

JOINT LEGISLATIVE FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Friday, March 15, 2024

MEMBERS PRESENT:

Representative Kenneth Weyler, Chair

Representative Keith Erf

Representative Jess Edwards

Representative Mary Jane Wallner

Representative Peter Leishman

Representative Gerald Griffin

Representative David Huot

Senator James Gray

Senator Dan Innis (Alt.)

Senator Regina Birdsell

Senator Lou D'Allesandro

Senator Cindy Rosenwald

(1) Acceptance of Minutes of the February 16, 2024 meeting

KENNETH WEYLER, State Representative, Rockingham County, District #14 and Chairman: It being 10 o'clock, we'll call the Fiscal meeting to order for Friday, March 15th, and we have a quorum. I'll entertain motions to adopt the minutes.

****** JAMES GRAY, State Senator, Senate District #06: So moved.

CHAIRMAN WEYLER: Motion by Senator Gray, second by?

DANIEL INNIS, State Senator, Senate District #07: Second.

CHAIRMAN WEYLER: Senator Innis, to adopt -- oh, wait a minute. You weren't here. Okay. Take a second -- second from Senator D'Allesandro.

SEN. INNIS: We'll give it to Senator D'Allesandro.

CHAIRMAN WEYLER: To adopt the minutes. Any changes or corrections? Seeing none, are you ready -- yes.

REP. ERF: Who's Innis?

CHAIRMAN WEYLER: Right over here.

REP. ERF: I know who he is.

CHAIRMAN WEYLER: Oh, he's replacing Bradley.

REP. ERF: Okay. He's looking for his call sheet.

LOU D'ALLESANDRO, State Senator, Senate District #20:
(Inaudible).

REP. ERF: I knew who he is.

CHAIRMAN WEYLER: All right.

REP. ERF: Who he's replacing.

CHAIRMAN WEYLER: No further corrections or additions. All in favor say aye? Opposed no? The minutes are adopted.

***** {MOTION ADOPTED}**

(2) Old Business

CHAIRMAN WEYLER: There's no old -- there's no old items. The Consent Calendar.

REP. ERF: (Inaudible).

CONSENT CALENDAR

CHAIRMAN WEYLER: Extends from Tab 3 through Tab 8. And I've had request to remove the following items from the Consent Calendar. Under Tab 6, item 24-078 by Senator Birdsell. Item 24-082 by Representative Edwards. Under Tab 8, item 24-088 by

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

Senator Birdsell, and items 24-092 and 24-094 by Representative Edwards.

Are there any other items to be removed by the Members? Seeing none, I'll entertain --

** SEN. GRAY: Move to approve as amended.

CHAIRMAN WEYLER: All right. Senator Gray moves to adopt the Consent Calendar with those fault with the exceptions so noted.

JESS EDWARDS, State Representative, Rockingham County, District #31: Second.

CHAIRMAN WEYLER: Second by Representative Edwards. Further additions or corrections? Seeing none, are you ready for the question? All in favor of adopting the rest of the Consent Calendar say aye? Opposed no? The rest of the Consent Calendar is adopted.

*** {MOTION ADOPTED}

(6) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source:

CHAIRMAN WEYLER: So now we'll move to Tab 6 to 24-078, Department of Agriculture. And I believe the Commissioner is here. All right. He's on his way. All right. All right, Commissioner Jasper. Moving to 24-078, the item that you had in here relative to pest management. Senator Birdsell's recognized for a question.

REGINA BIRDSELL, State Senator, Senate District #19: Thank you, Mr. Chair. Thank you, Commissioner, for taking my question. Um -- more -- more on the -- this is more of a question from the Fiscal item that we passed last month, and I had spoken with you about it last night. Um -- what Fiscal

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

passed back in March, the qualifiers in there were principally -- shall be principally located in New Hampshire. The events for relief is sought to must have occurred through New Hampshire borders; have been in operation since at least January 1st of 2022, and experience a loss of gross receipts from '22 to '23.

Now, when the program came out -- um -- there's an additional eligibility criteria which you added to that was 50% of net farm loss. Can you explain why you changed that criteria?

