STATE OF NEW HAMPSHIRE
LIQUOR COMMISSION

PERFORMANCE AUDIT REPORT

APRIL 2009

To The Fiscal Committee Of The General Court:

We conducted an audit of the New Hampshire Liquor Commission to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee, in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require we plan and perform the audit to provide a reasonable basis for our findings and conclusions. Accordingly, we performed such procedures as we considered necessary in the circumstances.

The purpose of the audit was to determine whether the Commission organized and managed its operations to maximize income to the General Fund. The audit period includes State fiscal years 2007 and 2008.

This report is the result of our evaluation of the information noted above and is intended solely for the information of the Commission and the Fiscal Committee of the General Court. This restriction is not intended to limit the distribution of this report, which upon acceptance by the Fiscal Committee is a matter of public record.

Office Of Legislative Budget Assistant

April 2009

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ABBREVIATIONS

Commission	New Hampshire Liquor Commission
DOJ	Department Of Justice
DoIT	Department Of Information Technology
FT	Full-Time Position
LBA	Office Of Legislative Budget Assistant
LPAOC	Legislative Performance Audit And Oversight Committee
NA	Not Applicable
RSA	Revised Statutes Annotated
SFY	State Fiscal Year
SKU	Stock Keeping Unit

STATE OF NEW HAMPSHIRE
LIQUOR COMMISSION

SUMMARY

Purpose And Scope Of Audit

This audit was performed at the direction of the Fiscal Committee of the General Court consistent with the recommendation of the joint Legislative Performance Audit and Oversight Committee. It was conducted in accordance with generally accepted government auditing standards applicable to performance audits. The purpose was to assess if the New Hampshire Liquor Commission organized and managed its operations to maximize income to the General Fund. The audit period includes State fiscal years (SFY) 2007 and 2008.

Background

In 1933, the Twenty-First Amendment to the United States Constitution repealed national prohibition, authorizing each state to control alcoholic beverages within its borders. Chapter 99, New Hampshire Laws of 1933 (now codified as RSA 175-180), created a three-member Control Commission to control the manufacture, sale, and transport of alcoholic beverages in the State . In 1934, the Legislature replaced the Control Commission with the State Liquor Commission (Commission) authorizing it to operate State liquor stores and warehouses, and required all liquor and wine[1] sold in the State to be bought from the Commission. According to RSA 176:3, the Commission is responsible for optimizing profitability, maintaining proper controls, assuming responsibility for effective and efficient operations, and providing services to its customers. During the audit period, it carried out these responsibilities by selling wine and spirits at 77 State-operated retail stores, wholesaling wine and spirits to on- and off-premises licensees, regulating 4,495 licensees, and enforcing all State liquor laws and regulations.

The Commission operates in a highly competitive liquor industry, even though it is a monopoly within the State. Despite its monopoly position, the Commission must be cognizant of the prices charged for products in surrounding states to maintain its competitive advantage. The industry is also very competitive on the supply side of the Commission's business. Suppliers compete against each other primarily on the basis of brand loyalty, quality, and price. The market for spirits is consolidated, with five suppliers dominating. The market for wine is fragmented with many suppliers vying for market share.

In SFY 2008, the Commission's operating budget was $36.2 million. During this period, wine and spirits purchases totaled approximately $333 million, while transportation expenditures totaled almost $1.9 million. RSA 176:16, I requires all gross revenue from the Commission's sale of liquor and license fees to be deposited into the State General Fund. Nearly all expenditures are also paid from the General Fund.

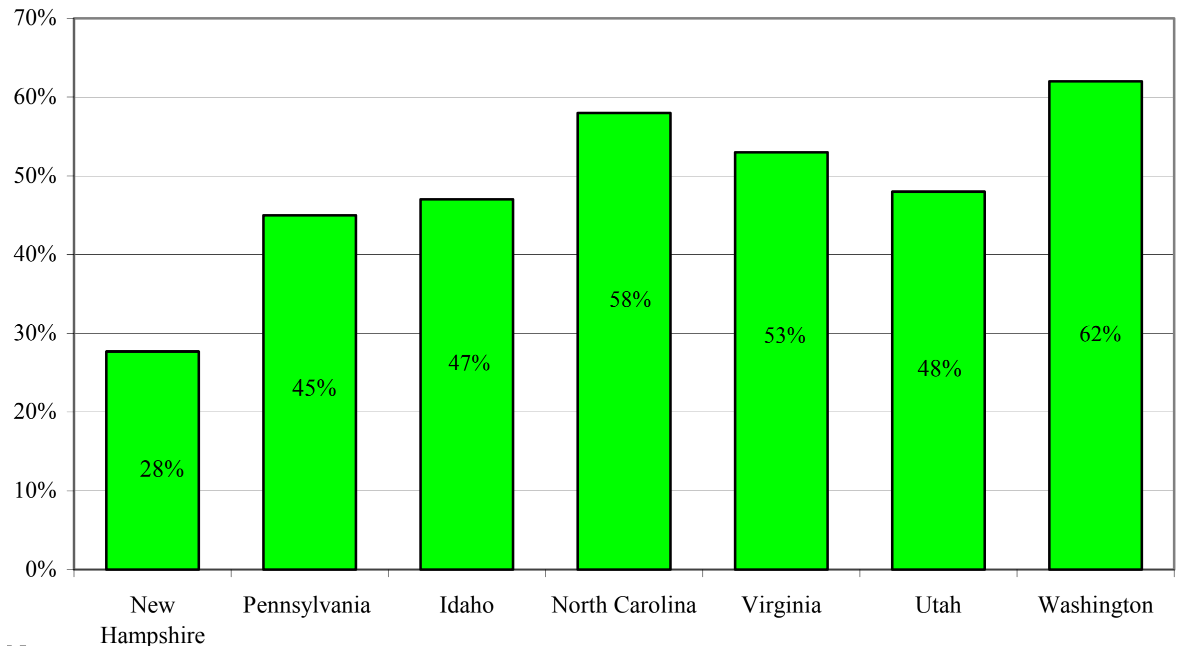
The Commission's operating expenditures, excluding product purchases, totaled approximately $34.8 million in SFY 2008, an increase of eight percent from SFY 2007. Expenditures for wages

[1] "Liquor" generally means distilled and fermented alcoholic beverages. "Liquor and wine" generally describes beverages containing more than six percent alcohol by volume. However, liquor and wine usually excludes malt beverages such as beer, which is licensed by the Liquor Commission but not sold or distributed by the Commission.

and benefits were $23.6 million, or 68 percent of its operating expenditures. In SFY 2008, the Commission earned gross profits of $127.5 million on sales of $460.5 million; a gross profit margin of 28 percent. Gross profit increased seven percent from $119.2 million in SFY 2007 to $127.5 million in SFY 2008 while sales of alcoholic beverages increased six percent from $436.1 million in SFY 2007 to $460.5 million in SFY 2008. Figure 1 shows gross profit as a percent of gross sales of New Hampshire and six other control states with retail operations. The Commission derived $92.7 million of its $111.6 million net profit for SFY 2008 from wine and spirits sales. Beverage fees were the second largest revenue source, comprising $12.5 million (three percent) of net sales. License fees represented $3.6 million (0.8 percent), while miscellaneous items were $2.8 million (0.6 percent) of net sales.

Figure 1

Gross Profits Of Control States As A Percentage Of Gross Sales[1]
SFY 2008



Note:

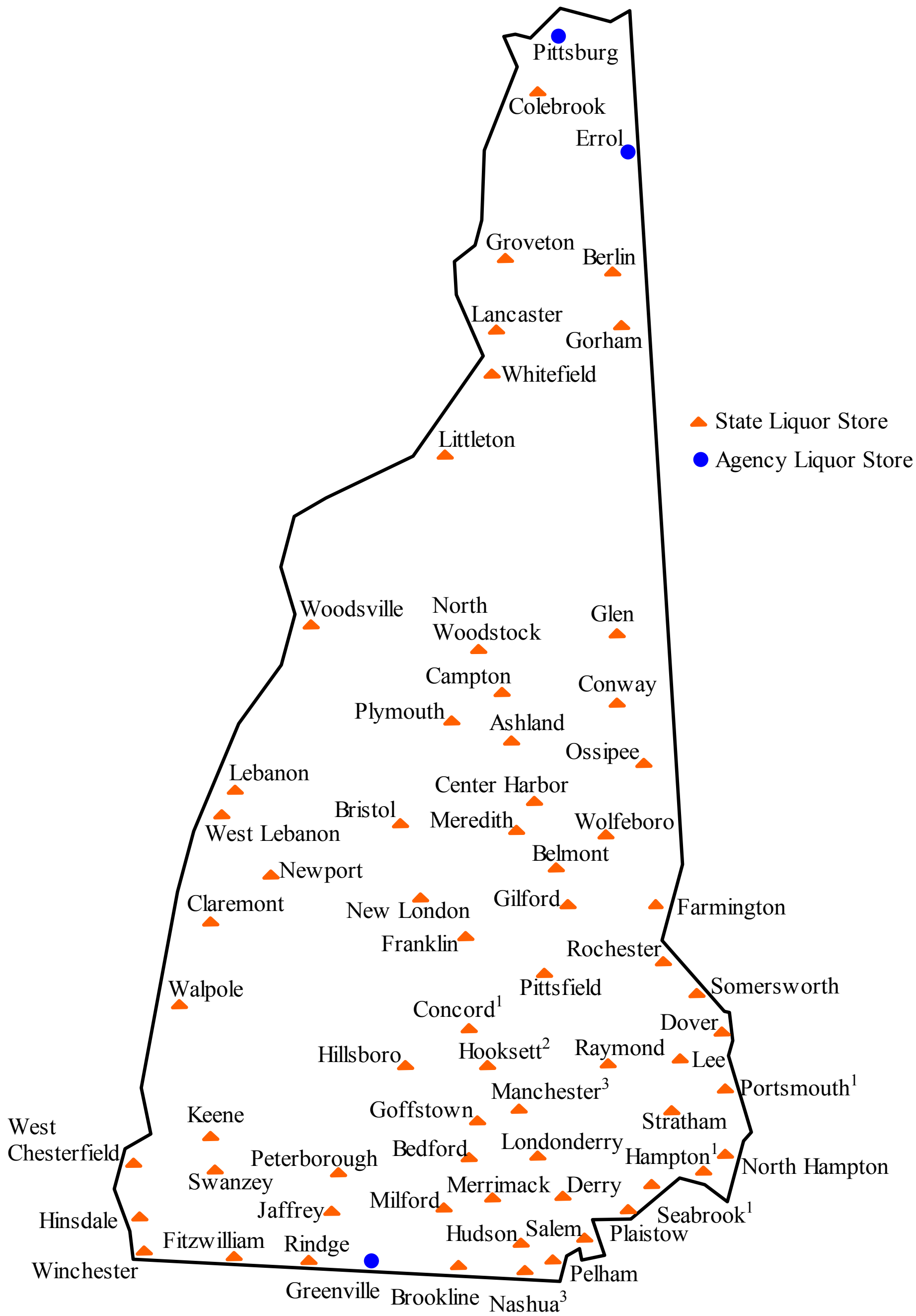
[1] Gross sales used to calculate the percent of gross profit include the following taxes and surcharges: New Hampshire (0%), Pennsylvania (20%), Idaho (2%), North Carolina (21%), Virginia (20%), Utah (15%), and Washington (28%).

Source: LBA analysis of unaudited financial information available in control states' annual reports.

The same liquor stores in New Hampshire consistently ranked as the top five in sales and net profit each year between SFYs 2006 and 2008. These top five stores, ranked from highest to lowest, were: Hampton-North, Hampton-South, Portsmouth, Salem, and Hooksett-North. Notably, all of these stores are conveniently located along major interstate highways and all but one are near the State's borders. Figure 2 shows locations of the 77 State liquor stores operated by the Commission and the three agency stores operated by private businesses.

Figure 2

State And Agency Liquor Store Locations



Notes:
[1] Concord, Portsmouth, Seabrook, and Hampton each have two stores.
[2] Hooksett has three stores.
[3] Nashua and Manchester each have four stores.

Source: LBA analysis of Liquor Commission information.

RSA 176:1 established the Commission, which consists of three members, appointed for six-year terms by the Governor and Council. The Governor, with the consent of the Council, appoints one commissioner as the Chairman. The Commission had 320 full-time authorized positions, as of March 2009, and an additional 766 part-time employees. Pursuant to RSA 176:8, the Commission is divided into three Bureaus. The Bureau of Administrative Services is responsible for overseeing all aspects of the Commission's administrative functions, including accounting, financial management, information technology (staffed by the Department of Information Technology), human resources, and contracting. The Bureau of Marketing and Sales is responsible for marketing, merchandising, purchasing, warehousing, distributing wine and spirits, and operating 77 retail stores. The Bureau of Enforcement and Licensing is generally responsible for licensing, investigating, and enforcing all alcohol and tobacco laws and rules. In addition, the Bureau provides licensee education and training; recommends fines, revocations, and license suspensions to the Commission; and collects licensing fees and enforcement fines.

Results in Brief

We found the Commission is not organized and, in some cases, is not managed to fully maximize income to the General Fund. The Commission needs to operate more like a business, ensuring its current purchasing and pricing practices align with its business strategies to fully optimize profitability, increase operational efficiency, and enhance management controls. With a business-oriented mindset and practices, the Commission will be in a better position to increase its contributions to the State's General Fund.

Our audit presents 20 observations and recommendations to assist the Commission in optimizing profits, enhancing controls, and improving operational efficiency. We found the three-member management structure is not cost effective, impedes efficient and timely decision-making, and should be replaced by a single chief executive with oversight provided by a part-time board.

We found several weaknesses hindering the Commission's optimization of profits, including the lack of marketing and store plans outlining the Commission's long-term market goals supported by effective purchasing practices, pricing strategies, floor space planning, and a more selective product introduction process. Additionally, the Commission's direct shipper program lacks adequate controls to ensure efficient and effective operations. We found establishing a permit fee, developing a computer application to automate processes, imposing stricter fines and penalties, and analyzing products shipped into the State would enable the program to operate more efficiently and effectively.

We found the Commission could improve efficiency by consolidating the two warehouses into one warehouse. The Commission-owned warehouse lacks policies and procedures for activities including: receiving, storing, picking, and shipping products; equipment operation; and loss prevention. Also, the Commission is dependent on a single contractor for product storage, transportation, and the on-line licensee ordering system, leaving it vulnerable to a single point of failure. We found the Commission may be able to reduce its warehouse space needs by reviewing its requirement that all suppliers maintain a minimum of 30-day supply of products in the warehouses. Additionally, the Commission-owned warehouse does not fully use its space for product storage, and security is insufficient to prevent and detect theft.

STATE OF NEW HAMPSHIRE
LIQUOR COMMISSION

RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action Required	Recommendation	Agency Response
1	21	Yes	Consider amending RSA 176 to reduce the number of Commissioners from three to one chief executive and establish a part-time board to provide general oversight, policy-making, and adjudicative functions.	Do Not Concur
2	24	Yes	Consider closing or consolidating some retail store locations. The Legislature may wish to amend RSA 177:2, I to allow the Commission to close and consolidate stores as needed.	Concur
3	26	No	Consult with the DOJ to reduce or eliminate lease payments.	Concur
4	27	No	Initiate the interim rulemaking process for expired administrative rules while finalizing proposed rules.	Concur
5	30	No	Establish a comprehensive marketing plan to maintain or enhance competitive position, ensure an optimal mix of stores, identify ideal store locations, and provide an appropriate mix of products and prices. Ensure the store plan supports the marketing plan.	Concur
6	31	No	Establish selling prices independent of suppliers. Assess costs and market conditions to develop a pricing strategy and work with suppliers to leverage their expertise.	Concur In Part
7	34	No	Negotiate prices paid for wine and spirits. Review purchasing practices and the resources necessary to implement changes.	Concur In Part
8	36	No	Establish criteria for selecting products to test market to better control the volume of test products. Negotiate test marketing with suppliers.	Concur In Part
9	39	No	Centralize store layouts for all retail store space with input from store managers. Negotiate with suppliers for product price, product placement, and other terms of product purchase.	Concur In Part

Observation Number	Page	Legislative Action Required	Recommendation	Agency Response
10	40	No	Revise the store plan to fully comply with RSA 177:3.	Concur In Part
11	41	Yes	Consider implementing a direct shipper permit fee to reduce workload from shippers not shipping product, improve monitoring, and increase revenue.	Concur
12	42	No	Work with the Department of Information Technology to create an automated system to capture monthly shipping reports and product information, automatically calculate totals and fees, check shipper reports against common carrier reports, provide management information, and process credit card payments. Include a consumer interface with the capability to check the Commission's inventory system and alert consumers if the product is offered at a State liquor store.	Liquor Commission Concur DoIT Concur
13	43	Yes	Consider amending RSA 178:27 to allow progressive penalties for repeat violators of direct shipping laws, explore reciprocal agreements with domiciliary states of the most frequent violators, and work with the Office of the Attorney General to prosecute direct shippers repeatedly violating statutes.	Concur
14	45	No	Restrict products already sold in State liquor stores from being shipped into the State, periodically analyze shipping reports to identify commonly shipped products, and determine the feasibility of selling those products in State stores.	Concur In Part
15	47	Yes	Consolidate warehouse operations into one centrally-located warehouse. Ensure all warehouse- and transportation-related revenues are reported to the State so the actual revenue generated from warehousing and transportation can be fully assessed.	Concur
16	48	No	Conduct an analysis of the optimal level of inventory suppliers must maintain in the State and contracted warehouses.	Concur In Part

Observation Number	Page	Legislative Action Required	Recommendation	Agency Response
17	49	No	Review reliance on a single contractor for critical functions to reduce operational risks. Develop or negotiate the purchase of a licensee ordering system, require suppliers to report all bailment payments made to the contractor, review the appropriateness of selling advertising space on the licensee ordering system, and request the contractor report all advertisement revenue to the Commission.	Concur
18	51	No	Improve warehouse security to help prevent and detect theft. Consider installing security cameras, limiting warehouse access, restricting use of the facility's rear door, and electronically securing warehouse doors.	Concur
19	52	No	Eliminate storage of non-liquor products, dispose of unused pallets, and determine a cost-effective approach to recover unused rail bed space to better utilize the warehouse.	Concur In Part
20	54	No	Develop comprehensive warehouse policies and procedures.	Concur

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OVERVIEW

In June 2008, the Fiscal Committee of the General Court adopted a recommendation by the joint Legislative Performance Audit and Oversight Committee (LPAOC) to conduct a performance audit of the organization and management of the New Hampshire Liquor Commission (Commission). We held an entrance conference with the Commission in July 2008. On November 6, 2008, the LPAOC approved the scope for the audit.

