty. A person would buy a ticket. On the ticket itself it would say entry into a further drawing. Most players believe the purchase of a ticket to actually be entry into a drawing so further entry was rather insulting. There were several games in the marketplace at the time. We allowed those games to lapse. The Replay Program itself still exists as a loyalty program. It does not exist as part of a program where further prizes contained within a prize structure of a game are awarded through that Replay Program.

REP. BELVIN: Thank you.

MR. MCINTYRE: Thank you.

CHAIRMAN WEYLER: Further questions? Representative Dan McGuire for a question.

Joint Fiscal Committee

May 21, 2012

REP. MCGUIRE: Thank you, Mr. Chairman. First of all, a general question. What's the difference between a Management Letter and a performance audit?

MR. MAHONEY: Well, performance audit, Representative, essentially deals with measuring an Agency's performance against certain criteria. So there isn't specific criteria that any auditor would use in terms of a Management Letter. You simply look at general business practice and raise any issues that don't rise to the level of a significant deficiency or material weakness and report those in the Management Letter. So the difference is subtle. But on a performance audit, we take great pains to find specific criteria to judge an Agency's performance against. I hope that answers your question.

REP. DAN MCGUIRE: Thank you. And a different question. So is the fact that the Replay Program is -- has been changing may be the cause of a number of items here?

MR. MCINTYRE: I mean, certainly, the final one which I -- this is actually my response, I wrote this. I hope we have dealt with that specific response. Going forward is another issue. Certainly, we work internally to make it better. We believe we responded to the prior audit last year and made more segregation of duties as to it. I will tell you that in my industry, in our industry, loyalty programs are the wave and the program we have costs a fraction of what others do around the U.S. So we always can improve certainly and we hope to.

REP. DAN MCGUIRE: Thank you.

CHAIRMAN WEYLER: Senator Bragdon.

SEN. BRAGDON: Thank you, Mr. Chairman. Thank you, gentlemen, and lady, for visiting us. My question and comments, I guess, would revolve around the Replay Program. I do understand the distinction of your last comment where it's not used for the prizes part, and I think that's

Joint Fiscal Committee

May 21, 2012

probably a smart move.

I noticed in a lot of these Observations that currently start on Page 9 had showed up -- shown up a year ago and I guess my first question to the LBA I heard from the report that there really haven't been significant improvements in this particular area in your opinion. Is that a fair assessment?

MR. MAHONEY: I believe that's a fair assessment, Senator, yes.

SEN. BRAGDON: Then I guess the big -- and I -- I guess I can appreciate the concern expressed that although this is a program that's really operated by somebody other than the Lottery, the public perception is this is a Lottery program. If something bad happens here, if there's some kind of fraud or something goes on, it will reflect poorly upon the Lottery. And I think the last thing we want to do is, obviously, reflect poorly upon the Lottery and take away people's confidence in the game.

It seems to me what we have here is a gaming operation being run by an advertising agency, because they're giving away a quarter of a million dollars worth of prizes as part of this loyalty program; and yet, the LBA Observations continue to say there is not, in their opinion, accurate documentation, segregation. And I've seen these comments now two years in a row, and it does cause me concern. And I guess I infer from the response of the Lottery Commission that they don't necessarily think it's a concern. And I guess what can the Commission tell me to make me feel that it's not a concern?

MR. MCINTYRE: To your comments, Senator, certainly we are concerned always. Our integrity is everything and we believe that everything we do and everything that anyone does on our behalf reflects back on us whether we have a problem with it or not. And we did -- we believe we had responded prior to the last year's audit and apparently

Joint Fiscal Committee

May 21, 2012

we're not on the same wave length.

We believe there is significant segregation of duties in terms of the system itself is housed in another location, not the advertising vendor. I would disagree with you only in that I don't view it as a gaming operation only because those prizes that are through the Replay starting in October 2011 are actual purchases for games of chance based on a random event. These are actually promotional giveaways. So it's not a -- I don't want you to think we are gambling through Internet. That's my distinction and I certainly -- reasonable minds may differ but certainly I want to make that clear. But certainly, we'll take these findings and go back and make further efforts to fix the program as it were. I will tell you that this does not differ much from what other vendors do for other lotteries for loyalty programs as well.