SHAWN JASPER, Commissioner, Department of Agriculture, Markets, and Food: So, to be clear, we did not change the criteria. So even -- and I'll be glad to sit down with anyone to explain this. But all along, even in Senator Innis' bill-- um -- that this really morphed into, there was criteria, because farms lose money all the time. In my own business as a landlord, my net receipts go up and down, depending on how many tenants I have in a building. So we wanted to make sure that in order to award money it wasn't just that people had -- had these -- had lost money. It was you had to have your receipts down. You had to have all these things. These are the things that get you in the door.

I believe that New Hampshire has always been clear. We don't pay money to people who still had a profit. And if you go through any of the testimony, even on the bill, it was about devastation. It was about people who really -- well, if you're still making money, then obviously you are not in a situation where you're going to close your doors.

So the bill and in what we always intended to do was to pay to people who lost. And this document is on our web -- website. It was posted March 1st, and it's very clear. Starting March 1st, eligible farmers, eligible farmers that's based on the criteria, can apply for awards intended to account for 50% of net farm loss. So, in my mind, everything we've done right from the beginning was to help farmers who lost money in their operations.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

What I'm now hearing from people is, well, it's simply, if you had a decrease in your net income, regardless of whether you were profitable or not, we're going to give you money. That's foreign to me. And so perhaps that's why I never even gave that a consideration that we were going to be paying people just based on a decrease in income.

Now, there have been questions about what if somebody sent -- sold off assets to be able to stay in business? There's a Box 19 on the form for an explanation. If somebody was in -- doing something that was outside of the normal operations, we will look at that. And, certainly, if somebody says I had to sell equipment because otherwise I was going to lose the farm, we will take that into consideration and make an award based on those conditions. And that's to everybody we've said put in Box 19 the things outside of the norm so we can consider that. Because I understand that it's more than just profit and loss. You know, I've been in business my whole life, and I understand these things, so.

SEN. BIRDSELL: Follow-up.

CHAIRMAN WEYLER: Follow-up.

SEN. BIRDSELL: So I may not -- I may not disagree with you. However, I still feel that you changed the criteria from -- to a 50% net loss versus gross profits. Could you have not at least defined gross profits as that so they would know? Because when we put -- put this through -- um -- I know that when it was testified the State based their -- 16 million of lost -- lost crops. And we based that 16 million, we cut that in half to give the farmers 8 million, based on crops lost, and this doesn't match.

MR. JASPER: So -- and I respect that. This is not the bill. Um -- this is a different program. But I guess, again, in my mind if you're going to lose, you know, your crops, it's going to result in a net loss. And so, yes, I think that there is some

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

reasonable infusion with this; but this is not an entitlement program either. This is a program designed to help people who are in a devastating situation. And I think for most farms, if they lost that much of their crop, it's going to result in a pretty substantial net loss. And, frankly, in New Hampshire we expect people to pivot. And so if they were able to recover some of that income through other things, that's -- that's great, and they did all right; but many of them would still have a net loss.

So I'm not sure exactly what we can do now to -- to change our message. I have to tell you, quite honestly, I have not had one single call, other than from the Governor, about this. And he called me because people are calling him. People are calling you. What nobody's doing is calling me. That is very troubling that we're not getting those calls directly. I had one e-mail that went to Director Marshall. He forwarded it to me. I responded and that farmer did not respond to me. But I've heard that he's been complaining to others about my response without responding to me. So there have been very few things that have frustrated me in my time in Concord more than this, because of the lack of communications.

CHAIRMAN WEYLER: Did you pay out any money under this program?

MR. JASPER: We had two -- we tried three, was it? Two or three we tried to get on late agenda for this Wednesday, but we have not -- we didn't make it through G & C with those yet.

CHAIRMAN WEYLER: So you saw very few applications?

MR. JASPER: Early on as we expected because this is tax season. And for the large operations it's going to take them quite a bit of time to get their numbers together to work with they're accountants. Some of them will not have their federal income taxes done.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

I mean, some businesses, like my business, my family business, we actually don't close out till March 31st. But you can get an assess -- yeah. You can get a document from your accountant attesting to the fact that -- um -- that this -- this is the facts. So we're making allowances for all of those things.

CHAIRMAN WEYLER: Further question. Senator Birdsell.

SEN. BIRDSELL: And I appreciate what you're saying, Commissioner. However, if you look at the eligible -- the eligibility, you say it's not -- we're not talking about the bill; but you used the identical eligibility in the bill as in your qualifiers.