SCOPE, OBJECTIVES, AND METHODOLOGY

This performance audit was conducted in accordance with generally accepted government auditing standards applicable to performance audits and accordingly included such procedures as we considered necessary in the circumstances.

Scope And Objectives

This performance audit evaluated the organization and management of the Commission and was designed to answer the following question: **Has the State Liquor Commission organized and managed its operations to maximize income to the General Fund?** To address this objective, our audit efforts focused on determining whether the Commission's:

1) three commissioner organizational structure and management practices promote effective and efficient operations,
2) product pricing and fee structures maximize revenue, and
3) warehousing and distribution operations are efficient.

The Legislature authorized the Commission to reorganize its bureau structure pursuant to a recommendation made in our 1994 performance audit of the Commission. Our review of the organizational structure during this audit was limited to whether three commissioners are necessary for daily management of the Commission.

Methodology

We conducted appropriate audit procedures in accordance with *Government Auditing Standards* promulgated by the Comptroller General of the United States. The audit period included State fiscal years (SFYs) 2007 and 2008. In conducting our audit work, we interviewed Commission employees, employees from other states' liquor authorities, suppliers, and others familiar with the Commission; reviewed the Commission's statutes, administrative rules, and policies and procedures; analyzed the Commission's sales, product purchasing, pricing practices, fees, inventory, and financial and personnel information; conducted a review of direct shipping reports; compared the Commission's structure to other State agencies, other control states, and businesses in the private sector; visited State grocery stores and liquor stores in a neighboring state to review product prices; and reviewed store operations and warehousing practices in the State.

BACKGROUND

In 1933, the Twenty-First Amendment to the United States Constitution repealed national prohibition, authorizing each state to control alcoholic beverages within its borders. As responsibility for regulating consumption, manufacture, and transportation of alcohol was delegated to state governments, each state adopted its own system of alcohol control and regulation within its own borders.

New Hampshire is one of 18 control states, which generally regulate alcohol through a government agency directly involved in wholesale distribution and, in some cases, retail merchandising of alcohol products. In ten control states, including New Hampshire, the same state agency also licenses private sellers of alcohol and enforces state alcohol laws, while in five other states, the agencies have licensing but not enforcement responsibilities. In three control states the agencies have neither licensing nor enforcement responsibilities. Table 1 shows the 18 control states. The 32 states which only license persons engaged in alcohol distribution and sales are called license states.

Table 1

Control States

Alabama	Montana	Utah[1]
Idaho[1]	New Hampshire[1]	Vermont
Iowa	North Carolina[1]	Virginia[1]
Maine	Ohio	Washington[1]
Michigan	Oregon	West Virginia
Mississippi	Pennsylvania[1]	Wyoming

Note:

[1] Operates retail sales locations.

Source: National Alcohol Beverage Control Association.

Following the repeal of prohibition, Chapter 99, New Hampshire Laws of 1933 (now codified in RSA 175-180), created a three-member Control Commission to control the manufacture, sale, and transport of alcoholic beverages in the State. In 1934, the statute was repealed and reenacted to replace the Control Commission with the State Liquor Commission, authorize operation of State liquor stores and warehouses, and require all wine and spirits sold in the State to be bought from the Commission. According to RSA 176:3, the Commission is responsible for optimizing profitability, maintaining proper controls, assuming responsibility for effective and efficient operations, and providing service to its customers. It carries out these responsibilities by selling wine and spirits at the Commission's 77 State-operated stores and warehouses, regulating 4,495 licensees, and enforcing all State liquor laws and regulations.

Liquor Industry

The Commission operates in a highly competitive liquor industry, even though it is a monopoly within the State. Despite its monopoly position, the Commission must be cognizant of the prices charged for products in surrounding states to remain competitive. The industry is also very competitive on the supply side of the Commission's business. Suppliers compete against each other primarily on the basis of brand loyalty, quality, and price. The market for spirits is consolidated, with five suppliers dominating. The market for wine is fragmented with many suppliers vying for market share. Brokers represent suppliers in the local market on a commission basis. Except in a few cases, brokers do not own the products they represent and generally represent multiple suppliers. Brokers conduct daily business with the Commission, monitor local and regional markets, promote suppliers' products, and manage the daily inventory level at the warehouses on behalf of the supplier. (See Appendix B for a list of the Commission's top 12 suppliers and associated brokers, with gross amounts purchased from these suppliers in SFY 2008.)

The liquor industry is very profitable. At least four of the Commission's major suppliers experience gross profit margins of 60 percent of net sales. Net income for these same companies ranged from 13 percent to 20 percent of net sales for their fiscal years ending in 2008. We note at least three of the Commission's major suppliers are privately held, so no public sources of financial results are available.

Funding

Biennially, the Legislature approves the Commission's operating budget, which in SFY 2008 was $36.2 million, exclusive of product purchases. Clearing accounts are used to pay for the purchase of wine and spirits stock and are not budgeted. According to Commission records, in SFY 2008, wine and spirits purchases amounted to approximately $333 million, while transportation expenditures totaled almost $1.9 million. RSA 176:16, I requires all gross revenue derived by the Commission from the sale of liquor or from license fees to be deposited into the State General Fund, with few exceptions. Nearly all expenditures are paid by the State Treasurer from the General Fund.

The Commission's expenditures, excluding product purchases, totaled approximately $34.8 million in SFY 2008, an increase of eight percent from SFY 2007. Expenditures for wages and benefits were $23.6 million, or 68 percent of all operating expenditures. The next largest expenditure was rent, at $2.7 million or eight percent of expenditures.

The Commission's main sources of revenue are wholesale sales from the liquor warehouses and retail sales from the State liquor stores. The Commission owns and operates the State liquor warehouse in Concord and collects bailment fees for wine and spirits stored there. The Commission also contracts for additional warehousing in Nashua; however, the contractor receives the bailment fees from wine and spirits stored there. Bailment is a system providing for delivery of supplier-owned wine and spirits to the Commission-owned or contracted warehouses for storage. Bailment fees for wine and spirits are levied based on quantity and time stored in the warehouses. In addition to revenue from sales and bailment fees, the Commission generates revenue from licensing fees; a $0.30 per gallon fee on beverages; administrative fines; and an eight percent fee on liquor, wine, and beer shipped directly to consumers from out-of-state manufacturers.

Gross retail sales for SFY 2008, primarily through the State's 77 liquor stores, increased $22.4 million (seven percent) over SFY 2007, while gross sales to on-premise licensees (e.g., clubs, restaurants, and hotels) and off-premise licensees (e.g., supermarkets and convenience stores) increased $0.5 million (approximately one percent) and $3.6 million (four percent), respectively. When viewed by product, gross wine sales increased $11.9 million (six percent) between SFYs 2007 and 2008 while gross spirits sales increased $14.6 million (six percent) during the same period.

In SFY 2008, the Commission earned gross profits of $127.5 million on total sales of $460.5 million; a gross profit margin of 28 percent. Gross profit increased seven percent from $119.2 million in SFY 2007 to $127.5 million in SFY 2008 while sales of alcoholic beverages increased six percent from $436.1 million in SFY 2007 to $460.5 million in SFY 2008. Income from other revenue sources (e.g., fees, taxes, fines) increased less than one percent from $18.8 million in SFY 2007 to $18.9 million in SFY 2008. Bailment accounted for six percent of other revenue sources, or $1.1 million in SFY 2008. Table 2 summarizes the Commission's financial activity between SFYs 2006 and 2008.

RSA 178:26 requires licensed wholesale distributors, beverage manufacturers, and brew pubs to pay a fee of $0.30 for each gallon of beverage (commonly known as the "beer tax") sold or transferred for retail sale or to the public. Beverage is defined in RSA 175:1, VIII as any beer, wine, similar fermented malt or vinous liquors and fruit juices, and any other liquid intended for human consumption as a beverage having an alcoholic content of not less than one-half of one percent by volume and not more than six percent alcohol by volume. This includes specialty beer having an alcohol content greater than six percent but not more than 12 percent by volume. The Commission may approve any specialty beer with an alcohol content greater than 12 percent. This fee has not changed since 1983, when the fee was increased. Although New Hampshire has the second highest beverage fee in New England, beer sales in the State are roughly ten gallons more per capita per year than the next two closest New England states, according to the Beer Institute, likely as a result of purchases by visitors to the State.

The Commission is required to deposit gross revenues from wine and spirits sales and license fees into the State's General Fund with two exceptions. RSA 177:8 required revenues from special mark-ups of commemorative bottles to be deposited into the Historical Fund. RSA 176:16 requires a percentage of gross profits not to exceed "5 percent of the current year gross profits" to be deposited into the Alcohol Abuse Prevention And Treatment Fund. The Legislature suspended transfers to the Alcohol Abuse Prevention And Treatment Fund during SFYs 2006 through 2009 and there were no commemorative bottles sold during SFYs 2007 and 2008.

We analyzed information provided by the Commission to determine which of the 77 State liquor stores had the highest sales from SFYs 2006 through 2008. The same State liquor stores consistently ranked in the top five stores in terms of sales each year between SFY 2006 and SFY 2008. These top five stores, ranked from highest to lowest, were: Hampton-North, Hampton-

South, Portsmouth, Salem, and Hooksett-North. Notably, all of these stores are conveniently located along major interstate highways and all but one are near the State's borders.

Table 2

Liquor Commission Comparative Income Statements
SFYs 2006 - 2008
(Unaudited)

	SFY 2008		SFY 2007		SFY 2006	
	Amount	**Percent[1]**	**Amount**	**Percent[1]**	**Amount**	**Percent[1]**
Revenues:						
Net Sales	$460,540,418	100.0%	$436,134,694	100.0%	$415,531,793	100.0%
Cost Of Goods Sold	333,047,942	72.3	316,887,945	72.7	299,717,939	72.1
Gross Profit	$127,492,476	27.7	$119,246,749	27.3	$115,813,854	27.9
Operating Expenses:						
Personnel Services	$ 17,585,602	3.8	$ 16,431,489	3.8	$ 15,758,229	3.8
Payroll Benefits	6,031,967	1.3	5,929,612	1.4	5,837,869	1.4
Rent	2,726,511	0.6	2,113,465	0.5	2,032,425	0.5
Miscellaneous	2,668,793	0.6	2,432,238	0.6	2,286,234	0.6
Advertising	1,503,083	0.3	1,208,115	0.3	1,221,707	0.3
Heat, Light, And Power	1,210,031	0.3	1,071,433	0.3	995,441	0.2
Depreciation	749,520	0.2	896,685	0.2	1,178,518	0.3
Repairs	615,856	0.1	623,177	0.1	431,423	0.1
Supplies And Materials	554,269	0.1	539,521	0.1	410,604	0.1
Capital Outlays	383,549	0.1	200,182	0.0	141,943	0.0
Indirect Costs	297,482	0.1	362,388	0.1	258,280	0.1
Communications	209,729	0.1	176,569	0.0	185,314	0.1
Travel	190,807	0.0	141,990	0.0	157,227	0.0
Printing And Binding	72,026	0.0	68,575	0.0	87,432	0.0
Total Operating Expenses	$ 34,799,225	7.6	$ 32,195,439	7.4	$ 30,982,646	7.5
Operating Income	$ 92,693,251	20.1	$ 87,051,310	20.0	$ 84,831,208	20.4
Other Income (Expenses):						
Beverage Fees	$ 12,507,555	2.7	$ 12,519,584	2.9	$ 12,624,403	3.0
Licenses	3,598,144	0.8	3,696,613	0.9	3,224,224	0.8
Miscellaneous	2,810,461	0.6	2,573,407	0.5	2,171,190	0.5
Loss On Disposal Of Equipment	(7,852)	0.0	(7,970)	0.0	(20,828)	0.0
Total Other Income	$ 18,908,308	4.1	$ 18,781,634	4.3	$ 17,998,989	4.3
Income Before Transfers	$111,601,559	24.2	$105,832,944	24.3	$102,830,197	24.7
Transfer To General Fund	$111,592,460	24.2%	$105,993,580	24.3%	$103,442,743	24.9%

[1] As a percentage of Net Sales.

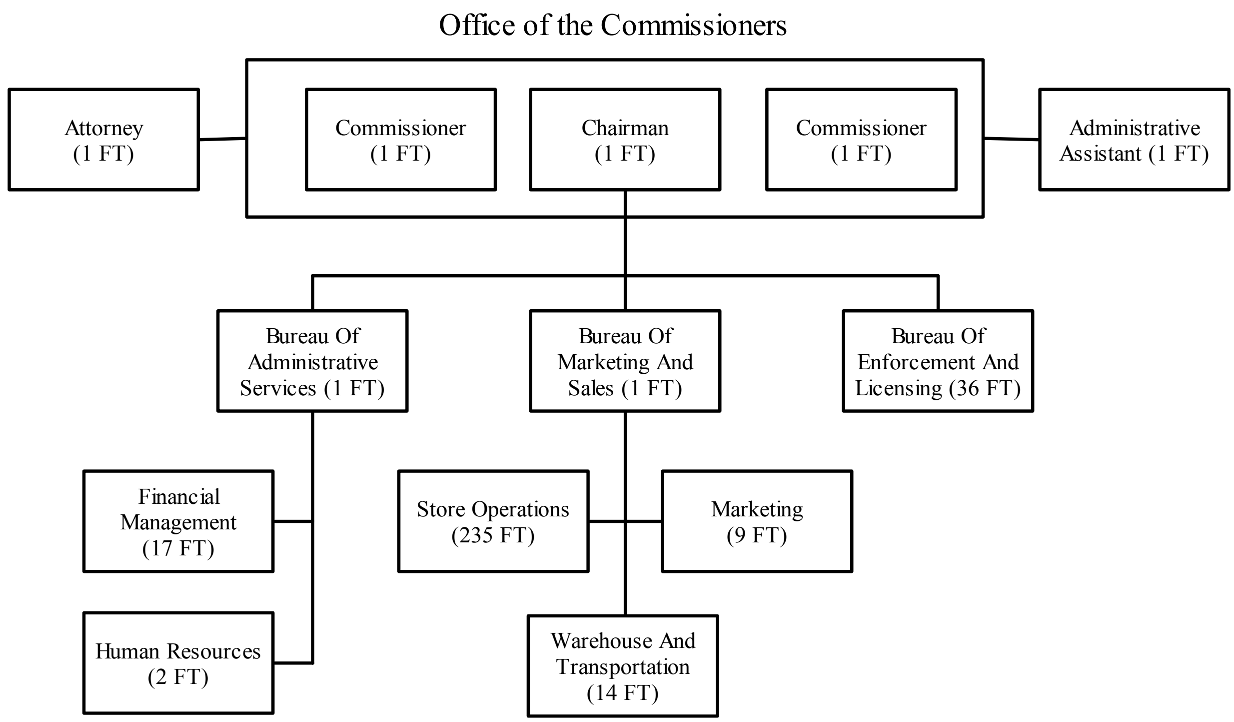
Source: LBA analysis of SFY 2008 Liquor Commission Annual Report.