SEN. BRAGDON: I guess if I could add a comment. I'm not concerned that it's something being done by an outside organization. I am concerned there seems to be a lack of documentation and specifications, and I guess I would urge the Commission to somehow build that into whatever contracts you have, because I hope not to be reading about this again next year.

MR. MCINTYRE: Certainly. Yes, sir. Our advertising contract is up this June. We'll certainly revisit it and make every effort to fix-it, sir.

SEN. BRAGDON: Thank you.

MR. MCINTYRE: Thank you.

CHAIRMAN WEYLER: Is there another Senator with a question? Seeing none. You're the most audited unit in our whole State government. And I read these audits every year. I was surprised that I had never before read about the gaming vendor and the ICS vendor. I look forward to finding out more about them and what their relationship is to your

Joint Fiscal Committee

May 21, 2012

operation and how that saves you and so on, because I had never seen comments about them before. I don't know whether that's a new area that we're looking into or whether it's something you're recently using that you hadn't used much before.

MR. MCINTYRE: No, sir. For ICS vendor, internal control system vendor, is to create an entirely separate population of data to compare against the gaming system so at the end of a draw you have a one-for-one match. ICS systems are common in lottery world. Ours has been part of it for, I think, ever. Since Powerball's been implemented back in '96.

CHAIRMAN WEYLER: So do they have a fairly narrow role?

MR. MCINTYRE: Yes, sir.

CHAIRMAN WEYLER: More like an accountant?

MR. MCINTYRE: Yeah, they're just a balancing. They're sort of a backstop. Oddly enough, our ICS vendor was just purchased by another vendor. I received word of that last Thursday that somebody bought somebody else, and I received notices pursuant to the contract. So we'll be doing our due diligence on the new vendor as relates to the old vendor.

CHAIRMAN WEYLER: How much access do they have to your database?

MR. MCINTYRE: They're just a repository of the data. And then just before a drawing, and Miss Strong can speak to this as well, be clear, make sure the amount of money we have, the amount of wages we have is a one-for-one match ICS vendor as to our gaming vendor.

CHAIRMAN WEYLER: Thank you. Further questions from the Committee? Seeing none; I'll recognize Representative Dan McGuire for a motion.

Joint Fiscal Committee

May 21, 2012

** REP. DAN MCGUIRE: I move we accept the report, place it on file, and release in the usual manner.

SEN. BRAGDON: Second.

CHAIRMAN WEYLER: Further discussion. Seeing none; you ready for the question?

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

*** {**MOTION ADOPTED**}

CHAIRMAN WEYLER: Let's hope that the revenue picks up.

MR. MCINTYRE: Yes, sir.

CHAIRMAN WEYLER: Thank you. Mr. Mahoney, one more.

MR. MAHONEY: Thank you, Mr. Chairman. The last audit on our agenda is an internal control review that we conducted at the Racing and Charitable Gaming Commission. I am going to be joined by Jean Mitchell of our office. Jean was the Senior Audit Manager responsible to conduct the audit on a daily basis at the Commission. We are also going to be joined by Paul Kelley from the Commission, as well as Sudhir Naik.

CHAIRMAN WEYLER: Good morning.

PAUL KELLEY, Executive Director, Racing and Charitable Gaming Commission: Good morning.

SUDHIR NAIK, Deputy Director, Racing and Charitable Gaming Commission: Good morning.

JEAN MITCHELL, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Chairman Weyler, and Members of the Committee. My name is Jean Mitchell. I'm here today to present to you the Racing

Joint Fiscal Committee

May 21, 2012

and Charitable Gaming Commission internal control over revenue for the six months ended December 31, 2012. This report presents the results of our assessment of the internal controls in place over the receipt, deposit, and recording of revenues, and the activities supporting the generation of those revenues.