MR. JASPER: And, Senator, if you look on our eligibility page, we are using all the same eligibility. But I would -- I would call to your attention, if we want to try to compare apples to oranges, which I think it is looking at the crop loss, the bill that Senator Innis sponsored, if you go down on Page 2, I believe it is, there's all the eligibility. And then it -- then under the awards under the Emergency Crop Relief Operation, shall have the following requirement. No entity shall receive more than 50% of gross losses. And it doesn't -- that doesn't match the language that is in the criteria, which is a reduction in income.

We now move into here's what gets you in the door. You have to have a reduction of income, and then you have to have a loss. One's an eligibility; the other is the actual criteria on which the award is based. And we were consistent with that, although we don't have -- we're going on the assumption of 50%. We don't have that restriction in the actual program. Um -- we may revisit that later, depending on the awards. We have no idea, you know, what the numbers are going to be. And so, you know, I -- I'm proud of the program we put up -- out. I am sorry that there is confusion. But in, you know, in my mind -- um -- we never just pay out money because somebody had a reduction in -- in income. We pay out, we help people when they have

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

experienced a loss to their -- their total operation. And -- and that's where the confusion arose.

Um -- I've gone through all the testimony and there's nothing specific to people thinking they were going to get money based on a -- simply a loss of revenue. Nor is there anything specific to saying they thought they were going to -- it was based on a bottom line loss.

So, yeah, there's confusion back and forth. But, again, this is -- this is not a guarantee. None of this is a guarantee. And the Fiscal Note that came before you said that -- um -- I can read the language exactly. That the Department of Agriculture, Markets and Food will establish guidance and application process based on the following criteria for applicants with approval by the Governor and Council. And our whole application process did go through that process, was approved, and that's what we came up with.

So I am -- I'm sorry. We tried to move this as quickly as we could because, you know, look at the weather. I think I heard peepers last night. People are going to be looking to get -- um -- crops in the ground. They're going to be needing that. I know people got H-2A workers coming in very soon. Our whole idea was -- is to get the money out to those who are in desperate need of cash, not just, gee, wouldn't it be nice to give people money because they experienced a decrease in their revenue.

CHAIRMAN WEYLER: I guess Page 1 criteria should have been a bit more explicit so they didn't, oh, good, I'm going to get the money and then go on and not pay as much attention as they filled out the rest of it, so.

MR. JASPER: Mr. Chairman, as always, hindsight is 20/20; but I'm glad to sit down with any Member of the Legislature, go over this. But this -- for us to do anything other than what we put in the process would put a stop to this whole program and have to go back through the process again. And, frankly, you

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

know, as I -- I said to the Governor, how many people have actually called? I know nobody's called me. So are we talking about a very vocal minority? I think perhaps we are.

CHAIRMAN WEYLER: And I guess the good news is the catastrophic losses weren't as catastrophe as we thought, if nobody's really lost the farm over this.

MR. JASPER: Well, I think there are a couple that are probably are on the edge, but they haven't got their applications in, because in some cases they've got to go back to the previous owners. They've got to do a lot of work with their accountants to get to us. I mean, we're only open -- this is only the second week it's been open, so.

CHAIRMAN WEYLER: Thank you.

MR. JASPER: We're doing the best -- best we can, and right now it's very frustrating.

CHAIRMAN WEYLER: Senator Birdsell.

SEN. BIRDSELL: Thank you, Mr. Chair. And I understand you say you haven't heard from the -- um -- anyone, except for that one e-mail. But I know that someone from your office was in the meeting when the program was announced, and an individual did get up and speak about how he was reimbursed only \$4,900 or authorized \$4,900, when in reality his total loss was 105. But I still go back to the fact that we authorized gross profits versus changing it to net profits. And if you wanted to make it net, then maybe there should have been in the program a definition of what gross profits were, because that's what this Fiscal Committee passed. And I feel -- I feel like it was changed without even consulting anyone on the Fiscal Committee. And the farmers, yes, they're up in an uproar about this. However, they were under a different understanding, and we needed to get that word out.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

MR. JASPER: I -- I appreciate that, Senator. Begin in what you actually passed it only talks about the criteria, and the only thing is the eligibility, experienced a loss of gross receipts as the foot in the door. The rest was left up to us to develop, which is consistent with the language in the bill, which did not pass and which, you know, we were not wetted to because it was not a bill that passed. This was the replacement of it. But trying to be respectful of what was done, we tried to mirror that in working with all parties.