Organization

RSA 176:1 established the Commission, which consists of three members appointed by the Governor with the consent of the Council. Each commissioner serves a six-year term and one commissioner is appointed chairman by the Governor with the consent of the Council. The Commission's duties are enumerated in RSA 176:3, including: optimizing the profitability of the Commission, maintaining proper controls, assuming responsibility for the effective and efficient operation of the Commission, and providing service to the customers of the Commission. Pursuant to RSA 176:8, the Commission is divided into three Bureaus: Administrative Services, Marketing and Sales, and Enforcement and Licensing. The organizational structure of the Liquor Commission as of March 2009 is shown in Figure 3.

Figure 3

Liquor Commission Organization
As Of March 2009



Source: LBA analysis of Liquor Commission documents.

Bureau Of Administrative Services

The Bureau of Administrative Services, established by RSA 176:8, III, had 20 full-time authorized positions. The Bureau is responsible for overseeing all aspects of the Commission's administrative functions, including financial management, information technology (staffed by the State Department of Information Technology), human resources, and contracting. Financial management had the largest number of employees within the Bureau with 17 full-time authorized positions, while human resources was the smallest with two full-time authorized positions.

Bureau Of Marketing And Sales

RSA 176:8, II established the Bureau of Marketing and Sales. It had 259 full-time authorized positions. In addition, the Bureau had a roster of 736 part-time employees available for its retail stores as of March 1, 2009. The Bureau is responsible for marketing, merchandising, purchasing, warehousing, distributing wine and spirits, and operating 77 retail stores throughout the State. Retail store operations is the largest activity within the Bureau, with 235 full-time authorized positions, followed by warehousing and transportation, with 14 full-time authorized positions.

On-premise and off-premise licensees may order wine and spirits by contacting the local State liquor store or electronically through the Internet at www.nhliquor.com, a website owned and operated by the private contractor operating the larger of the two warehouses used by the Commission. Products ordered through local State liquor stores arrive with the store's scheduled inventory replenishment delivery for licensee pick-up, while products ordered using the Internet are shipped to the licensee's address via common carrier or the warehouse contractor.

Bureau Of Enforcement And Licensing

RSA 176:8, I established the Bureau of Enforcement and Licensing. It had 36 full-time authorized positions and is generally responsible for licensing, investigating, and enforcing all alcohol and tobacco laws and rules. In addition, the Bureau provides licensee education and training; recommends fines, revocations, and suspensions of licenses to the Commission; and collects licensing fees and enforcement fines. There are 37 different types of liquor licenses defined by RSA 178. Table 3 shows there were 4,495 licensees holding liquor licenses in New Hampshire on December 1, 2008. The three most common license types account for approximately 80 percent of all licenses. At the other end of the spectrum, 27 different license types account for only five percent of all licenses, and of those, no single license type represents more than one percent of the total number of licenses.

Table 3

Liquor Licenses By Type
As Of December 1, 2008

License Type	Number	Percent of Total
Combination	1,317	29.3%
Restaurant	1,235	27.5
Direct Shipper Permit	1,055	23.5
Beverage Vendor	135	3.0
Sports Recreation Facility	123	2.7
Liquor and Wine Vendor	120	2.7
Hotel	83	1.8
Veterans Club	67	1.5
Retail Table Wine	67	1.5
Social Club	62	1.4
All Others (27 different license types, each less than 1% of total)	231	5.1
Total	**4,495**	**100.0%**

Source: LBA analysis of Liquor Commission license data as of December 1, 2008.

Combination license holders, typically grocery and drug stores, are permitted to sell fortified wine, table wine, and beverages for consumption only off the premises and not to other licensees for resale. Restaurant license holders are permitted to sell beverages, wines, and liquors by the glass or other suitable container, and by the bottle if the cap or cork is removed, for consumption on the premises. Direct shipper license holders, usually out-of-state manufacturers or specialty distributors, may ship directly to New Hampshire consumers over 21 years of age. Licensees must ship in packages marked "Alcoholic Beverages, adult signature (over 21 years of age) required." All shipments from direct shippers into the State must be made by a Commission-licensed common carrier.

Significant Achievements

Performance auditing by its nature is a critical process, designed to identify weaknesses in past and exisiting practices and procedures. Noteworthy achievements provided by management related to the scope of the audit are included here in an attempt to provide balance to the report. Significant achievements are considered practices, programs, or procedures that evidence indicates are performing above and beyond normal expectations.

Electronic Handheld Inventory Device

The Commission introduced a handheld electronic device which allows employees mobility when taking physical inventory at retail stores. The device allows employees to scan the product code and data is automatically transferred to the store's inventory system. This technology has provided improved inventory accuracy, is more efficient, and reduced labor and paper costs.

As a result of the introduction of the handheld devices, each quarterly inventory process has shrunk from a four-week to a one-week accounting process. Many stores now take two full inventories on the same evening without sales, receiving, or inventory adjustments occurring, improving accuracy and diminishing the size of recounts. Paper costs across the retail store system were reduced as a result of eliminating one cycle count (multiple sheets of paper per store), and reduced number of cycle counts. Additionally, the Commission has been able to reduce labor costs because universal product codes are scanned with the handheld device instead of manually entered into the inventory system.

Gift Card Program

The Commission implemented a gift card program which, since SFY 2003, has generated over $5 million in sales. At the end of SFY 2008, the Commission sold over 246,000 gift cards since the program's inception. The gift cards have provided an additional purchasing option for customers and given business partners additional marketing tools.

Restructured The Commission's Deposit System

In cooperation with the State Treasury, the Commission restructured the system of deposits for all retail stores so the majority of store deposits go directly into accounts maintained by the State Treasurer. The restructuring decreased the delay in receipts from stores to the State Treasury by a day, thereby increasing the timeliness of the State's ability to invest funds and improving the Accounts Receivable section's efficiency in managing store deposits. This restructuring also reduced banking costs by reducing the number of accounts required.

Commission Website

The Commission's website has become an important resource for customers and business partners. The Commission created product look-up capabilities which provides business partners and the general public the capability to identify product location and quantities on hand in each of the 77 retail stores. The Commission's site also provides complete current pricing information, allowing for discontinued printing of on-premise, off-premise, and agency price books, thus further reducing expenses.

Paperless Attendance And Leave System

The Commission created a paperless personnel attendance and leave system, including an Internet interface, that tracks attendance and leave for Commission staff. Besides reducing the need for paper leave slips, this action provided a more efficient process for requesting and approving personnel leave.

Established Uniform Credit Card Rate For All State Agencies

The Commission re-negotiated American Express payment card rates for the Commission and all other State agencies resulting in one uniform rate Statewide. The Commission's Chief Financial Officer was recognized by the Governor's office for this effort.

Web-Based Marketing Initiative

The Commission developed a web-based marketing initiative that currently includes over 22,000 customer e-mail addresses. This enables the Commission to communicate sale and other information of interest to some of its customer base. The Commission includes discount coupons as an assurance that e-mail communications will be viewed and not just deleted. The Commission details and monitors the "click through" rate for each effort. The Commission will continue an aggressive effort to establish over 100,000 active addresses, which it expects will reduce newspaper print and other related advertising expenses.

New Warehouse Racking System

The Commission hired a consultant to design and install a state-of-the-art product racking and distribution system in the Concord facility. The system improved efficiency, productivity, accuracy, and storage capability and resulted in a 31 percent increase in bailment revenue.

Weekly Staff Configuration

The Commission reorganized the weekly staffing configuration to maximize use of temporary employees and reduce full-time labor and benefits costs. The number of full-time employees remained constant, despite the expanded number of retail stores. As vacancies occur, the Commission uses "geographical area" assignments instead of store-specific assignments and re-allocates full-time positions from lower volume store locations to higher volume stores. In some stores, part-time employees are used in management positions during times of management injury or catastrophic illness, or during extreme levels of sales volume.

"Going Green" Environmental Program

The Commission implemented a "Going Green" environmental program including implementing a point of sale system requiring less paper, recycling cardboard boxes, replacing light bulbs in its signs with energy-saving bulbs, installing new signs with eco-friendly materials, and partnering with the Lodging and Restaurant Associations to promote environmental awareness. The Commission also instituted a promotion to encourage consumers to provide their own recycled bags.

Commission Awards

In 2007, the Bureau of Enforcement and Licensing received the National Liquor Law Enforcement Association's *Liquor Law Enforcement Agency of the Year* Award. In 2008, the Commission received the Cultural Diversity Awareness Council's *Award for Diversity Awareness*.

LOGIC MODEL

The logic model in Figure 4 presents how Commission objectives are intended to connect significant program goals and their activities with outputs and outcomes.

Logic models are presented as flow charts describing programs in a way that facilitates understanding intended causal relationships between activities, outputs, and outcomes. The flow chart illustrates how a program intends to solve identified problems. Individual program activities, outputs, and outcomes are arranged in rows. Relationships between the various activities, outputs, and outcomes are arranged vertically on the page according to the sequential flow of program logic. The arrows linking the program elements signify the intended flow of the program.

The starting point for the Commission's logic model is the four duties assigned by RSA 176:3: optimize the profitability of the Commission, maintain proper controls, assume responsibility for the effective and efficient operation of the Commission, and provide service to the customers of the Commission. Activities describe what the Commission does to produce outputs. Outcomes are what the Commission hopes to change via its activities. Therefore, Commission outcomes, or the intended impact of the Commission's activities, should be linked to the mission.

Figure 4

LBA Logic Model Of Commission Activities

Mission	• Optimize the profitability of the Commission; • Maintain proper controls; • Assume responsibility for effective and efficient operation of the Commission; and • Provide services to customers.		
Inputs	320 FT positions, including three commissioners; laws; administrative rules; appropriations; advertising; retail locations; and warehouses.		
Components	State Liquor Commission (one chairman and two commissioners)		
	Bureau of Administrative Services	Bureau of Marketing and Sales	Bureau of Enforcement and Licensing
Activities	• Accounting • Financial Management • Information technology -Point of Sale system -Inventory system • Human resources • Contracting	• Operate and maintain 77 liquor stores • Market and advertise products • Recommend product pricing • Develop merchandising material to promote products • Purchase and warehouse liquor and wine throughout the State	• Enforce liquor laws and rules • Enforce Youth Access to Tobacco law • Investigate violations • Process liquor license applications • Recommend fines, revocations, and suspension of licenses to the Commission • Educate and train licensees regarding laws and rules
Outputs	• Number of full- and part-time employees at each store • Financial data including sales, gross profit, operating expenses, and per store data • Connected Point of Sale system	• Number of different liquor and wine codes listed and available in inventory • Sales revenue and profit • Bottles of liquor and wine sold • Warehouse bailment revenue • Knowledgable sales clerks	Number of: • Licences processed • Fines, revocations, and license suspensions recommended and approved • Licensees educated and trained
Intermediate Outcomes	• Reduced IT downtime and improved IT operations • Up-to-date sales and inventory data • Improved customer service	• Increased sales and profits • Improved customer service • Acceptable inventory turns	• Fewer violations of liquor and tobacco laws and rules • Businesses obtain proper licenses
Final Outcomes	Regulated alcohol and tobacco sales and consumption. Maximized Liquor Commission profits and transfers to the General Fund. Well-managed Commission operations providing excellent service to customers and licensees.		

Source: LBA analysis of Liquor Commission statutes and other documents.

ORGANIZATIONAL STRUCTURE AND MANAGEMENT PRACTICES

The New Hampshire Liquor Commission (Commission) is statutorily responsible for optimizing profitability, maintaining proper controls, operating efficiently and effectively, and serving its customers. The three-member Commission is responsible for its daily operations including warehousing, distribution, wholesale and retail sales, enforcement, licensing, financial reporting, and marketing. This management structure is unique among liquor regulatory agencies in other control states and private business in general, is inefficient, not cost-effective, and at times, has led to unclear lines of authority and accountability. This is further exacerbated because certain administrative rules are expired and should be renewed to strengthen the Commission's authority and oversight responsibilities. The Commission has not determined whether under-performing stores or those in close proximity should be closed or consolidated. We found the Commission is making lease payments for two retail locations in the same town, including a space it did not occupy after September 2008.

Observation No. 1

Reorganize The Liquor Commission Under A Single Chief Executive Overseen By A Part-Time Board

RSA 176 establishes the Commission under three commissioners collectively responsible for daily operations and maintaining proper controls, as well as optimizing profits and providing services to Commission customers. This three-member management structure is unique when compared to other New Hampshire business-oriented State agencies, other liquor control states, and private business in general. Changing this organizational structure would clarify lines of authority, responsibility, and accountability; increase efficiency in decision-making; and may realize some salary and benefit savings.

By adopting the Executive Branch Reorganization Act of 1983 (RSA 21-G), the Legislature recognized the importance of improved coordination and management of State services by establishing clear lines of authority, responsibility, and accountability for program implementation. To accomplish this goal, RSA 21-G established departments under the direction of a single commissioner. RSA 21-G:9 further enumerated the powers and duties of commissioners including managing all department operations, adopting department rules, exercising supervisory and appointing authority over all department employees, and adopting practices to improve the department's efficiency. Most New Hampshire Executive Branch agencies, including those operating business-oriented activities such as the Lottery Commission and Pease Development Authority, operate under the administrative direction of a single agency head. Although the Liquor Commission was created prior to the passage of RSA 21-G in 1983, it was not subject to the Executive Branch Reorganization Act.

Of the 18 control states, only New Hampshire vests responsibility for daily operations in a board acting collectively. The other 17 control states, six of which also manage retail operations, utilize a single administrator, variously called commissioner, executive director, superintendent, or chief executive officer, to manage day-to-day agency operations. In 12 states a board or commission is responsible for general oversight, policy-making, appeals, or listing and de-listing products. In addition, private sector businesses generally have one chief executive reporting to a board of directors.

According to Commission personnel, the three-member structure was created as a safeguard against corruption and favoritism. However, a single commissioner responsible for all day-to-day operations, overseen by a part-time board, would be more cost-effective and efficient, and still mitigate the risk of corruption and favoritism. Benefits of a single commissioner vested with daily management responsibility include:

- Improved lines of authority and accountability. The three-member management system has led to unclear lines of authority and accountability. Senior staff report to the Commission as a whole for some issues, but for other issues, they report to individual commissioners. Neither State law nor administrative rules assign specific areas of responsibility to particular commissioners, causing confusion among some commissioners and staff regarding who has authority for making some decisions.
- Efficiencies may be gained by having only one chief executive. Currently, the three-member structure is incompatible with RSA 91-A, the State's Right-to-Know Law, as we detail later in this report in our *Other Issues and Concerns* section. According to RSA 91-A:2, I, a public meeting occurs when a quorum of a public body convenes. With three Commissioners responsible for the day-to-day management of the operation, a notice of public meeting must be posted prior to any meeting of two or more commissioners discussing Commission operations. However, the Commission does not hold an official public meeting every time two or more commissioners gather to discuss business. Similarly, when a quorum of Commission members cannot be achieved, no decisions can be duly made, which delays decision-making. According to one bureau chief and the Chairman, provisions of the Right-to-Know law complicate the Commission's operations.
- Salary and benefit expenditures may be reduced. The Commission estimated it will expend approximately $327,000 in salary and benefits during State fiscal year (SFY) 2009 for the three full-time commissioners.

Our 1994 performance audit had similar findings. The report states:

> The three-member liquor commission is inefficient, unnecessary, and outdated. Multi-headed boards and commissions are satisfactory in fact-finding and advisory capacities, but for purely administrative work they all too often result in divided authority and indecision where efficient and effective coordination and implementation of policy are needed. In addition, matters of a nature that can arguably be said to require multiple decision-makers to ensure fairness, such as listing and delisting products and whether to suspend licenses or fine their holders, require considerably less of the commissioners' time than seems necessary to support three full-time senior officials.

We find the same issues still exist. Since 1996, five Legislative proposals were presented to change the composition of the Commission but none have become law.

Recommendations:

The Legislature may wish to consider amending RSA 176 to:

- **reduce the number of commissioners from three to one full-time chief executive consistent with RSA 21-G, and**
- **consider establishing a part-time, three- or five-member board appointed by the Governor and Council, to provide general oversight, strategic business plan approval, policy-making, adjudicative functions such as listing and de-listing products, preside over hearings for licensee violations, receive results from internal audits, and determine store locations.**

Chairman Bodi Response:

It is my view that the current statutory organization of the Commission would clearly benefit from a definition of duties among and between individual members. Additionally, the current Right to Know Law, enacted well after the Commission was created 75 years ago, did not contemplate the challenges presented to the State's sole full-time operating Commission. As a result the Commission is often statutorily denied the business benefits of having three members working together due to current law that limits the interaction of Commissioners under certain circumstances without constituting a posted and publicly held Commission meeting.