I'd like to begin on the Table of Contents. This report contains ten findings. The Commission concurs with nine and concurs, in part, with one. And as we noted by the asterisks, two suggest legislative action may be required.

The Executive Summary is located on Page 1. As noted in paragraph two, the audit objective was to evaluate whether the Commission has established and implemented adequate accountability and internal controls over its receipt, recording, and deposit of revenues and other related activities.

As described in the summary of results overall, we found the internal controls were suitably designed to provide reasonable assurance that the specified internal control objectives would be achieved. Areas where we recommend strengthening controls or increasing efficiencies are reported in the findings which I will speak to in a moment.

Page 2 provides some background information. The Commission is responsible to protect the wagering public and ensure the integrity of Racing, Bingo, Lucky 7 and Games of Chance through the enforcement of applicable laws and regulations and to timely collect and maximize all fees and taxes due the State from the regulated activities. Games of Chance may include games such as poker or roulette.

As displayed in the Table, the Commission collected \$2.3 million in taxes, licensing, and related fees during the six-month audit period. Of this amount, 1.3 million was transferred to the Education Trust Fund. The remainder and

Joint Fiscal Committee

May 21, 2012

net amount at December 31st, 2011, was comprised of approximately 800,000 of the Commission's administrative cost recovery and 200,000 yet to be transferred to the Education Fund.

Our findings begin on page number five. In Observation No. 1, we note the Commission has not formalized its risk assessment process. The Commission appears to periodically consider and assess risk. However, the process is not formalized. We recommend the Commission formalize and expand its current risk assessment efforts to include stated objectives, the documentation of process and results, and a description of any action to be taken in response to the risk.

Observation No. 2 is located on Page 6. In this Observation, we note the Commission has not insured minimum internal control necessary for the accurate processing of Simulcast wagering are in place and operating as intended at the facilities licensed by the Commission. Because the Commission does not currently have procedures to ensure controls at the Simulcast wagering licensee to meet the minimum internal controls, information reported by the Simulcast wagering system may not be as reliable. The Commission should ensure that the appropriate controls are in place and operating at the Simulcast wagering licensees.

Observation No. 3 begins at the bottom of Page 7. We note the Commission has procedures in place to ensure revenues remitted by licensees are properly processed, deposited, and recorded. However, we recommend the Commission strengthen its inspection and auditing processes to increase assurance the information and the taxes remitted by the licensee is complete and accurate.

At the top of Page 10 is Observation No. 4. What we found that the Commission does maintain a policy and procedures manual covering many aspects of its operations. The Commission report certain of its policies and procedures in the manual were outdated and other policies

Joint Fiscal Committee

May 21, 2012

and procedures have not been fully implemented. We recommend that the Commission continue in its efforts to keep its policies and procedures manual complete and accurate.

Observation No. 5 is located on Page 11. In this recommendation we recommend the Commission improve segregation of two controls over the issuance of occupational licenses and the collection of license fees at Simulcast wagering facilities.

Observation No. 6 and 7 identify areas where the Commission can improve controls and address weaknesses in its database system used for licensing and processing of tax and payment fees and other critical information.

Observation No. 6 on Page 12 notes the database system largely designed and built by a former employee and used for licensing and other critical financial operations does not incorporate many generally accepted controls that should be present in a well-designed database system. The system appears to be designed with program functionality in mind, but certain logical controls, such as forced periodic password changes, were not incorporated into the database design. The Commission should address the weaknesses in the database system as soon as practical.

Observation No. 7 is located on Page 14. This comment notes the Commission had not adequately documented and crossed-trained employees in the use of the database for tracking unclaimed winning race wagers referred to as unclaimed tickets and payments. This led to the use of a less efficient manual process being implemented during Fiscal Year 2012 and supporting data not being reconciled upon receipt to the revenue receipt from the unclaimed tickets.

Observations Nos. 8 through 10 identify issues related to State Statutes and rules.