Again, I would be absolutely opposed to paying money to farms that were profitable. In the case of the farm that you referenced, looking at those -- those numbers, that person, yes, has -- has had extraordinarily good returns over the years. I'm somewhat shocked by what a high percentage his return is. But he's had very good years for -- for a long time and had a small loss this year. We gave him allowances. He had a higher depreciation than normal this year, so we averaged that. That was part of that and gave a 15 percent increase to that. We gave a credit towards up to 5% -- um -- of his gross receipts towards labor. And, yeah, it still didn't amount to much. But this is not -- this is not a farm that is on the brink, you know, and you are certainly welcome to say we just want to give out money to people, even if they're making a profit. If that's the message from the Legislature, that's your prerogative. That's not what I ever understood any of this to be.

Um -- so while others may be confused, and miss -- I certainly misunderstood if the intent was just, hey, you get a drop in your income, we are going to make up half of the difference. That's foreign to me.

CHAIRMAN WEYLER: Further.

SEN. BIRDSELL: One final point. In the explanation on the item, it says -- um -- Department of Agriculture, Markets, and Food will establish guidance and grant application process. It doesn't say change the process or change the guidance. And in regards to that individual -- um -- he lost all of his apple

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

crops and had to go out and purchase for \$25,000 additional apples, because he had no apples. So he did have some expenses that I don't think were taken into consideration.

MR. JASPER: Well, those expenses, if he did not put those on his Schedule F, that's not my -- my fault. That was a legitimate expense and I've talked to many people who have -- had the same experience. They went out and purchased apples, made a small process on that -- profit on those apples; but, nonetheless, it contributed to the overall farm income.

Certainly, if the Fiscal Committee believes that I misled them in this note then, you know, we'll have to stop the program and start over again -- um -- if -- because it was not our intent to mislead you. It was our intent to -- um -- to give you the criteria and say we'd go forward with the program. But I'll be glad to sit down with anybody if there are any further questions; but, ultimately, you know, this program is based on your approval. And I respect the fact that if you believe I misled you, then we need to deal with that.

CHAIRMAN WEYLER: Representative Edwards.

REP. EDWARDS: Thank you, Mr. Chair. Thank you, Mr. Commissioner. As I'm listening to this, I'm thinking in background what sort of affirmative efforts is the Department making to get the word out to potentially needy farmers? Are we -- are we taking an affirmative stance towards pushing the information?

MR. JASPER: We are through all of the organizations out there. Um -- NOFA New Hampshire, Farm Bureau, certainly the Weekly Market Bulletin. The press has covered this. I -- I doubt that there is any farm of any significant size in the state who isn't aware of it. We've been to the, just last week, to the two major commodity groups, the fruit and vegetable growers, the tree fruit, berry and vegetables. So those commodity groups are well aware of it. They're pushing it out there. We've been communicating to the best of our ability, and I really don't

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

think that there is -- there are too many people hiding under a rock at this point who are not aware of this.

REP. EDWARDS: Thank you, Mr. Chair. Thank you for the answer.

CHAIRMAN WEYLER: Senator Gray.

SEN. GRAY: Um -- thank you. Um -- when you characterized just giving them money in your statement -- um -- I would have rather seen you characterize that as we want to keep people in the farming business. You know, the small guy, you know, and the big guy, and that, you know looking at the losses -- um -- you know, like if the program said, if you receive 10% of your income from farming effort and before and that 10% was cut to nothing, that's different than looking at it. But, certainly, we don't want to be perceived as, you know, giving money to those who don't need it, like we were several times during the Covid money. Would you like to comment on -- on those?

MR. JASPER: Well, sometimes my -- my thoughts are not as -- as politically correct, perhaps, as they should be. And I -- and I verbalize them and that's probably not to the benefit of anyone. But, you know, I -- you have you the benefit of hearing what I'm thinking whether that's the best thing or not. But I -- in anything that we put out there, we have always talked about the fact that we want to help those who need -- are in need. Thirty thousand is a pretty low number, because we were looking at who's, you know, if you're looking at 30,000, and you're looking at an average business, you know, a 10% profit margin is pretty good. So we said, all right, that would net somebody \$3,000, probably not life or death. And at what point -- we've done this really without taking money from the Department, if you open this up to literally then thousands of people at a small amount, we're going to be taking money away from those who truly need it.