There are any number of possible changes in the Commission's configuration that would overcome these challenges and in so doing, allow for a more business-like operation of the agency. Having a sole Commissioner is one way, but it would also be possible to retain the current three-member Commission structure – provided their duties are revised and more clearly delineated- so that they may operate more effectively and responsively. Some structural changes should be made, however, and I would encourage the Legislature to also consider the other senior management reorganizations which were recommended as part of the Liquor Commission Modernization Act (SB 181, 2009 Legislative Session). These important changes affecting and empowering the Commission's professional staff, are in my view, as important to the individual Commission itself in permitting the agency to adapt to modern business management practices.

Commissioners Russell and Simard Response:

We do not concur.

The Liquor Commission is the largest revenue-producing agency in the State of New Hampshire and is unlike any other agency in the State. This agency approaching annual revenues of $500 million requires the expertise of the best qualified full-time professionals providing various areas of expertise in operations while looking at and analyzing situations as they develop daily and not the input of a part-time board. Proposing to replace full-time working Commissioners with a part-time board will result in part-time results and a much reduced output. If full-time Commissioners are replaced with others to perform the same jobs, then they will need to be paid. What will be the cost and what will be the savings? The savings could be miniscule.

The New Hampshire State Liquor Commission revenues and earnings are very strong when compared with other control states of our size. It is feared that if attempts are made to *restructure and break down what is known to have worked for 75 years, the downside risks may not be known until well into the extent of the damage which will then be very difficult to reverse.*

Consider:

- *Part-time Commissioners are used in Maine and Vermont and proved to be ineffective.*
- *Three Commissioners provide a true bi-partisan representation of the State's largest revenue producing agency and provides against unlawful acts.*
- *With three Commissioners, if one leaves the others know the business.*
- *Each Commissioner is responsible for specific areas of responsibility whereas with one Commissioner, the possibility exists for the development of what is called a Liquor Czar.*

Conclusion: This agency generates a considerable amount of revenues and earnings and operates extremely efficiently. No business of this size is without some small flaw but the fact remains that we are on track to generate $125,000,000+ profits for the General Fund representing a significant increase from previous years and most would say if it isn't broken, don't try to fix it.

Observation No. 2

Consider Consolidating Retail Sales Locations

The Commission should consider consolidating some of its retail locations. The Commission operates 77 retail locations in 65 cities and towns across the State and licenses three agency stores (Errol, Greenville, and Pittsburg). In some areas, stores are located in different towns but in close proximity to another store. Consolidating some retail locations may help the Commission to optimize its profitability by reducing rent, utilities, transportation, maintenance, and other such costs while potentially having a minimal impact on sales. Using sales and location information, we found numerous retail locations (Table 4), while profitable, are located between three and ten miles to one or more stores, offering an opportunity for the Commission to reduce its overhead expenses associated with operating multiple retail locations.

Table 4

Potential Locations For Store Consolidation

Close	Consolidate With	Distance (Miles)		Close	Consolidate With	Distance (Miles)
Swanzey	Keene	4		Berlin	Gorham	6
Winchester	Hinsdale	7		Newport	Claremont	9
West Chesterfield	Hinsdale	9		Lebanon	West Lebanon	7
Fitzwilliam	Rindge	7		Campton	Plymouth	8
Jaffrey	Rindge	3		Ashland	Plymouth	6
Belmont	Franklin	10		Somersworth	Dover	6
Farmington	Rochester	10		Seabrook #28	Seabrook #41	5
Pelham	Salem	6		Conway	North Conway[1]	9
Groveton	Lancaster	10		Glen	North Conway[1]	7
Whitefield	Lancaster	9				

[1]New store since there is no store currently in North Conway.

Source: LBA analysis of store locations.

RSA 177:2, I requires the Commission close any State liquor store not producing a net operating profit. Only Store #26 in Groveton had an operating loss in SFY 2008 according to Commission records. Table 5 shows net profits by store.

Table 5

Net Profit (Loss) By Retail Location SFY 2008

Store Number	Location	Net Profit	Net Profit %	Store Number	Location	Net Profit	Net Profit %
26	Groveton	$ (20,506)	(6.1%)	51	Pelham	$ 575,981	20.4%
61	Fitzwilliam	25,243	4.1	20	Derry	582,539	18.5
29	Whitefield	37,762	7.8	21	Peterborough	587,338	20.3
36	Jaffrey	47,810	7.7	8	Claremont	593,641	20.4
37	Lancaster	93,823	10.6	22	Brookline	600,822	19.2
5	Berlin	131,594	12.7	10	Manchester	609,541	19.8
28	Seabrook	133,606	13.5	39	Wolfeboro	635,735	20.1
45	Pittsfield	148,217	14.8	54	Glen	653,122	18.3
44	Bristol	149,436	11.6	71	Lee	661,995	17.2
18	Colebrook	152,716	12.9	11	Lebanon	716,074	21.3
16	Woodsville	166,389	13.7	2	West Chesterfield	774,268	21.4
65	Campton	183,459	13.3	14	Rochester	807,764	20.2
24	Newport	188,560	14.7	56	Gilford	876,100	19.5
63	Winchester	190,052	14.8	7	Littleton	877,766	19.9
70	Swanzey	232,067	17.7	64	New London	893,444	21.3
3	Manchester	235,747	16.7	72	Concord	912,210	21.6
17	Franklin	244,005	16.9	68	North Hampton	914,500	20.2
46	Ashland	253,039	18.0	1	Concord	957,170	19.4
43	Farmington	261,609	18.1	9	Dover	976,484	20.3
35	Hillsboro	288,446	16.6	33	Manchester	1,014,454	21.7
52	Gorham	301,043	16.6	74	Londonderry	1,075,722	21.9
47	North Woodstock	306,878	16.8	25	Stratham	1,136,964	21.7
59	Merrimack	328,949	17.3	6	Portsmouth	1,202,005	22.1
40	Walpole	330,049	17.8	55	Bedford	1,221,245	20.5
13	Somersworth	344,486	19.2	41	Seabrook	1,389,300	21.8
57	Ossipee	353,389	18.4	23	Conway	1,461,606	19.6
19	Plymouth	353,887	17.6	49	Plaistow	1,711,258	22.3
27	Nashua	395,568	17.7	48	Hinsdale	1,735,178	22.0
4	Hooksett	455,122	16.2	15	Keene	1,951,106	20.6
31	Manchester	456,018	19.0	60	West Lebanon	2,050,537	20.8
77	Rindge	456,574	17.9	67	Hooksett-South	2,668,773	22.3
12	Center Harbor	468,299	18.5	69	Nashua	2,752,724	21.6
58	Goffstown	474,818	20.8	50	Nashua	2,872,282	22.3
42	Meredith	476,254	17.9	66	Hooksett-North	3,401,410	22.3
75	Belmont	484,563	18.3	34	Salem	4,212,419	23.0
62	Raymond	518,483	21.5	38	Portsmouth	4,616,453	22.1
32	Nashua	532,061	17.5	73	Hampton-South	5,099,056	22.2
30	Milford	537,066	19.6	76	Hampton-North	5,835,627	22.4
53	Hudson	567,393	20.6		TOTAL STORES	$72,898,517	20.6%

Note: Net profit includes an allocation of Commission central service costs based on relative sales dollars.

Source: LBA analysis of Commission financial information and its cost allocation plan.

Statute requires the Commission obtain Fiscal Committee and Governor and Council approval before closing profitable stores. Commission personnel reported various reasons make it difficult to close stores. However, we found no evidence the Commission has recommended closing either non-profitable or profitable stores during the audit period. The Commission should locate stores where it may simultaneously optimize profits and continue to meet the needs of its customers.

Recommendations:

The Legislature may wish to consider amending RSA 177:2, I to allow the Commission to close and consolidate stores as business needs dictate without receiving approval of the Fiscal Committee and Governor and Council.

We recommend the Commission close unprofitable stores pursuant to RSA 177:2.

Auditee Response:

We concur.

The Liquor Commission Modernization Act (SB 181) proposes changes to existing State law that currently limit the Commission's ability to close a profitable retail store or consolidate stores as business needs dictate. The Commission has recently made recommendations to the Legislature regarding closing, consolidating, renovating, and opening stores, which would maximize profitability.

Observation No. 3

Review Commission Lease Agreements In Gilford

From October 2008 to March 2009, the Commission paid a total of $33,000 in rent for a location it is not occupying, while also paying a total of $29,700 in rent for a store location in the same town. In March 2000, the Commission entered into a five-year lease agreement for a store location in Gilford, New Hampshire. The lease provided an option for the Commission to extend the terms for an additional five years upon written notice 30 days prior to the lease expiration. In 2005, the Commission did not exercise the option to extend the lease for the additional five years but remained at the location as a tenant-at-will until the end of September 2008.

In June 2008, the Commission entered into a five-year lease agreement for a different store location in Gilford, reportedly due to environmental issues with the former structure. In July 2008, the Commission notified the previous landlord of its intent to vacate the premises at the end of September 2008. In December 2008, the Commission notified the landlord it had vacated the premises; however, it would still honor the terms of the previous lease. According to the Commission, it decided to continue making rental payments for the first location after consulting with the Department of Justice. If the Commission honors the expired lease through the end of the option period, it would be making voluntary lease payments through April 2010 at a total cost of $104,500 for a retail location it is not occupying.

Recommendations:

We recommend the Commission again consult with the Department of Justice with the intent of reducing or eliminating its liability for these payments.

Auditee Response:

We concur.

The Gilford lease posed complicated legal issues due to the sale in ownership of the property and the existence of a Tenant's Estoppel Certificate. The Commission consulted with the Attorney General's Office regarding this matter. After consultation with the Attorney General's Office, and in consideration of important business issues, it was determined that remaining in the prior location would be in the best interest of the State. The Gilford space will be used for product and equipment storage during its store consolidation program.

Observation No. 4

Renew Expired Administrative Rules

Some Commission administrative rules are expired. Chapter Liq 1000 (Rules Relating To Tobacco) expired on December 31, 2005, Chapter Liq 1100 (Rules Relating To Direct Shipment) expired December 31, 2006, and many sections within Chapter Liq 300 (Application De-Listing And Listing Procedures) expired August 26, 2007. RSA 176:14 requires the Commission adopt administrative rules under the Administrative Procedure Act (RSA 541-A) necessary to carry out its powers and duties. RSAs 176:13, II and 126-K:10 require the Commission to issue rules related to listing and de-listing procedures, and tobacco, respectively.

Rules are generally applicable regulations, standards, or other statements adopted to implement, interpret, or make specific the statutes enforced or administered by the Commission. Rules prescribe or interpret Commission policy, procedure, or practice requirements binding on the public and employees of other State agencies. Rules allow the Commission to develop procedures and fill in the details between statute and the practices needed to achieve its statutory purpose. The rule-making process provides public and Legislative oversight over Commission rule promulgation.

With its rules expired, the Commission's authority to sufficiently regulate wine and spirits distribution and sales becomes vulnerable.

Recommendation:

We recommend the Commission comply with RSAs 126-K:10, 176:13, 176:14 and 541-A immediately by initiating the interim rulemaking process for its expired rules. The interim process will allow the Commission 180 days to continue to carry out its powers and duties under interim rules, while finalizing its proposed rules under regular rulemaking procedures.

<u>*Auditee Response:*</u>

We concur.

The Commission initiated a complete, end-to-end review of all administrative rules and laws associated with our operations about one year ago. The stated goal of this initiative was to update, simplify and revise all rules to facilitate compliance and commerce among our licensees. The rules review and revision process, by law, is highly technical, legal and administratively-lengthy process overseen by the Legislature to ensure accuracy and public input. Nevertheless, this process is well on the way to completion. Some administrative rules sections have already been changed with other changes recommended to the Joint Legislative Committee On Administrative Rules. In addition, the Liquor Commission Modernization Act includes a number of recommended changes to State statutes involving our operations (and subsequently or concurrently involve modification of our rules).

PRICING, PURCHASING, AND FEES

Appropriate business planning and coordination are essential for all successful businesses aiming to optimize profits. Table 6 shows gross sales and cost of goods sold of New Hampshire and six other control states operating retail operations. As shown, New Hampshire has the highest cost of goods sold percentage and the lowest gross profit as a percentage of gross sales of all other similar control states.

Table 6

**Gross Profits[1] Of Control States As A Percentage[2] Of Gross Sales
SFY 2008 (In Millions)**

Control State	Gross Sales[1]	Cost Of Goods Sold	Cost Of Goods Sold Percent[2]	Gross Profit Percent Of Gross Sales[2]
New Hampshire	$ 460.5	$ 333.0	72%	28%
Pennsylvania	1,766.5	978.5	55	45
Idaho	129.8	69.2	53	47
North Carolina	874.2	369.3	42	58
Virginia	672.9	316.6	47	53
Utah	256.6	133.1	52	48
Washington	824.6	309.8	38	62

Notes:

[1] Gross sales used to calculate the percent of gross profit include the following taxes and surcharges: New Hampshire (0%), Pennsylvania (20%), Idaho (2%), North Carolina (21%), Virginia (20%), Utah (15%), and Washington (28%).

[2] Rounded to the nearest whole number.

Source: LBA analysis of unaudited financial information available in control states' annual reports.

We found several weaknesses inhibiting the Liquor Commission (Commission) from optimizing profits. The Commission has no comprehensive marketing plan to ensure it: 1) maintains or enhances its competitive position, 2) has an optimal mix of State and agency stores in ideal locations, and 3) provides an adequate mix of products at a competitive price. Integrated into the marketing planning process should be an evaluation of the Commission's purchasing and pricing strategies, more comprehensive floor space planning, and a more selective product introduction process to help optimize profits and support the Commission's long-term market goals. The Commission's only current planning document, the store plan, does not set goals or criteria for store closure or consolidation, or optimal staffing and store size as required by law and established business practice.

We also found the Commission's direct shipping program lacks adequate controls to ensure it optimizes revenue. RSA 178:27 allows a beverage manufacturer, importer, wholesaler, or retailer holding a license in another state to directly ship products to New Hampshire consumers and licensees via common carrier. Efficient and effective program operation is compromised because program data are incomplete and inaccurate, and controls are inadequate to ensure direct shippers comply with statutes, remit accurate fees, and pay fines levied for violating statutes.

Observation No. 5

Establish A Comprehensive Marketing Plan

Market planning is intended to outline the actions needed to achieve an entity's goals and objectives; establish and expand an entity's position in the marketplace; identify, respond, and adapt to changing market trends; and identify opportunities for expansion. The Commission has a store plan and tactical stand-alone retail marketing tools, including the monthly floor planner. However, the Commission does not have a comprehensive marketing plan outlining its intended competitive position, the number and ideal locations of State and agency stores, the number and mix of products offered at State stores, or pricing strategies. As noted in several other Observations (Nos. 6, 7, 8, 9, and 14) the Commission has numerous inefficiencies in its business practices, including an uncoordinated marketing approach.

Without a comprehensive marketing plan the Commission is not ensuring it meets its goals, maintains or enhances its competitive position, situates stores in ideal locations, and provides an adequate mix of products at an appropriate price. We note a similar observation was made in our 1994 performance audit of the Commission.

Recommendations:

We recommend the Commission establish a comprehensive marketing plan outlining its goals, as well as a plan to ensure the Commission maintains or enhances its competitive position, has an optimal mix of State and agency stores, ensures stores are located in ideal locations, and provides an appropriate mix of products at an appropriate price. We also recommend the Commission ensure the store plan supports the marketing plan.

Auditee Response:

We concur.

Although the Commission does have several marketing planning documents and various plans (special product initiatives, Internet marketing, etc.) no one plan is as comprehensive and detailed as correctly noted in the observation. Limited staff resources have challenged the Commission's marketing staff in preparing and revising a single source marketing document each year. Nevertheless, the audit recommendation of creating one is appropriate and the Commission will increase its efforts to fully document its marketing goals and objectives moving forward.

Observation No. 6

Retail Pricing Strategy Should Focus On Maximizing Profits

The Commission does not exercise appropriate independent control over the retail price for products it sells in its stores. Rather, retail prices are essentially established based on the suggested retail prices of its suppliers.

Brokers we spoke with stated suppliers set their retail price based on their competitors' price for similar products within each market. Additionally, those brokers state there is some flexibility, or elasticity, in retail pricing. However, we found no evidence indicating the Commission sets product prices at anything but the broker's suggested retail price, including sale prices. Brokers use the suggested retail price and the Commission's published mark-up schedule to then set the purchase prices offered to the Commission. As noted in Observation No. 7, those purchase prices are not normally negotiated.

Commission personnel identified two reasons for the lack of control over retail pricing. First, a small number of large brokers control products in the regional market. Second, the Commission's two marketing specialists report having insufficient time to perform independent pricing analysis. While Maine and Vermont publish their retail prices, individual businesses in Massachusetts establish their own prices. The Commission relies on pricing reports collected by a national marketing firm to monitor these prices. However, we noted monitoring is not effective, as suggested retail prices are always used.