Joint Fiscal Committee

May 21, 2012

Observation No. 8 begins in the middle of Page 15. This Observation identifies statutes and rules which have not remained current with other recent statutory changes and changes in the entities regulated by the Commission. The issues are outlined in more detail in item numbers 1 through 3 of the Observation. We recommend the Commission work to ensure all statutes and rules remain current and relevant, adopt and maintain required rules, and record unclaimed tickets and voucher revenues in the general fund pursuant to RSA 284:31.

Observation No. 9 is located on Page 17. This Observation notes that the process used by the Commission to transfer money to the Education Trust Fund pursuant to statute does not promote the fair presentation of the Commission's revenue activity in its primary revenue accounts. It recommends the Commission work with the Department of Administrative Services on this issue.

Our Final Observation is No. 10. This is located on Page 18. This finding recommends the Commission return to a licensee approximately \$13,000 representing the excess cash value of a bond and establish policies and procedures for the regular and documented review of licensee bond amounts.

Behind the tab is the current status of revenue-related observations contained in the prior financial compliance audit report for the Pari-Mutuel Commission for the nine months ended March 31, 2005. As you can see from the status, all of these comments -- almost all but one of these comments are fully resolved.

I'd like to thank the Committee for its time this morning. I'd also like to thank the Racing and Charitable Gaming Commission management and staff for their help and cooperation throughout the audit process.

That concludes my planned remarks and we'd be happy to answer any questions you might have.

Joint Fiscal Committee

May 21, 2012

CHAIRMAN WEYLER: Thank you. Director Kelley, your comments?

MR. KELLEY: Thank you, Mr. Chairman. For the record, my name is Paul Kelley. I'm Director of the Racing and Charitable Gaming Commission. With me is Sudhir Naik, Administrator III, and I have with me behind me Commissioner Warren Leary and Commissioner Colonel Lynn Presby. I want to thank the LBA for the professional audit they conducted. Their staff was very professional, and they worked with minimal interruptions to our staff so we'd get our job done.

As far as the audit observations go, we do concur. There's always room for improvement and we will make those improvements. I think if you look from our previous observations, we take these things seriously. We clean them up -- and we clean them up and answer any questions that you or your Committee might have.

CHAIRMAN WEYLER: Questions or comments from the Committee? Senator Odell.

SEN. ODELL: Thank you, Mr. Chair. Good morning. On Page 9 there's reference made to the conduct and recording of video surveillance. How is that working? Has that improved things? Have there been violations or discrepancies identified through the video monitoring?

MR. KELLEY: Thank you, Senator. The required cameras are in all the locations that are required by statute to have them. Our inspectors when they make their visits, they look at the cameras, the angles, to make sure they're recording the funds that need to be recorded, the table shots are done correctly. And then we also now implemented to going out and starting from start to finish with my staff out there to watch all the money from the time the door opens to the time the door closes to make sure that we count -- we observe all the money counts and to make sure

Joint Fiscal Committee

May 21, 2012

the cameras are on those counts. So I think that system is in place and will work well.

CHAIRMAN WEYLER: Senator Bragdon.

SEN. BRAGDON: Thank you, Mr. Chair. Just a comment. Thank you, again. Thank you to LBA and for the Commission. And just a comment that I appreciate the response to each of the findings and appreciate the fact that of the ten prior findings, nine of them have been fully accomplished. You know, in the prior audit we just heard less than half of the prior ones had been done and the response was very combative. So thank you to the Commission for your attention to these matters.

CHAIRMAN WEYLER: Further comments from the Committee? I, too, echo Senator Bragdon's comments. It's the best I've seen of compliance with former audits. I've never seen one that good, except for now. Representative Dan McGuire.

REP. DAN MCGUIRE: Thank you. Yes, I'd like to -- those comments are both right. On Page 2 where we are talking about numbers here, I understand that 200,000 of the million goes in the other category so it's roughly two-thirds of this money is going to the Education Trust Fund and one-third for expenses. I'm wondering if you can tell me roughly how much money is going to the charity and how much money is going to vendors to kind of complete this picture?