We spent an hour on a Zoom call yesterday with NOFA New Hampshire talking about that very issue about those who have

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

application -- have farms of under 30,000. They're important. All of those farms are very important to New Hampshire. But in terms of a disaster, they're not likely to be put under -- out of business. But what I did offer to them was say, all right, ask a few farms to put in those applications, even though they know they're not going to be eligible at this point, we'll look at that. We'll consider that and see if we don't get to the full 8 million, should we then come back and say, all right, let's -- let's change that criteria.

We did that a few years ago with the Covid funds. And because, again, we want to make sure that we get as much money to those who are making a living at it as possible. When there's money left over, if the government, the powers that be feel that it's appropriate to spread that out to some others who got hurt, but aren't going out of business, I'm certainly happy to do this. But, you know, it's -- it's got to be narrow to start with because it's pretty much Josh and myself and one person from Cooperative Extension who has been authorized to assist with us. It's not his full-time job to do this. If you open that up immediately to everybody who had any income from farming, we'd be December before we got money out the door.

So everybody wants -- wants more and I get that; but we just -- we can't make everybody happy.

I said to Josh when we opened this program up, I said you watch, no good deed goes unpunished. I'm going to have more people mad at me than are going to be happy. He said no, no, you're not. I said yes, I am, and here we are today.

CHAIRMAN WEYLER: Senator Rosenwald.

CINDY ROSENWALD, State Senator, Senate District #13: Mr. Chairman. Commissioner, following up on your comment about if we don't spend the whole 8 million we'll have to go back. We're coming up on the deadline in a few months for encumbering these funds. My understanding is that the \$8 million was arrived at by saying that was 50% of crop losses. So by narrowing the

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

criteria, it seems like you're probably not going to get the whole 8 million out the door to farms that have lost money. And my concern is that we leave this money unspent when our intent, at least in the Senate, was to go through Fiscal as a way to be quicker than going through the legislative process.

MR. JASPER: I still believe that to be true. And Commissioner Caswell is -- is sitting behind me. And I believe that we really have till the end of this Calendar Year. So if we get to May 15th, we can pivot again very quickly if that is the wish of everyone involved. Whereas a bill, in all likelihood, we wouldn't have even started that process until -- um -- late June, early July.

So I believe there is plenty of time. We can move quickly and efficiently, which we have done here. You know, it's obviously ruffled some -- some feathers along the way, and, you know, as always, could communications have been better? In hindsight, yes. It just in my mind there was never any question that this was about a loss to the farming operation. That's all we were looking at in my mind, and I apologize for that. And there was never communication from anybody saying are you talking about simply loss of revenue or are you talking about loss on the bottom line. That didn't happen, and I -- and I apologize.

SEN. BIRDSELL: Mr. Chair --

CHAIRMAN WEYLER: Further questions.

SEN. BIRDSELL: -- can we -- we'd like to caucus.

CHAIRMAN WEYLER: All right. Five-minute caucus. We'll be in recess for five minutes and we'll come back finally to item 78.

MR. JASPER: Would you like us to stay here while you caucus?

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: Yeah. Any of us want to caucus on the House side? We happy with --

REP. ERF: I support it.

CHAIRMAN WEYLER: Yeah. I think he's done what is fiscally feasible.

(A recess was taken.)

(Reconvened.)

CHAIRMAN WEYLER: I declare the recess over. We'll return to item 24-078. Senator Gray.

****** SEN. GRAY: Move to pass the item.

SEN. D'ALLESANDRO: Second.

CHAIRMAN WEYLER: Senator Gray moves, Senator D'Allesandro seconds to pass item 24-078. Further discussion? Seeing none, are you ready for the question? All in favor say aye? Opposed no?

SEN. BIRDSELL: No.

CHAIRMAN WEYLER: Wish to be recorded? All right, 9 to 1. Motion is adopted.

***** {MOTION ADOPTED}**

CHAIRMAN WEYLER: Moving on -- thank you. Moving on to the next item removed, which would be 24-082 on the same tab, Health and Human Services. See we have Director White with us. Senator Edwards is recognized for a question on item 24-082.