We tested 25 of New Hampshire's top 50 best selling spirits and ten of its top 50 best selling wines during a visit to 13 liquor stores in 11 Massachusetts towns during February 2009. We found:

- Massachusetts' prices are higher for 96 percent of the spirits tested (24 of 25 spirits) by an average of 19 percent.
- Eighteen spirits tested (72 percent) are more expensive in Massachusetts by at least 15 percent, while 11 spirits (44 percent) are more expensive by at least 20 percent.
- New Hampshire would still be considerably less expensive than Massachusetts for 88 percent of spirits tested even if New Hampshire raised its retail price by five percent.
- The Commission is currently more expensive for 90 percent of the wines we tested.

We found similar patterns for spirits pricing in Maine and Vermont, although we did not test pricing for wines in these two states. Table 7 shows the percent of spirits more expensive than New Hampshire in Maine, Massachusetts, or Vermont for the 25 spirits selected for testing even if New Hampshire increased its prices by the specified percentages. We also tested 15 of New Hampshire's best selling wines, including those in the top ten, against prices charged by six New Hampshire grocery stores and found the Commission is less expensive for 80 percent of wines (12 of 15 wines) by an average of three percent.

Table 7

Percent Of Surrounding States' 25 Tested Spirits More Expensive Than New Hampshire At Specific Incremental Price Increases

	1% Increase		2% Increase		3% Increase		4% Increase		5% Increase	
	More Expensive Than NH	By At Least 15%	More Expensive Than NH	By At Least 15%	More Expensive Than NH	By At Least 15%	More Expensive Than NH	By At Least 15%	More Expensive Than NH	By At Least 15%
Maine[1,3]	100%	96%	100%	96%	100%	91%	100%	78%	100%	74%
Massachusetts[2,3]	92	64	88	52	88	48	88	44	88	44
Vermont[1]	92	71	88	67	88	67	88	67	88	67

Notes:

[1] Prices obtained from each state's February 2009 price guide for the 25 products tested.

[2] Based on the average price obtained from visits to 13 stores in 11 Massachusetts towns during February 2009 for the 25 products tested.

[3] Prices include applicable state sales tax.

Source: LBA comparison of New Hampshire and other states' pricing information.

A pricing strategy is a cornerstone for optimizing profits and should be controlled by the Commission, independent of its suppliers. Pricing should be based on the Commission's costs and the prices offered by its competition, while giving due regard to suppliers' suggested retail prices. The Commission's suppliers attempt to maximize their own profits, while the Commission should establish its prices to optimize State profits. In SFY 2008, the Commission contributed almost $112 million in net profit to the General Fund. For every one percent increase in retail price, the Commission could potentially contribute approximately $3 million more to the General Fund annually.

Recommendations:

We recommend the Commission exercise appropriate control over its selling prices, independent from its suppliers to maximize profits to the State. Specifically, we recommend the Commission:

- **use suggested retail price as only one factor in establishing its prices;**
- **develop a pricing strategy based on its own assessment of costs and competitive market conditions; and**
- **continue to work cooperatively with its suppliers and appropriately leverage their expertise.**

Auditee Response:

We concur in part.

To be sure, the Commission's product pricing system would unquestionably benefit with improved technology, better data and additional resources. The Commission does, of course, *want to maximize revenue to whatever extent possible. However, we must respectfully disagree with the observation that Commission does not "…exercise appropriate independent control over the retail price for products it sells in its stores."*

The current Commission pricing system is <u>highly controlled</u> (although not using criteria preferred by LBA auditors) and unquestionably considers many more factors than manufacturers' suggested retail pricing. The Commission does, in fact, utilize a pricing strategy based on its own assessment of costs and competitive market conditions--independent of manufacturers. Few would dispute the fairness of either the Commission pricing process nor the agency's statutory authority to determine what pricing methods and controls it believes most appropriately maximize profits. As the audit points out, comparison between control states is enormously difficult.

The gross profit as a percent of sales chart shown in this report, from our point of view, demonstrates not that the Commission has the lowest gross profits - but reinforces the fact that New Hampshire offers its products for sale at the lowest cost to its customers. Importantly, all of the states New Hampshire was compared to have mark-up structures considerably higher than ours. But by having lower prices the Granite State sells more product per capita, by a considerable degree, than all of them. Simply stated, New Hampshire Liquor and Wine Outlet Stores are a low cost-high volume retailer and by any well established <u>private sector business metrics, among the most profitable in the nation</u>.

Regrettably, manufacturers of global brands wield considerable influence in pricing. This is not unique to the wine and spirits industry. The State's current published mark-up schedule, designed to provide transparency and limit influence is indeed a limiting factor in our retail price-setting process. But this process places greater value on the long-term integrity and profits of the control system rather than short-term and fleeting monetary gains.

<u>Our Value Proposition</u>
It is critically important to point out that having lower prices is the central element to New Hampshire Liquor Commission Outlet Stores brand value proposition. New Hampshire is perceived for its lower prices because they are and have been materially lower. However research has shown that many Massachusetts consumers (and in other states) are not aware of that price advantage and troubling numbers of consumers perceive less of a difference between the two states' pricing policies than in previous years.

Further, the pricing survey conducted as part of the audit should be viewed with important caveats. Only 13 stores located in only two Massachusetts Counties were surveyed (of the 1,600 licensed) including only 25 spirit items and just 10 wines. Importantly the survey did not include many of the larger discount stores operating in the Massachusetts market that the Commission (and industry standards) would consider a much more appropriate competitive set.

Also, utilizing an average price point, while one measure pricing review, by definition only creates an "average price" or statistical blending of all measurement points. But even with these caveats the actual survey data itself (which is not included in this report) revealed a troubling price trend not readily apparent when examining average prices. The data (which is not included *in the report) showed that of the 35 items surveyed, Massachusetts retailers had lower prices than New Hampshire on over one third of the items surveyed. In the wine category individual price points differences were more profound with the survey demonstrating that a lower price could be found in Massachusetts on every single bottle, or 100% of the items included.*

Consumers shop not by price averages, but on actual pricing experiences. We find the survey conducted as part of the audit as useful for discussion among this very limited number of surveyed stores but the data is very far from making a compelling case to support an increase in overall prices. With fully 50% of the State's sales dependent on out-of-state shoppers, a steady but not overreaching hand with respect to pricing is, in our opinion, the best way to ensure a steady and growing stream of profits.

Maintaining as low a price as possible - while maximizing profits - is also a very important consideration in serving New Hampshire consumers and the hospitality industry. Price increases on wine and spirits negatively impact New Hampshire restaurants and the tourism industry. Increasing prices must be viewed within the wider context of how they can hinder our vital hospitality industry and damage other revenue streams such as the Rooms and Meals Tax and Business Profits Tax.

An Historical Debate

What price the State should charge for alcoholic beverages has been the subject of comment, criticism, and suggestion throughout the 75-year history of the Commission. New Hampshire's goal has always been to maximize profits while doing so at the lowest available cost to consumers and our licensees. Its success in this regard is evidenced by the fact that the Granite State has the highest per capita sales rate for spirits, wine, and beer of any state in the entire nation and our state has been rewarded handsomely over the years for it.

Some people believe our prices are too high, others – especially those who want to constrain consumption or exact more revenue - believe they are too low. This healthy and necessary dialogue can and perhaps should continue long after this report has been placed in the State Library for future policy leaders to ponder.

Observation No. 7

Negotiate Purchase Prices

The Commission does not normally negotiate the prices it pays for wine and spirits purchased from its suppliers, including brokers. According to the Commission's Annual Reports for SFYs 2007 and 2008, its net purchases of product for the fiscal years combined were $650.5 million. Instead of negotiating prices, the Commission essentially accepts most purchase prices offered to it by its wine and spirits suppliers. As noted in more detail below, the Commission does negotiate depletion allowances, which account for nearly all discounts offered by brokers for specific products for specific short periods of time. However, absent a discount offer, a price is not normally negotiated.

According to Commission personnel, suppliers and brokers use the Commission's published mark-up schedule to determine the Commission's purchase price based on the *supplier's* desired retail price. Once a product is approved for sale in the State liquor stores, the Commission does not review or negotiate the product's purchase price regardless of the product's performance or sales volume. Suppliers may submit changes to both the product's retail and purchase price quarterly but the Commission does not negotiate these price changes either.

Commission personnel identified two reasons why the Commission does not negotiate purchase price. First, a small number of large brokers control products in the regional market, reducing the Commission's ability to effectively negotiate purchase price. However, Commission personnel also report the market for wine and liquor is very competitive. Secondly, as noted above, the Commission publicizes its product mark-up schedule, enabling suppliers and brokers to establish a purchase price based on their desired retail price.

The Commission also does not negotiate a type of special purchase allowance, known as a post-off allowance, offered by some suppliers. These allowances are offered to the Commission to purchase specific quantities of products at reduced prices, potentially enabling it to increase gross profits on the products. With post-off allowances, the Commission would own the products, provide for its storage, and no longer collect bailment revenue for these products.

The Commission routinely accepts another type of special purchase allowance, known as a monthly depletion allowance, offered by some of its largest brokers for specific products for specific periods of time. Unlike post-off allowances, the Commission does negotiate allowances offered, especially if the allowance results in gross profit below that indicated by its mark-up schedule. Some brokers offer these monthly depletion allowances so the Commission may offer sale prices desired by the brokers in the retail stores for those products. With depletion allowances, the Commission continues to collect bailment revenue on the products stored in the warehouse and also collects its depletion allowance - a specific amount for every bottle of product the Commission sells - after invoicing the respective brokers. Closeout discounts are also offered to the Commission by some of its brokers so the Commission can offer sale prices on de-listed items. These discounts are sometimes negotiated. During SFYs 2007 and 2008 combined, post-off and depletion allowances totaled $718,000 and $68.4 million, respectively, while closeout discounts in SFY 2008 totaled $230,000. Approximately 98 percent of these allowances and discounts were from six suppliers.

Purchase price negotiation is a well-established business practice, along with retail pricing, and is key to optimizing profits. The Commission does not have supply contracts in place with any of its suppliers, including brokers. Supply contracts with suppliers are often used to document agreements with regard to price and terms, but can also include all aspects of the customer/supplier relationship, including inventory and delivery requirements, bailment fees, and space allocation and product placement in retail stores. During SFY 2008, product purchases from the Commission's top 12 suppliers, including brokers, were $269.0 million, or 72.6 percent of all purchases.

Currently, the Commission's Bureau of Marketing and Sales has ten full-time positions including the Director but only three positions are responsible for negotiating prices. Additional resources may be needed to change the way the Commission does business in this critical area. Given the amount of money involved, it is very likely those resources could be cost-justified. A change in the way the Commission purchases products will have a direct effect on the way it prices its products for sale, as we note in Observation No. 6.

Recommendations:

We recommend the Commission negotiate the prices it pays for wine and spirits to help optimize Commission profits.

We also recommend the Commission immediately begin a thorough review of its purchasing practices and the resources necessary to implement changes in those practices such that purchase prices can be effectively negotiated with its suppliers.

Auditee Response:

We concur in part.

The Commission does negotiate prices for all of its leading wine and spirits items and the observation should, in our view, reflect this very important distinction. The Commission negotiates aggressively with suppliers - to the limits of its ability - to obtain the lowest possible cost on the most favorable purchasing terms. However, it is instructive to note that the Commission lists approximately 1,300 spirit items and about 11,000 wine items. Each one of these items is subject to change price on a monthly basis. Putting aside a differing view on how many of our listed items should be negotiated, we must point to the obvious practical realities of the implementation this observation states: "...additional resources may be needed to change the way the Commission does business in this critical area." Even if the Commission established a goal of only negotiating 50% of its nearly 12,300 items, a five-fold increase in staffing would likely be necessary.

We point out that no control state in the country uses supply contracts for the purchase of wine or spirits. Moreover, supply contracts are not a practice in any state in the country – even in the private sector among the largest users of spirits or wine products. The Commission does acknowledge supply contracts do exist between manufacturers and their vendors.

Additional resources have been requested in our FY10-11 biennial operating budget that would allow for two additional professionals in the wine and spirit group. Although hardly enough, even this request was denied in early Legislative deliberations due to budget constraints. We agree that with additional support in this area greater profits could be realized, and it is our hope that this timely observation will be useful in persuading the Legislature to provide it.

Observation No. 8

Establish Criteria For Selecting Products To Test Market

The Commission has not established criteria for determining which new products should be granted a six-month test market. To request a test market for their product, brokers submit a proposal on behalf of the vendor to the Spirit or Wine Marketing Specialist outlining the suggested retail price, the Commission's purchase price, and information on the product's performance in other test markets; as well as the amount of money per bottle the supplier will discount to help deplete inventory if the product fails its test market. This amount, commonly known as "exit money," usually equates to 20 percent of the Commission's purchase price for spirits and up to 40 percent for wines failing their test market. During SFY 2008, the Commission test marketed 89 spirits and 60 wines.

For each item tested, the Commission must purchase products to place in inventory at up to 77 State liquor stores. Products purchased for the test market cannot be returned for a refund regardless of test market results. Instead, the vendor remits the exit money, which the Commission uses to lower the retail price of the product to hasten inventory depletion with the intention of not affecting the State's gross profit. If the product is not depleted, the Commission may further reduce the retail price, cutting into its gross profit.

All products must attain specific gross profit margins during their test market to stay listed in the State stores. At the end of the test market, spirits meeting full gross profit margin requirements are offered for sale in all 77 State stores, while products meeting the "specialty status" requirement are offered in a limited number of stores. Wines must be projected to achieve placement in the top selling 1,200 brands to remain listed for sale in the State stores. Spirits not meeting gross profit margins during the six-month test market period are de-listed and no longer offered for sale in the State stores once the purchased inventory has been depleted. Wines not meeting the thresholds are no longer offered in the State stores once their inventory has been depleted; however, on- and off-premise licensees may still purchase them through the warehouse.

According to Commission personnel, the listing process for State stores is supplier-driven. While Commission marketing specialists report denying test market requests if the company does not provide adequate performance information, Commission personnel stated most products requesting a test market are tested because the Commission strongly encourages testing all new products. As a result, the test market can become flooded with new products. As shown in Table 8, approximately one-third of spirits and wines tested failed their test market in SFYs 2007 and 2008.

Table 8

Spirit And Wine Test Market Results
SFYs 2007 And 2008

	SFY 2007				SFY 2008			
	Wine		Spirits		Wine		Spirits	
De-Listed[1]	51	43%	31	28%	18	30%	29	33%
Specialty Status	NA	NA	43	39	NA	NA	28	31
Fully Listed	68	57	37	33	42	70	32	36
Total	**119**	**100%**	**111**	**100%**	**60**	**100%**	**89**	**100%**

Notes:

[1] Wines de-listed are no longer sold in State liquor stores; however, they are available for purchase by on- and off-premises licensees through the warehouse.

Source: LBA analysis of Commission test market information.

Without a long-term marketing plan clearly defining the appropriate mix of products the Commission wants to carry at its stores or criteria for approving or denying test products, marketing specialists spend valuable time tracking product test markets. Additionally, the Commission commits money to purchase products it will no longer carry, as well as valuable shelf and floor space, which could have been devoted to higher volume products.

Recommendations:

We recommend the Commission establish criteria for approving or denying test market requests to better control the number of products in the test market. As recommended in Observation No. 7, we recommend the Commission negotiate test marketing of new products as part of its supply contracts with major suppliers.

Auditee Response:

We concur in part.

Test market criteria are extensively covered in the Commission's administrative rules and marketing policies. These rules and policies have been time-tested and refined over many years to establish and ensure a "level playing field" and to guard against abuses in listing and de-listing products. The listing process of new products is broker-driven (as cited in the observation) only to the extent that brokers represent manufacturers and manufacturers decide for and among themselves what and when they will bring new products to market. Neither New Hampshire nor any other state has any control whatsoever over manufacturers' product development, pre-market testing, and ultimate decision to bring which products to which markets.

New Hampshire has been recognized nationally by the National Alcohol Beverage Control Association's "Best Practices" program for its listing and de-listing procedures. The listing and de-listing process is one of the most complicated and controversial processes a control state faces. New Hampshire has always taken an open, cautious and deliberative approach to ensure the integrity of the product system is above reproach.

Nevertheless, the observation thoughtfully points out the negative business consequences that result from a State-mandated listing and de-listing system. This has become particularly challenging in recent years as the number of new spirits and wines have grown exponentially, and the Commission seeks to strike that delicate balance between being an innovator, to bring new products to consumers as soon as possible, and the need to manage limitations of shelf space and inventory costs.

The Commission will undertake a comprehensive analysis (as resources permit) to review its test market requests as appropriately suggested in this observation.