MR. KELLEY: Extemporaneously I'll talk to the charitable piece. The charities make about \$11 million last Fiscal Year in revenue to the charitable causes. What the game operators make, I don't have that number, Representative McGuire. I could try to build a number. It's a fuzzy number, moving target, because of some of the dynamics of the statutes that we try to regulate. And the game operators are keeping 65% of the gross, less prizes, where the charity is getting 35%. Again, the game operators are assuming all the costs, the insurances, and help. But

Joint Fiscal Committee

May 21, 2012

I could certainly try to work some numbers and get them back to you, if you'd like.

REP. DAN MCGUIRE: All right. Thank you. So, basically, charities are getting maybe four times the amount of the Education Trust Fund 'cause this is a six-month set of numbers.

MR. KELLEY: And I should have cut my number in half. Then it should be 5.5 million on the Fiscal Year basis because the charities make about 11 million annually.

REP. DAN MCGUIRE: Thank you very much.

CHAIRMAN WEYLER: Further questions? Representative Carol McGuire.

REP. CAROL MCGUIRE: Yes. Thank you. First of all, I was concerned that it appears that your capabilities for regulating racing are pretty much gone away and will you have difficulties if you open up a new racing site?

MR. KELLEY: The Legislature removed all funding from everyone on the Pari-Mutuel side or the racing side, except for one part-time employee. If live racing comes back, the Bill that I think you may be referring to has some money that the State will put aside its share of revenue to fund live racing. And my hope and desire is that wherever that Bill will go will allow us then to expend those funds in three years to get it up and running. So being mindful after three years out then that will be a budget item.

REP. CAROL MCGUIRE: Thank you.

CHAIRMAN WEYLER: Further discussions? Seeing none. Representative Dan McGuire is recognized for a motion.

** REP. DAN MCGUIRE: I move we accept the report, place on file, and release in the usual manner.

Joint Fiscal Committee

May 21, 2012

CHAIRMAN WEYLER: Is there a second?

REP. CAROL MCGUIRE: Second.

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

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Good report. Thank you very much, gentlemen. Thank you to LBA for all your good work. And by the way, I am open to file legislation from September 17th to December 7th, should that need arise on these items. Thank you. Is there anything further to come before us?

REP. FOOSE: Date of next meeting.

15. Date of Next Meeting and Adjournment

CHAIRMAN WEYLER: Let's figure out the date of the next meeting. I think it works out well to have a Monday, because we have the weekend to read all this stuff which sometimes if I don't make a special trip up here Friday all I have is Tuesday, Wednesday and Thursday nights and that doesn't always work out. Any chance we can meet on a Monday for June?

REP. FOOSE: 18th?

CHAIRMAN WEYLER: 18th is roughly the number of days away where we meet. Is that acceptable to everyone? Starting at 10 o'clock. All right. Let's do Fiscal at 10 o'clock, Monday the 18th. And we will, of course, meet at 8:30 for our pre-Fiscal for the House side. Thank you all very much.

Anything further, Mr. Pattison, that we need any late items? Anything of that sort?

Joint Fiscal Committee

May 21, 2012

MR. PATTISON: No, I'm all set.

CHAIRMAN WEYLER: Anybody in the audience have anything to add? Motion to adjourn by Senator Morse. Second by?

REP. FOOSE: Second.

CHAIRMAN WEYLER: Representative Foose. Seeing no further discussion, all in favor say aye? Opposed no? Thank you all for your attendance.

***** {MOTION ADOPTED}**

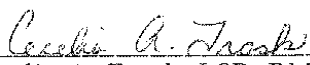
(The meeting concluded at 11:25 a.m.)

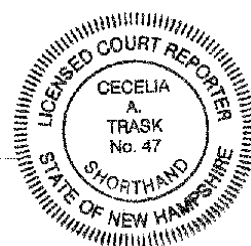
Joint Fiscal Committee

May 21, 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

May 21, 2012