REP. EDWARDS: Thank you, Mr. Chair. And welcome, Mr. White. I -- I -- I just have a basic contract question here. I -- I see that DuBois & King have done all the surveying and determined

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

the issues that need to be resolved. So I'm just -- I'm just curious from a contracting perspective, you know, A, do we expect them to want to bid on doing the work? And -- and -- and B, if -- if they do compete on this contract, is there anything in the selection criteria that would have us consider more strongly the folks that have not worked on the survey? I'm -- I'm talking about competitive disadvantages here.

NATHAN WHITE, Chief Financial Officer, Department of Health and Human Services: Sure. Good afternoon, Members of the Committee. Nathan White, Chief Financial Officer of the Department of Health and Human Services. The item before you just for everyone's context, back during the Capital Budget process of 2023 the Department had come forward with a request to replace the wastewater system at Glencliff Home. The total cost is \$1.8 million. These funds are a grant from the Department of Environmental Services to pay for the difference just to kind of level set.

Relative to the competitive bidding process, the Department of Public Works under RSA 21-I is required to put forward and they're responsible for all bidding when it comes to construction projects. So I can assume that there would be no special provision or no special advantage, because that be in violation of RSA 21-G:37 and 21-I as well, which requires that objective criteria be known to all parties. So I would not expect that there would be any advantage given there. I don't know if -- where's Commissioner Arlinghaus? I don't know if you'd like him to comment further.

REP. EDWARDS: Thank you. And he's approaching. I just point out my general thought here, and that is the -- the -- the person doing the survey tends to have a competitive advantage because they know more about the project. And I'm -- I just want to make sure we're maintaining a competitive environment.

CHARLES ARLINGHAUS, Commissioner, Department of Administrative Services: Charlie Arlinghaus, Department of

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

Administrative Services. Design firms don't bid on the final contract, period.

REP. EDWARDS: Perfect.

MR. ARLINGHAUS: For the reason you just said.

REP. EDWARDS: Thank you.

CHAIRMAN WEYLER: Any further questions on item 24-082?

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

CHAIRMAN WEYLER: Senator D'Allesandro moves to adopt.

SEN. GRAY: Second.

CHAIRMAN WEYLER: Seconded by Senator Gray. Further discussion? Seeing none, are you ready for the question? All in favor say aye? Opposed no? That item is adopted.

*** {MOTION ADOPTED}

AMERICAN RESCUE PLAN 2021
CONSENT CALENDAR

(8) RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from Any Non-State Source:

CHAIRMAN WEYLER: We'll move on to Tab 8 and item 88. Again, Department of Agriculture, Markets, and Food.

** SEN. BIRDSELL: Move to table.

SEN. GRAY: Second.

CHAIRMAN WEYLER: All right. Motion to table.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

REP. ERF: Who was second?

CHAIRMAN WEYLER: That was Senator Birdsell, seconded by Senator Gray to table item 24-088. Further discussion? Seeing none, you ready --

PETER LEISHMAN, State Representative, Hillsborough County, District #33: Excuse me, Mr. Chairman. I know you're not supposed to ask questions when it's a move to table. I'm just curious why there wasn't any discussion before a motion to table was offered?

SEN. GRAY: If Senator Birdsell will remove her motion for a minute.

SEN. BIRDSELL: Sure.

SEN. GRAY: And certainly I will speak to it.

CHAIRMAN WEYLER: The item -- the motion's withdrawn temporarily.

SEN. GRAY: Certainly, there is some things about the meat packing. I've been on several committees that have gone along with that. It is a farm-related issue where they would be making profits. It's most closely related to the issue that we were discussing before, and we want to have further discussion on that before we pass this item. And I will renew the motion to table now.

CHAIRMAN WEYLER: Okay. Back to the item to table.

REP. LEISHMAN: It's disgusting. All right?

SEN. BIRDSELL: Second.

CHAIRMAN WEYLER: All right. Motion to table. All in favor say aye? Opposed no?

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

REP. LEISHMAN: No.

CHAIRMAN WEYLER: How many nos? Four nos. All right. Six to 4. Tabling item is adopted.

***** {MOTION TO TABLE ADOPTED}**

CHAIRMAN WEYLER: All right. Moving on to the next item on my list, 24-092, also in this tab, Health and Human Services. New Hampshire Hospital again. Um -- security upgrades. Representative Edwards is recognized.

REP. EDWARDS: Thank you, Mr. Chair. And -- and thanks again -- uh -- for considering my question.