Observation No. 9

Revise Product Placement Practices

In broad terms, merchandising attempts to stimulate customer demand through product design, selection, packaging, pricing, and display, to increase sales. The Commission recognizes merchandising as one of the most important functions in its retail operations; however, the Commission does not have standardized layouts for 100 percent of its floor space, defining where products are displayed in stores, and the prominence of products on store shelves. Store managers, in consultation with area supervisors, rank the floor locations available for displays. According to Commission personnel, approximately 85 percent of the floor space is used to place product designated by the Bureau of Marketing and Sales. The remaining space is available for the store managers to display products of their choice based on their understanding of their customers' needs. However, space made available to store managers is considered prime locations for product displays and may be too valuable to allow store managers to plan their own displays in these areas. This area may be better suited to planning by the Bureau of Marketing and Sales where it can be coordinated with the Commission's overall marketing strategy.

Wine and spirits brokers frequently visit stores, sometimes daily, to unload trucks, stock shelves with their products, and build displays. This frequent contact allows the brokers to build relationships with store personnel and enables them to negotiate floor space for their products. This decentralized negotiation for floor space at every store weakens the Commission's negotiating leverage with its suppliers and risks exposing its managers to potential undue influence.

Recommendations:

We recommend the Commission centralize store layouts for 100 percent of its retail store space, giving appropriate consideration to recommendations from store managers. We further recommend the Commission use its ability to control store space and product placement in negotiations with suppliers for product price and other terms of product purchase.

Auditee Response:

We concur in part.

Currently each store receives detailed plan-o-grams for the placement of all products on steel and wooden racks and shelving. Power aisles have been established to allow stores to mass merchandise specific products and items featured on the spirit and wine floor planner which is forwarded to each store on a monthly basis from the Marketing and Sales Bureau.

Store management requires some flexibility in selecting floor displays for the following reasons: overstock inventory items, high sales demand items specific to the customer base and other promotional opportunities that may allow for additional sales and marketing opportunities.

Observation No. 10

Revise Store Plan To Comply With RSA 177:3

The Commission's store plan is not fully compliant with RSA 177:3 requiring the Commission develop and maintain a formal written store plan for its retail liquor stores. The plan is required to include policies related to the following:

- operational definitions of a marginal store, identification of such stores, and specific plans to consolidate or otherwise improve the profitability of such stores;
- optimum size, location, and staffing pattern of stores to maximize their profitability, including a plan to increase the use of part-time employees and a formula for determining appropriate rental costs for leased stores; and
- plans for the expansion of the existing store system where such expansion is justified.

The current plan, dated February 2007, identifies historic and current information regarding the number and size of stores operating, net profit, communities where the Commission is exploring additional stores, number of leased and owned stores, range of products offered at the stores, current structure of supervision, and store staffing patterns. The current plan does not set goals or criteria to consider when contemplating closure or consolidation of existing stores, where stores should be located, or optimal staffing or store size. In addition, the plan does not include an operational definition of "marginal stores."

In general, plans should be forward looking. RSA 177:3 requires the plan to establish goals and policies related to the number, size, and staffing patterns of State-operated retail liquor stores to ensure the efficient and effective operation of the State-store system. By focusing on current and historical information, the "plan" does not express a vision for the future or a roadmap for how to get there.

Recommendation:

We recommend the Commission revise its store plan to establish goals for store operations consistent with RSA 177:3.

Auditee Response:

We concur in part.

It should be noted that the Commission has developed and issued a comprehensive Store Plan in fulfillment with RSA 177:3. This plan, which is over 136 pages in length, includes comprehensive detail and data on virtually every area of operations and much more. We believe the plan would benefit from the thoughtful suggestions included in this observation. However, we would be remiss in not expressing our view that the Commission has, if not expressly contained in the Store Plan document but through other documents, fulfilled the statutory requirements of RSA 177:3. We expect the revised plan to be completed by September 2009.

Observation No. 11

Consider A Permit Fee To Control The Number Of Direct Shippers And Increase Revenue

Direct shippers are individuals, corporations, partnerships, or limited liability companies holding a valid liquor license in another state, who ship beverages, wine, or liquor directly to New Hampshire consumers or licensees via common carrier. The Commission issues a permit to any direct shipper who applies. During SFYs 2007 and 2008, the Commission issued 933 and 1,147 direct shipping permits, respectively, at no charge. Three other New England states charge a permit fee ranging from $100 to $300 while also collecting a sales tax.

RSA 178:27, V requires direct shippers to file monthly invoices for each shipment showing the retail price of the product and remitting eight percent of the retail price to the Commission. Administrative Rule Liq 1103.01 (expired) requires each direct shipper to file a completed monthly tax report, including copies of all invoices, with the Commission no later than the tenth calendar day of the month following the shipment. Administrative Rule Liq 1103.01 also requires all companies holding a direct shipper permit to file a monthly report, regardless of whether they ship products to New Hampshire consumers during the month. Assuming all direct shippers submitted their required monthly report, the Commission received 11,196 shipping reports in SFY 2007 and 13,764 reports in SFY 2008. Based on our analysis of Commission-reported direct shipper tax payments, approximately 24 percent of direct shippers in each fiscal year did not ship any products to New Hampshire consumers, resulting in an estimated 6,000 reports over two years from direct shippers not shipping product into the State.

Commission personnel reported compliance with direct shipping program requirements is lacking. Due to the number of direct shippers in the program and the volume of monthly reports, the two Commission employees assigned to the program are unable to effectively monitor the program. Commission personnel reported until 2001 there was a fee for a direct shipper permit; however, the Legislature wished to increase participation in the program and eliminated the $228 permit fee.

Recommendation:

The Legislature may wish to consider re-establishing a fee for direct shipping permits.

Auditee Response:

We concur.

The Commission recognized the need to make changes in the direct shipper program and has included them in The Liquor Commission Modernization Act which is now being considered by the Legislature. These proposed legislative revisions address the direct shipper program in a number of areas, including establishing an application fee and increasing the fee applied to each shipment from 8 percent to 10 percent.

Observation No. 12

Develop Software To Support Direct Shipping Program

Approximately 13,800 direct shipper reports and 36 common carrier reports were filed with the Commission last year. However, the Commission does not electronically capture complete information such as specific products or quantities shipped to specific consumers, nor does it have software to efficiently enable direct shippers to electronically file monthly reports or manage the reports once received.

The current manual process is labor intensive and prone to error. Two full-time personnel manually track fees and sporadically prepare summary spreadsheets to track products and quantities shipped monthly by each of the 1,147 direct shippers holding permits in SFY 2008, and determine compliance with RSA 178:27. Commission personnel stated the program's top priorities are to record and process direct shipper fee payments and follow up on missing reports. Personnel also reported there is insufficient time to verify all report totals match attached invoices, cross-check all monthly shipping reports against common carrier reports to identify shipments not reported by the direct shipper, record specific products shipped by each direct shipper, and determine if products shipped to New Hampshire consumers and licensees are already sold at State liquor stores. Our sample of reports from 15 direct shippers for calendar year 2008 found:

- Commission personnel created summary sheets for only 23 percent (41 of 180) of monthly reports filed. The Commission did not create tracking sheets for any of the 15 companies in May, October, November, or December.
- Thirty-two percent (13 of 41) of monthly summary sheets contained errors in product type, quantity, consumer name, or quantity shipped to each consumer.
- Seventeen monthly reports contained totals that did not match the sum of the attached invoices. Ten monthly reports over-stated the product price, while seven monthly reports under-stated the product price.

Currently, the direct shipper program does not have a mechanism to effectively and efficiently capture complete, timely, and accurate information to facilitate management decision-making or collect the correct revenues. Management is responsible for implementing proper controls to provide reasonable assurance information it receives is sufficient for its purposes. According to Commission personnel, the Commission has requested the Department of Information Technology (DoIT) develop an automated program for the direct shipper program; however, the DoIT has not developed the requested program. Four of eight states we contacted have either implemented or are in the process of developing software to allow direct shippers to electronically submit monthly reports and to generate management reports.

Recommendations:

We recommend the Commission work with the Department of Information Technology to develop a computer application to automate and replace the monthly direct shipper report. The application should be able to:

- **capture complete, accurate, and timely direct shipping information including specific products and quantities shipped to New Hampshire consumers;**
- **automatically calculate totals and fees to ensure correct amounts are remitted;**
- **process credit card payments from direct shippers to pay the direct shipping fee to the Commission;**
- **include an interface through the Commission's website where all New Hampshire consumers must order products from out-of-state suppliers;**
- **interface with the Commission's product inventory system and alert consumers if a product being ordered is offered at a State liquor store and its price;**
- **interface with direct shippers and common carriers to provide monthly reporting information; and**
- **include an automated mechanism to cross-check direct shipper reports with reports filed by common carriers.**

Commission Response:

We concur.

The Commission has requested technological systems and capabilities which are necessary to implement the recommendations noted in this observation. Unfortunately, limited State and financial resources have prevented the authorization of the needed funding to support a systems change and/or upgrade that would facilitate its implementation.

Department Of Information Technology Response:

We concur. We also concur with the Commission's response.

Observation No. 13

Improve Direct Shipper Compliance

The Commission's direct shipper program lacks adequate controls to ensure direct shippers fully comply with statutes, remit accurate fees, and pay fines levied for statutory violations. Administrative Rule Liq 603.01 (c) allows the Commission to levy a $100 fine for violations of the direct shipper program.

Direct shipper program personnel reported the Commission may send cease and desist letters, levy fines, or revoke direct shipping permits for statutory violations; however, out-of-state shippers have little incentive to comply. Commission management and personnel stated they do not usually levy fines against direct shippers because they are difficult and expensive to collect. Instead, personnel repeatedly send emails and letters, and place phone calls monthly to shippers violating statute in order to obtain voluntary compliance. In calendar year 2008, the Commission sent 498 cease and desist letters to companies illegally shipping products into New Hampshire, 25 of which were letters informing the shipper of a third offense. In addition, our sample of 15 direct shippers' reports for calendar year 2008 found:

- Sixty-one percent (104 of 171 with legible date stamps) of direct shipping monthly reports were filed late. Of these reports, almost nine percent (9 out of 104) were more than one week late; however, only one shipper received and paid a fine for filing a late report. Seven out of the fifteen companies (47 percent) submitted late reports at least eight times during the 12-month period.
- Four direct shippers violated RSA 178:27, III a total of six times by shipping more than sixty bottles to one individual in one calendar year; however, no shippers received a fine.
- One company erroneously reported the retail price of products six times during the 12-month period.

The Commission has authority to revoke a direct shipper's permit; however, Commission personnel indicated shippers still continue to ship products into the State. For example, the Commission cited one shipper for failing to file its December 2007 report. The shipper did not renew its shipping permit in January 2008; however, it continued to ship products into the State. In April 2008, the Commission placed the shipper on its list of unauthorized shippers and forwarded the information to licensed common carriers, asking them to seize any packages from this shipper. In January 2009, the Commission cited a common carrier for illegally delivering this shipper's products. New Hampshire also has the authority to file criminal charges against direct shippers in violation of the statute; however, according to Commission personnel, no cases have been prosecuted.

RSA 178:27, VIII allows the State to engage in a reciprocal enforcement strategy, permitting it to fine, suspend, or revoke its licensees' license for making illegal direct shipments to other states. Texas currently has a reciprocal enforcement agreement with California, requiring each state to take enforcement action against direct shippers in their own state in violation of the other state's direct shipper laws. Shippers violating Texas direct shipper laws may receive a maximum fine of $2,000, a maximum of 180 days in jail, or both for the first offense; a maximum fine of $4,000, a maximum of one year in jail, or both for a second offense; and a maximum fine of $10,000, between 180 days and two years in jail, or both for a third offense. Shippers violating California direct shipper laws may receive a maximum fine of $1,000, a maximum of six months in jail, or both.

Recommendations:

We recommend the Commission:

- **better monitor direct shippers who also have products in the State stores and establish ramifications for those repeatedly violating statute;**
- **seek an amendment to RSA 178:27 to allow for progressive penalties for first-time and repeat violators of the program;**
- **explore a reciprocal agreement with the domiciliary states of the most frequent direct shipping violators; and**
- **work with the Office of the Attorney General to prosecute direct shippers repeatedly violating statutes.**

Auditee Response:

We concur.

The Commission agrees that compliance issues exist with the direct shipper program and we have been a strong advocate for addressing them. Provisions included in the Liquor Commission Modernization Act would assist in closing this compliance "gap". However, most significant is the need for additional personnel to assist the two individuals who are now responsible for the monitoring of the entire direct shipper program to include licensing, compliance, and reporting functions. Absent additional funding for compliance personnel, it is unlikely that the overall objectives of this thoughtful observation can be obtained.

Observation No. 14

Maximize Profits On Products Available Both In State Liquor Stores And Through The Direct Shipper Program

We found at least 257 wines shipped to New Hampshire by direct shippers were also available in the State liquor stores. Further, we sampled 15 direct shippers whose products are also offered in the State liquor stores, and found of the 12,005 bottles directly shipped to New Hampshire consumers and licensees in calendar year 2008, 3,456 (29 percent) were also available for purchase in State liquor stores. Based on the Commission's advertised retail price of these products in November 2008, the Commission could have generated an additional $106,200 in sales if consumers purchased these products from State liquor stores. We note a minimum of 22 additional direct shippers also offered at least 66 other products for sale at the State liquor stores.

The Commission's business practices do not include communication between direct shipper program personnel and the marketing specialists regarding specific products directly shipped into the State, meaning there is no check whether products currently directly shipped into the State should be listed for sale at the State liquor stores. According to Commission personnel, the listing process for State stores is manufacturer driven and Commission marketing specialists reported they do not receive direct shipper reports identifying specific products or quantities shipped into the State.

RSA 178:27, II prohibits shipping into the State products registered for sale with the Commission during the previous two months, unless "the shipper offers to sell a matching amount to the State at wholesale prices." However, the Commission does not currently track all products shipped into the State or their quantity.

Recommendations:

We recommend the Commission restrict products already sold in State liquor stores from being direct shipped to New Hampshire consumers. We also recommend the Commission periodically analyze direct shipper reports to identify products shipped into the State and determine the feasibility of selling those products in State stores to generate additional profits to the State.

Auditee Response:

We concur in part.

The basis and popularity of the direct shipper program lies in the convenience consumers enjoy by having wines delivered directly to their home. It is for this reason that consumers generally are willing to pay a higher price for wines through the direct shipper program even though these wines are available in State stores. It is our belief that the majority of the $106,200 in sales cited represents incremental revenue to the state and not lost sales opportunities as suggested in the observation. Importantly, while the State's mark-up may be lower for products shipped in the direct shipper program, its low expense base makes this a profitable distribution channel.

We will, however, study the feasibility and desirability of restricting products already sold in our State liquor stores from being direct shipped to New Hampshire customers.

WAREHOUSING AND DISTRIBUTION

Warehousing and distribution are part of the Liquor Commission's (Commission) core responsibilities. RSA 176:11, I requires the Commission to "buy and have in its possession liquor for sale," while RSA 177:6 grants the Commission sole authority to sell wine and spirits to all on- and off-premise licensees with a few exceptions. The Commission operates a warehouse for spirits in Concord and contracts for storage in Nashua, used primarily for wine. Nearly all wine and spirits in these warehouses is owned by the Commission's suppliers. The owner of the contracted warehouse also provides transportation of product to the State liquor stores and off-premises licensees.

The Commission does a relatively good job managing *store* inventories, but needs to better manage its *warehouse* inventory levels by assessing its across-the-board minimum of 30-day inventory requirements. We found the Commission could improve efficiency by consolidating the two warehouses into one warehouse. The Commission-owned warehouse lacks policies and procedures for warehouse activities including receiving, storing, picking, and shipping products; equipment operation; and loss prevention. We also found the Commission requires all suppliers to maintain a minimum of 30-day supply of products in the warehouse regardless of the product's cycle-time and inventory turn-over. Additionally, the Commission should evaluate warehouse security to prevent and detect theft and fully utilize its warehouse space for product storage. Finally, we found the Commission is reliant on a single contractor for critical functions including product storage, transportation, and the on-line licensee ordering system.

Observation No. 15

Consider Consolidating Warehouses

The Commission's storage needs exceed available space in its 45,000 square foot warehouse in Concord, which handles mostly liquor. For the past 35 years, the Commission has used a privately-owned warehouse in Nashua as a second distribution center. The Nashua warehouse provides approximately 200,000 square feet of storage and handles mostly wines and a limited amount of liquor (for licensees in the Nashua area).

Administrative Rule Liq 401.02(a) requires suppliers, unless exempted, to pay bailment fees for product storage and handling specified by contract between the Commission and the bailment warehouser. The Commission was paid $1.1 million by its suppliers for bailment in the Commission-owned warehouse during State fiscal year (SFY) 2008, while warehouse operation costs were $858,000, according to Commission records. Although the Commission could not tell us how much the contracted warehouser received in SFY 2008 from all liquor-related activities paid by vendors and licensees, we estimated the contracted warehouser had $5.6 million in bailment revenue alone in SFY 2008. Transportation fees paid directly to the contractor from off-premise licensees are not reported to the Commission.

The Governor's Efficiency Commission issued a report in 2003 recommending the Commission consolidate warehouse operations into a single larger warehouse. According to this report and five Commission employees, the cost of purchasing and operating a larger warehouse can be recovered by the additional bailment revenue earned as a result of the expanded operation.

The Commission has recognized the value of operating a single warehouse and had wanted to purchase an available warehouse in Concord. Commission personnel believe a single properly-sized warehouse can be self-supporting because of the bailment fees it receives. However, until the Commission can accurately determine bailment and transportation revenues received by its contracted warehouser, it cannot fully assess the costs and benefits of consolidating the two warehouse locations.

Multiple storage facilities are not an efficient use of limited State resources and do not efficiently distribute alcoholic beverages to State stores or licensees. Two warehouses adds unnecessary complexity fulfilling orders. As a result of having two warehouse operations, the Commission pays some duplicative expenses for freight and handling.

Recommendations:

We recommend the Commission consider consolidating its warehouse operations into one centrally-located warehouse to improve efficiency. We also recommend the Commission implement procedures to ensure all transportation-related revenues from deliveries to off-premise licensees be reported to the State so the actual revenue generated from the warehousing and transportation functions can be fully assessed.

Auditee Response:

We concur.

The Commission is considering the cost effectiveness of maintaining this facility and is in the process of reviewing warehouse issues with the Legislature's leadership team.

Observation No. 16

Review Required Bailment Inventory Levels

Bailment is inventory in the possession of the Commission at its, or its contractor's, warehouse for which the Commission's suppliers retain ownership. The Commission requires suppliers to maintain in bailment the equivalent of a minimum of 30 days average sales for each product brand registered with the Commission. This inventory requirement is arbitrary and applies to all suppliers uniformly regardless of how quickly products turn over in the warehouse or the cycle-time to obtain the product from the supplier.

Commission personnel reported the Commission prefers to maximize the bailment inventory level at the warehouse to gain higher bailment fees for the State. The Commission earned $1.1 million in bailment revenue in SFY 2008, while warehouse operations operation costs were $858,000. Brokers reported suppliers consider warehousing cost when determining the price to charge the Commission for a product. Brokers also reported the cycle-time for obtaining product from suppliers varies considerably depending on where the product originates. For example, overseas wine may take up to three months to obtain, while wine from the west coast can take two to three weeks. Spirits do not have a long cycle-time and can usually be obtained within one or two weeks. Suppliers' warehousing costs are eventually recovered in the price they charge the Commission for their products.

> The Commission has not analyzed whether bailment levels for all products is appropriate considering these factors and available warehouse space. For products obtainable in a relatively short amount of time, the Commission may not need to require a minimum of 30-day supply and may be able to reduce warehouse space devoted to these products. Additionally, the Commission may determine it requires less warehouse space than currently used to accommodate products if it incorporated cycle-time and inventory turn-over into its warehouse inventory level requirement.

Recommendation:

We recommend the Commission conduct an analysis of the optimal level of inventory suppliers must maintain in the State and contracted warehouses. The analysis should include product cycle-time, turn-over rate, and a reasonable amount of safety stock.

Auditee Response:

We concur in part.

The Commission's purchasing department does analyze inventory levels for all products. However, we concur a reduction in some minimum bailment levels may be beneficial.

The Commission will analyze how a change in bailment might impact warehouse space needs.

Observation No. 17

Review Reliance On A Single Contractor For Critical Functions

Since 1997, the Commission has used one contractor for critical product-related functions including warehousing, transportation, and the on-line licensee ordering system. The original contract from 1997 including all three services has been extended twice and the current contract runs through April 2012.

The contract allows the contractor to charge and collect bailment fees directly from the Commission's suppliers. Commission personnel stated the Commission cannot determine with certainty how much the contractor collects in bailment fees annually. The Commission does not review bailment fees the contractor collects from suppliers and does not request or receive financial reports from the contractor or its suppliers summarizing this information.

The contract also requires the contractor to maintain a website for the Commission and its licensees to order products on a 24-hour-per-day, seven-days-per-week basis. The Commission's on- and off-premise licensees use the web-based interface to order products on-line directly from the contractor's warehouse, while State liquor stores order products nightly through the State's inventory system and this data is transferred to the contractor through a dedicated data line. The contract grants "all rights, title, and interest" over the website to the contractor after the termination of the contract, including the website domain name www.nhliquor.com. We also note the contractor sells advertising space on this website for its own benefit.

The Commission's reliance on a single vendor to provide critical services such as storage, transportation, and the licensee ordering system leaves it vulnerable to a single point of failure. If the contractor does not fulfill its obligations, the Commission is left without an ordering system for its licensees, a storage facility for most of its products, or delivery of products to its State stores. Additionally, since the Commission does not receive financial reports summarizing bailment revenue, it cannot adequately identify and assess all the benefits and costs of operating the warehousing, distribution, and ordering system.

Recommendations:

We recommend the Commission review its reliance on this contractor for critical functions to reduce the associated risks to its operations. Specifically, we recommend the Commission:

- **develop or negotiate the purchase of its own licensee ordering system to reduce its reliance on this contractor, and to increase competition for warehousing and transportation services at the end of the existing contract;**
- **require suppliers to report to the Commission all bailment payments made directly to this contractor to ensure the Commission understands all of the costs and benefits of the contractual arrangement; and**
- **review the appropriateness of the contractor's sale of advertising space on the licensee ordering system, which is used exclusively for licensees of the Liquor Commission, and request the contractor report all revenue associated with these advertisements to the Commission.**

Auditee Response:

We concur.

Again, current State resources with regard to information technology and personnel prevent our ability to properly implement the recommendations of this observation.

A previous inquiry regarding revenues from the contractor revealed no obligation on the contractor for reporting payments to the State. We will however, request new financials from the contractor regarding website advertising income and bailment payments in keeping with this observation.

Observation No. 18

Warehouse Security Needs Improvement

The Commission warehouse lacks basic security features such as video cameras, electronic access control doors at the main entrance, and restricted use of the rear door. Warehouse management cannot easily monitor entrances to the facility in the front and rear of the building. Further, 49 non-warehouse Commission personnel may enter the secured door in the rear of the building without notice. This door leads to both the second floor of the Commission headquarters and to the parking area adjacent to the shopping plaza at the rear of the building. It appears warehouse staff use the rear entrance to the warehouse as a short-cut to the adjacent shopping plaza.

Best practice suggests using security systems, such as video cameras and door alarms in the warehouse. Limiting access to only warehouse staff can assist management in preventing and detecting thefts. The Chief of Enforcement indicated the Commission's retail stores have digital security cameras which are very helpful and save legwork during investigations. We note our 1994 performance audit of the Commission also found insufficient security at the warehouse. Without adequate security controlling access to the warehouse, management cannot ensure product leaving the warehouse is properly authorized.

Recommendation:

We recommend the Commission re-evaluate warehouse security to help prevent and detect product theft from the Commission's warehouse. The evaluation should consider, at a minimum:

- **designating appropriate points of entry for Commission personnel,**
- **installing security cameras at access points throughout the facility,**
- **eliminating non-warehouse personnel access to the warehouse except under defined conditions,**
- **restricting use of the rear door of the facility, and**
- **electronically securing doors to the warehouse at the main entrance.**

Auditee Response:

We concur.

Security issues overall are a major concern for the Commission. In accessing its security needs and resources, the Commission aligns its priorities based on the prevailing risk assessment. Risk to personnel, customers and store theft of cash and/or product represent risks of a high priority. Store and warehouse audit practices provide a safeguard in loss prevention and detection for risks considered less immediate or not large in scale.

The Commission has requested funding for enhanced security in all of its facilities. Again, limited State financial resources have prevented implementation of a store and facility-wide security system. Indeed, the Commission's corporate headquarters poses significant security issues (not cited in the audit but important to note here) in association with its administrative hearing process which is open to the public. Simply stated, increased funding for security hardware and personnel is imperative to adequately addressing this observation. However we will re-evaluate the warehouse security as suggested in this observation and make formal recommendations to Legislative leaders for consideration as soon as is practicable.

It should be noted that the rear door that leads from the warehouse to the Commission headquarters is alarmed 24/7 and is not readily accessible to unauthorized personal. The main door of the facility is alarmed when the warehouse is closed. All alarms are monitored with contact to local law enforcement.

Observation No. 19

Improve Utilization Of Warehouse Space

The Commission does not completely utilize its warehouse capacity in Concord. Usable space in the warehouse is approximately 45,000 square feet. However, approximately 6,000 square feet (13 percent) is either not available for use or used to house items other than product. An unused rail bed, approximately 17 feet wide by 90 feet in length, is below the level of the warehouse floor and located along one inside wall, impeding the usability of this area. Another 180 feet of the railroad bed is covered with wooden planks and is used to store non-product items.

Used differently, we estimate 4,500 square feet of additional floor space would be available for product storage. A majority of one aisle in the warehouse is used to store Commission items such as sales and advertising card stock, cleaning supplies, and archived credit card receipts. Further, several hundred empty pallets are stacked floor to ceiling inside the warehouse near the loading dock. The Commission has no set procedures for disposing of the pallets.

The Commission engaged a consultant in August 2007 to assist in developing an efficient warehouse design to optimize storage and product movements to improve productivity and to plan a new racking system. Installation of the new racking system was completed in March 2008. However, during the audit period the new warehouse design was not functional at times due to product overstocking. According to Commission management, warehouse workers were forced to place product wherever space was available to accommodate the extra product. As a result, some aisle walkways were filled with liquor and were not used for picking product.

Best practice suggests non-liquor related items should not be stored in main warehousing areas. Occupying valuable warehouse space for non-liquor products reduces the amount of product the facility can store, either in volume of current Stock Keeping Units (SKU) stored, or the number of different SKUs. Warehouse efficiency is also decreased, as the facility can neither accommodate unexpected overstocking situations effectively nor utilize the entire facility as designed.

Recommendations:

We recommend the Commission recapture underutilized floor space by:

- **more securely storing credit card receipts;**
- **eliminating storage of non-liquor products from the main warehouse floor;**
- **contacting the Department of Administrative Services, Division of Plant and Property, Bureau of Purchase and Property to discuss selling or otherwise disposing of the pallets on a regular basis; and**
- **determining a cost effective approach to fill and recover unused rail bed space.**

Auditee Response:

We concur in part.

We agree that filling in the former railhead docking area would provide additional storage space for the warehouse and increase bailment revenue by storing additional product in this reclaimed area. The Commission has sought, but has been unable to obtain, Legislative funding for this initiative several times in the past.

We respectfully would point out that this observation, it would appear to us, to be inconsistent and conflict with Observation No. 15 which recommends consolidating into one operating warehouse.

Under any conceivable scenario, our existing facility is vastly too small to be selected as the Commission's single warehouse and distribution facility. It is our view that it would be fiscally imprudent to expend approximately $100,000 to expand space in a facility that has a reasonable potential to be vacated if a decision was made to consolidate the Commission's warehousing operations under one roof.

Other Important Item Storage
Regarding the portion of this observation regarding non-liquor products stored in the warehouse, the Commission stores important financial and personnel records (that must be retained in accordance with State law) in a secured area within the warehouse. Also stored securely are all credit card receipts which have been removed from individual store locations. These receipts are shredded after they no longer need to be retained.

The Commission does not have alternative storage space within our headquarters. No other suitable state space is available, to our knowledge, without an additional lease expense. Leasing space outside of our warehouse for the record storage would exceed the revenue generated from the additional bailment received.

With respect to the portion of this observation that "…new warehouse design was not functional at times due to product overstocking", we would again respectfully note that there are significant operating disruptions that exist when any major warehouse change is implemented - especially when the warehouse must continue to operate while the changes are made. Analogous *to moving into a new home but on a vastly larger scale, there is a period of adjustment, "packing and unpacking," and disarray that is an unavoidable consequence moving all the stock in the warehouse and totally reconfiguring it. This "settling in period," given the scope of the initiative, was of short duration.*

Further, the "overstocking" noted during the audit period was undertaken in an effort to fully capitalize on the new revenue opportunities for the state by increasing the bailment stocking capacity. While we would acknowledge there were some "housekeeping issues" at times during this very hectic transformation of the warehouse racking, the overall warehouse rack changeover was completed smoothly, and without major disruption or cost overruns. Most importantly the effort has resulted is a significant financial gain of bailment revenue for the State.

Observation No. 20

Develop Written Policies And Procedures For Warehouse Operations

The Commission does not have written policies and procedures addressing its warehouse operations. The Concord warehouse stores roughly $17 million worth of product on any given day. There are no written policies or procedures for warehouse activities such as receiving, storing, picking, and shipping products; safe operation of heavy equipment; office procedures; or loss prevention. Warehouse management relies on verbal instructions, as well as informal procedures and performance measures.

Management control principles and best practice guide the Commission to promulgate detailed written policies and procedures. Effective and efficient warehouse operations require developing detailed policies and procedures to operationalize the controls necessary to: aid mission accomplishment, improve accountability, minimize operational problems, provide reasonable assurance it achieves its goals, and help safeguard resources.

Recommendation:

We recommend Commission management develop comprehensive, detailed policies and procedures related to all warehouse operations.

Auditee Response:

We concur.

The Commission recognizes the need to develop comprehensive written policies and procedures for its warehouse operations. This deficiency was identified by senior management following changes made to our warehouse operations this past winter and this effort is underway. Our warehouse policy and procedure manual is expected to be completed by June 30, 2009.

Other Issues And Concerns

In this section we present issues we consider noteworthy, but not developed into formal observations. The Legislature and the Liquor Commission (Commission) may wish to consider whether these issues and concerns deserve further study or action.

Improve Common Carrier Oversight

In State fiscal year (SFY) 2008, three common carriers delivered over $6.3 million in products to the State through the direct shipper program. Common carriers are responsible for filing monthly delivery reports, obtaining the addressee's signature, and confirming the addressee is at least 21 years old. Commission personnel stated common carriers do not always comply with their requirements. For instance, carriers sometimes fail to obtain the addressee's signature, leave packages at residences unattended, and continue to ship products from shippers no longer authorized to do so. Although the Commission has authority to seize packages, it has not done so to date.

Commission personnel stated they do not have the resources to visit carrier warehouses to look for illegal shipments or spot check carriers to ensure they obtain a signature. The Commission compares carrier reports to a sample of monthly shipper invoices to detect illegally shipped products and relies on consumers to alert them of carriers failing to comply with the law. The Chief of Enforcement stated the Commission should provide common carrier personnel training in adhering to statutory requirements.

We suggest the Commission assist common carriers with training for delivery drivers to ensure personnel are fully aware of statutory requirements and penalties. We also suggest the Commission establish a more rigorous process for determining common carrier compliance including conducting field inspections.

Adhere To Right-To-Know Requirements In Conducting Meetings

The Commission holds both public and non-public meetings on a regular basis. The purpose of the State's Right-to-Know Law is to ensure, to the greatest extent possible, public access to the actions, discussions, and records of all public bodies, and their accountability to the people (RSA 91-A:1). We found the Commission can improve its compliance with Right-to-Know requirements. We found the following concerns:

Meetings

- RSA 91-A:2-a requires public bodies to deliberate on matters over which they have supervision, control, jurisdiction, or advisory power only in public meetings, with limited exceptions. The Commission's public meetings are typically held on Wednesday afternoons. However, the Commissioners and various management personnel meet each Wednesday morning to discuss operational issues. While these meetings typically include all available Commissioners, no public notice of the meeting is given, no quorum is established, and no minutes are taken or made available to the public.

- RSA 91-A:2, II requires posting a notice of the time and place of both public and nonpublic meetings in two appropriate places, one of which may be the public body's Internet website or printed in a newspaper of general circulation at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. Typically, Commission meeting notices are posted in the form of an agenda in the lobby of the Commission's headquarters and on the Commission's Internet website. We reviewed the Commission's website for meetings held between April 8, 2008 and October 8, 2008 and found 13 of 15 agendas were posted less than 24 hours ahead of the scheduled meeting.
- Public bodies may not meet in nonpublic sessions except in limited circumstances. RSA 91-A:3, I requires a motion, stating the specific exemption(s) for entering into nonpublic session, and also limits all discussions held and decisions made during the nonpublic session to matters specified in the motion. The motion must be properly made, seconded, and passed with a roll call vote. We reviewed both public and nonpublic Commission meeting minutes and found the public meeting minutes do not record the motions made to go into nonpublic session, the specific reason for entering into nonpublic session, and roll call vote.
- Our review of Commission minutes indicate certain actions occurred in nonpublic session, which may have more properly been taken up in public session.
- Administrative Rule Liq 204.02, requires special meetings to be held "in Concord or at such other places as the commission shall determine based on considerations of maximizing access of interested parties to the meeting." In March 2008, the Commission held a special meeting at a Commissioner's home outside of Concord. Two commissioners and one division director were the only people in attendance.

<u>Quorum</u>

- Between April and June 2008, the Commission held four public meetings, three enforcement meetings, and one nonpublic meeting without a quorum. Unless specifically stated otherwise, a majority of Commissioners constitutes a quorum. Quorum is an essential underpinning of the Right-to-Know Law as its definition is intertwined with the definition of a meeting and public proceeding, and is required for a meeting to occur and a body to act. To enter nonpublic session, a quorum must meet and have a roll-call vote as a precursor.
- The meetings held with only one Commissioner in attendance include substantive decisions regarding listing and delisting products, the advertising contract, and personnel.
- RSA 91-A:2, III(b) states a quorum is required to be physically present at the location specified in the meeting notice, unless there is an emergency. We found 11 meetings between January and April 2008 in which only one Commissioner was physically present at the meeting location, while another Commissioner participated via telephone.

We suggest the Commission comply with Right-to-Know Laws. We suggest the Commission also develop policies and procedures conforming to RSA 91-A related to: when public and nonpublic meetings may be properly held, posting meeting notices, determining a quorum, producing minutes and archiving them, and making properly formulated motions to enter into nonpublic session.

Refrain From Making Speculative Purchases

In SFYs 2008 and 2009 the Commission purchased imported high-end wine, with a retail value over $439,300, and placed it in storage for an extended period. The Commission Chairman reported the intention is to release the product for retail sale when the wine has the greatest value to the Commission's overall marketing efforts.

By purchasing this expensive wine and withholding it from sale in this manner, the Commission increases its risks associated with this inventory. In addition, because the Commission has no formal comprehensive marketing plan, it is not clear when, and under what circumstances it decides to release the product for sale.

We recommend the Commission refrain from making additional speculative purchases without a formal comprehensive marketing plan in place detailing its use and value to that plan.

Auditee Response:

We concur in part.

Wines are part of the Commission's enhanced Bordeaux offering program which is critical to meet consumer demand for imported fine wine. The 2005 vintage was critically acclaimed worldwide and New Hampshire was fortunate to have foreseen and capitalized on the robust market for these "once in a lifetime" wine offerings. To date, the Commission has generated over $1,413,000 in gross sales from Bordeaux and will reap substantial additional sales when the wines are placed on the market later this year and next.

The purchasing of wines (as well as spirits) for future sale is a common industry practice. Holding these wines for a brief period to maximize the State's value and marketing opportunity is, in our opinion, a logical and sound business practice.

Constricting the Commission's ability to purchase Bordeaux, or other fine wines in the manner suggested would dramatically limit sales and tarnish the State's image among consumers as a value and premium wine retailer.

Consider Amending The Beverage Fee

In SFY 2008, approximately 42 million gallons of alcoholic beverages were sold or transferred for retail sale in New Hampshire providing approximately $12.6 million in revenue to the Commission. RSA 178:26 requires licensed wholesale distributors, beverage manufacturers, and brew pubs to pay a fee of $0.30 for each gallon of alcoholic beverage sold or transferred for retail sale or to the public. This fee has not changed since 1983. Based on the consumer price index, $0.30 in 1983 expressed in 2009 dollars is equivalent to $0.64.

Table 9 shows the impact on the Commission's revenue if the beverage fee were adjusted from the current $0.30 per gallon to $0.35 through $0.65 per gallon, assuming consumption levels remained the same. It should be noted that each $0.05 addition to the fee would equate to a $0.11 increase in the cost of a case of alcoholic beverage.

Table 9

Potential Revenue Increase If Beverage Fee Is Increased

Per Gallon Fee Rate	Projected Additional Revenue
$0.35	$ 2,104,722
0.40	4,209,445
0.45	6,314,167
0.50	8,418,889
0.55	10,523,611
0.60	12,628,334
0.65	14,733,056

Source: LBA analysis of Commission SFY 2008 beverage fee revenue.

New Hampshire has the second highest beverage fee in the region yet it continues to sell roughly 10 gallons of beer more per capita, per year, than the other New England States, likely the result of purchases by visitors to the State. Table 10 shows the fees and taxes imposed on alcoholic beverages in the New England States.

Table 10

Beverage Fee And Tax Rates In New England States

State	Fee Per Gallon	Sales Tax	Other Tax / Notes
Connecticut	$0.19	6%	None
Maine	0.35	5	7% sales tax for on-premise consumption
Massachusetts	0.11	5	Meal and beverage tax, applied only to on-premise sales
Rhode Island	0.10	7	1% local meals and beverage tax, $0.04/case wholesale tax
Vermont	0.26	None	For beverages above 6% but less than 8% Alcohol, tax is $0.55 per gallon; 10% on-premise meals and rooms tax; municipalities may add an additional 1% sales tax and/or 1% meals and beverage tax
New Hampshire	0.30	None	8% on-premise meals and rooms tax

Source: LBA analysis of state beverage fee and tax rates.

The Legislature may wish to consider amending the beverage fee to ensure it keeps pace with inflation and to raise revenue.

CONCLUSION

In planning and conducting this audit, we examined how revenue could be increased and expenses reduced in order to maximize revenues to the State's General Fund. We focused our attention on examining the Commission's organizational structure and management practices including those for product pricing, product purchasing, warehousing, and distribution. In summary, we found the Commission is not organized and managed to fully maximize income to the General Fund.

We note many positive changes implemented by the Commission since our performance audit in 1994. However, we found areas needing significant improvement to fully optimize profitability, increase operational efficiency, and enhance management controls. The Commission's three-member structure, based on an outdated model to prevent corruption and favoritism, does not provide the flexibility, clear lines of authority and responsibility, or leadership structure of a business designed to optimize profits. This structure is not cost-effective, impedes efficient and timely decision-making and should be replaced with a structure managed by a single chief executive with responsibility and accountability for daily operations. General policy-making, decisions on listing and de-listing products, and administrative hearings should be assigned to a part-time oversight board.

The Commission must transform its purchasing and retail pricing practices to optimize profits. The Commission's practices in these areas have developed over many years and rely heavily on brokers and suppliers to administer. Transforming purchasing and retail pricing practices will take time and additional resources to complete. However, the Commission should negotiate purchase prices with suppliers and brokers, using its considerable purchasing power to its full advantage. Current practices do not. Likewise, the Commission should set its own retail prices of products in its stores rather than simply accepting the suggested price of its suppliers. The Commission should act independently from its suppliers and brokers to ensure its prices are set in accordance with the Commission's marketing and profit goals.

Consistent with a business-oriented approach, the Commission has recognized the value of operating a single warehouse. The Commission asserts a single properly-sized warehouse can be self-supporting. However, until the Commission can accurately determine the revenues received by its contracted warehouser and the costs to provide the contracted services, it cannot fully assess the costs and benefits of consolidating the two warehouse locations. In addition, the Commission must analyze its space requirements, including reviewing current space utilization, and the impact of better supply chain management.

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APPENDIX A

COMMISSION RESPONSE TO AUDIT

State of New Hampshire
LIQUOR COMMISSION
Storrs Street
P.O. Box 503
Concord, N.H. 03302-0503
(603) 271-3755

John H. Lynch
Governor

Patricia T. Russell
Commissioner

Mark M. Bodi
Chairman

Richard E. Simard
Commissioner

CELEBRATING 75
NH LIQUOR COMMISSION
1934–2009
Over $2 billion in profits to New Hampshire

April 8, 2009

Richard J. Mahoney, CPA
Director of Audits
Office of Legislative Budget Assistant
State House Room 102
107 North Main Street
Concord, NH 03301

Dear Mr. Mahoney:

Thank you for the opportunity to comment on the State of New Hampshire Legislative Budget Assistant (LBA) performance audit of the New Hampshire State Liquor Commission. On balance, we find the report to be thoughtful and constructive to the public dialog on how the Liquor Commission and its employees can do a better job in service to the people of our state.

We also very much appreciate the audit recognizing the very substantial progress this Agency has made since its last review was conducted. We would be remiss in not crediting our dedicated employees who have been responsible for the many positive improvements achieved over the past several years.

Notwithstanding our progress, much remains to be accomplished and we look forward to using the audit as a helpful management tool. To be sure, substantial additional state resources will be needed to address most of the observations noted in this report. We look forward to working with the Legislature to review these resource needs so that we can improve our profitability and strengthen our business controls.

My thanks to you and all the members of the LBA audit staff for their dedicated efforts in completing this complex review. While the audit process is never easy, your staff is a pleasure to work with. They are professionals in every sense of the word and are worthy of the highest praise for a difficult job well done.

Sincerely,

Mark M. Bodi
Chairman

MMB/aeb

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TTY 1-800-735-2964

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APPENDIX B

COMMISSION SUPPLIERS

According to RSA 175:1, vendor is defined as an individual, partnership, limited liability company, or corporation, including any subsidiaries thereof, which sells beverages, liquor and fortified wines to the State containing more than 15.5 percent alcoholic content by volume at 60 degrees Fahrenheit, or table wine containing more than six percent but not more than 15.5 percent alcoholic content by volume at 60 degrees Fahrenheit. Administrative Rule Liq 301.02(e) defines a broker as an agent of a liquor or wine vendor providing services to a vendor on a commission basis. Brokers conduct daily business with the Commission, monitor local and regional markets, promote suppliers' products, and manage the daily inventory level at the warehouses on behalf of the supplier. Table 11 shows the Commission's suppliers, the gross amount and percent spent on purchases from the top 12 suppliers, and the broker representing the supplier.

Table 11

**Gross Purchases By Supplier
SFY 2008**

Supplier (Vendor)	Gross Purchases	Percent Of Total Purchases	Represented By (Broker)
Diageo North America Inc.	$ 59,073,529	15.9%	Southern Wine & Spirits
Martignetti Companies Of NH	31,721,779	8.6	Executive Wine & Spirits Martignetti Companies of NH
Future Brands LLC	26,252,020	7.1	Southern Wine & Spirits
E & J Gallo Winery	22,540,827	6.1	Pine State Trading Company
Bacardi USA Inc.	21,965,604	5.9	Horizon Beverages
Constellation Wine US	20,337,142	5.5	Horizon Beverage Co. MS Walker, Inc Martignetti Companies of NH Southern Wine & Spirits United Beverages
Pernod Ricard USA	19,682,124	5.3	Southern Wine & Spirits
Southern Wine & Spirits NE Inc.	18,209,266	4.9	Southern Wine & Spirits
B-F Spirits Ltd.	14,472,173	3.9	Horizon Beverage Co.
MS Walker Inc.	12,234,400	3.3	MS Walker, Inc.
White Rock Distilleries Inc.	11,723,536	3.2	Horizon Beverage Co.
Moet Hennessey USA Inc.	10,788,109	2.9	Southern Wine & Spirits
All Other Suppliers	101,385,332	27.4	Various
Total Purchases From All Suppliers	**$ 370,385,841**	**100.0%**	

Source: LBA analysis of Commission SFY 2008 New Hampshire Integrated Financial System and other data.

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STATE OF NEW HAMPSHIRE
LIQUOR COMMISSION

APPENDIX C

CURRENT STATUS OF PRIOR AUDIT FINDINGS

The following is a summary of the status of 52 observations related to New Hampshire Liquor Commission contained in prior audit reports. Related Observations are contained in our:

- *Liquor Commission Performance Audit Report, July 1994;* and
- *Liquor Commission Management Letter For The Fiscal Year Ended June 30, 2006*.

Copies of audits issued prior to 1999 can be obtained from the Office of the Legislative Budget Assistant Audit Division, 107 North Main Street, State House, Room 102, Concord, NH 03301-4906. Audit reports issued after 1999 can be obtained online at our website http://www.gencourt.state.nh.us/lba/index.html.

Our *Liquor Commission Performance Audit Report, July 1994,* contained 46 Observations on the operation of the Liquor Commission related to our current audit.

No.	Title	STATUS
1.	The State Liquor Commission Should Be Headed By A Single Commissioner	○ ○ ○
2.	The Marketing And Sales Functions Should Be Reorganized	● ● ●
3.	Administrative Functions Should Be Reorganized	● ● ●
4.	The Supervisor/Manager System Should Be Replaced	● ○ ○
5.	Enforcement And Regulation Division Assistant Chiefs Should Not Have Caseloads	● ● ●
6.	The Administrative Assistant Chief Position Is Unnecessary	● ● ●
7.	The Senior Liquor Investigator Labor Grade Is Not Needed	● ● ●
8.	Market Planning Process Should Be Improved	● ○ ○
9.	Advertising Budget Should Be Reviewed	● ● ●
10.	Store Staffing Should Be Reviewed	● ● ●
11.	SLC Should Assess Costs And Benefits Of A One-Warehouse Operation And Put License For Privately-Owned Warehouse Out To Bid	● ○ ○
12.	Safety Factors Account For The Majority Of Workers' Compensation Claims In The SLC Warehouse	● ● ●
13.	Analytical Capabilities For The Marketing And Sales Function Should Be Improved	● ○ ○
14.	MIS Support For Stores Should Be Improved	● ● ●
15	Accounting Software Needs Upgrading	● ● ●
16.	In-Service Training Improvements Needed	● ● ○

No.	Title	STATUS		
17.	SLC Employees Not Evaluated Annually As Required	●	●	●
18.	Employees Working Outside Of One Division Without Division Of Personnel Approval	○	○	○
19.	SLC Should Analyze The Effectiveness Of A Two-Year Renewal Cycle For Most Liquor Licenses	●	○	○
20.	Material Support For Home Offices Of Liquor Investigators Should Be Increased	●	●	●
21.	Advertising Contract Used For Non-Advertising Purposes	●	●	●
22.	No-Bid Contract Inappropriately Awarded To MIS Director	●	●	○
23.	Conflict Of Interest For MIS Director In Accepting Shelf Management Contract	●	●	●
24.	Ownership Of Intellectual Property In Question	●	●	●
25.	Breach Of Advertising Contract Terms And Conditions	●	●	●
26.	Noncompliance With State Purchasing Requirements	●	●	●
27.	Noncompliance With State Laws Regarding Temporary And Part-Time Employees	●	●	●
28.	Abuse Of State Laws Regarding Appointments To The Classified State Service By Liquor Commissioners	●	●	●
29.	Preferential Treatment Of Local Liquor Manufacturer	●	○	○
30.	Insufficient Compliance With Store Operations Manual	●	●	●
31.	Policies And Procedures Needed For Deposit Withholdings	●	●	●
32.	Security Of State Liquor And Wine Outlet Stores May Be Insufficient	●	●	○
33.	Insufficient Security For Concord Warehouse	○	○	○
34.	Insufficient Supervisory Review In Concord Warehouse	●	●	●
35.	Financial Management Policies And Procedures Insufficiently Documented	●	●	●
36.	Insufficient Supervisory Review	●	●	●
37.	Inappropriate Use Of Petty Cash And Change Fund	●	●	●
38.	Insufficient Security For Cash And Checks	●	●	●
39.	Disposition Of Printer Purchased Through Shelf Management Contract Is Questionable	●	●	●
40.	Insufficient Management Information Systems Policies And Oversight	●	●	●
41.	Insufficient Supervision Of Inventory Tracking Procedures	●	●	●
42.	Inadequate Procedures For Processing License Fees And Fines	●	●	○

No.	Title	STATUS
43.	Enforcement And Regulation Division Licensee Records Are Neither Secure Nor Complete	● ● ●
44.	Additional Administrative Rules Should Be Promulgated	● ● ●
45.	Cooperative Advertising	● ● ●
46.	Clarification Of RSA 175:4, Advertising	● ● ●

Our *Liquor Commission Management Letter For The Fiscal Year Ended June 30, 2006*, contained six Observations on the operation of the Liquor Commission related to our current audit.

No.	Title	STATUS
5.	Controls Over Direct Shipment Sales Should Be Improved	● ○ ○
11.	Store Lease Documents Should Be Clarified	● ● ○
12.	Continued Appropriateness Of Standard Mark-Up Percentages Should Be Reviewed	● ● ○
14.	Current Exemption From Bailment Fees Granted To Vendor Should Be Reviewed	● ○ ○
15.	Formal Written Store Plan For The Retail Stores Should Be Developed	● ○ ○
16.	Expired Rules Should Be Readopted If Still Considered Operational	● ○ ○

Status Key	
Fully Resolved	● ● ●
Substantially Resolved	● ● ○
Partially Resolved	● ○ ○
Unresolved	○ ○ ○

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