I -- I -- I just -- I think this is well written, but it just leaves me curious. We've appropriated money for the forensic hospital, and the forensic hospital by design had to have some kind of a secure vestibule to get in. And now we're -- we're -- we're saying that we need to upgrade the New Hampshire Hospital, and I've seen it. And so I -- I -- I understand the need.

What I -- what I don't really understand is if -- if -- is how the money is working. If we've already appropriated money for the forensic Hospital's vestibule, why, you know, why do we need another 2.6 million? This seems to me like a component of the forensic project that could be morphed to help the New Hampshire Hospital and 2.6 is just a lot of money.

ELLEN LAPOINTE, Chief Executive Officer, New Hampshire Hospital, Department of Health and Human Services: Thank you for the question. Ellen LaPointe. I'm the CEO at New Hampshire Hospital. Great question. So in regards to -- excuse me -- the need to consider this funding -- um -- yes, there was funding allocated to the entry point of the forensic hospital. Um -- during our security assessments that have occurred in recent months, and in conjunction with the forensic hospital planning, it was noted that -- um -- of course, the entry point

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

to the forensic hospital is the same as the entry point into the main hospital of New Hampshire Hospital.

So there was work and efforts in design into creating some distinct entry criteria and equipment related to the forensic hospital specifically. However, with the security design -- um -- feedback that was received and post-events that occurred at New Hampshire Hospital safety related recently, it was decided that the -- that renovation really needed to encompass the entirety of the entry into New Hampshire Hospital and not just specifically to the forensic component of the build.

So this is work that was performed by our architect, as well as equipment that was recommended by security expertise in order to not only address the needs of the forensic hospital entry point, but incorporate that into the main entry point of the facility in its entirety.

CHAIRMAN WEYLER: Follow-up.

REP. EDWARDS: So I -- I -- I -- I'm not trying to second guess the architects. I'm just -- it just makes me curious now. Are -- are -- are you going to need to be building out in front of where New Hampshire Hospital is now to get the real estate to be able to have a joint vestibule or -- or are you going to remain within the confines of the New Hampshire Hospital's entrance?

MS. LAPOINTE: Thank you for the question. It's the latter. So we're going to remain within the confines of New Hampshire Hospital's entrance. And there is some wiggle room associated with that space currently, as well as with the plans with the forensic hospital already, addition of the forensic hospital already. So this work will be encompassed within the current footprint of both the current State of New Hampshire Hospital and the forensic hospital build.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

REP. EDWARDS: I think that's great. You've answered everything. I -- I -- I just want to let you know that since that visit, not me posting about it, I have gotten some really heated comments about the lack of parking. And you told me that you know you're 50 short; but so that's not for today. I just want to leave that with you.

MS. LAPOINTE: Duly noted. Thank you very much.

CHAIRMAN WEYLER: Further questions on item 24-092? Senator Rosenwald moves to adopt the item. Senator D'Allesandro seconds. Further discussion? Seeing none. Are you ready for the question? All in favor say aye? Opposed no? That item is adopted.

***** {MOTION ADOPTED}**

CHAIRMAN WEYLER: We'll move on to item -- you might as well stay there. Item 94-0 -- 24-094. And Representative Edwards is again recognized for a question.

REP. EDWARDS: Okay. So these are potentially hard questions -- um -- to answer in public. But -- but I -- I see on Page 3 there are five bullet items. Those five -- and the State has been funding substance abuse disorder initiatives for years now. These five bullets sound like they're the beginning of something. And we are way, way, way downstream from beginning something. And so I -- I think I understand that the Farnum Center has had an economic reset, and this is needed to reboot them. But so then the hard question gets to be, really, do we need them? Is it our job as the State to go in and rescue failing entities? Do we have enough existing capacity without them? I'm just wondering if this is the right investment to intervene in the marketplace. I'd like to know what you think, Miss Fox.

KATJA FOX, Director, Division of Behavioral Health, Department of Health and Human Services: Good morning. I'm Katja Fox. I'm the Director of the Division for Behavioral Health.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

These are all really good questions and questions that we have ourselves. And I think that by embarking on this we are going to be able to answer pretty quickly -- um -- about the need.

I can tell you they have 77 beds. Twenty-seven of those are for detox, and that is a very high amount, and at a level that very few other providers -- um -- have. They also have -- um -- 40 residential beds and ten respite beds for -- that are associated with the Doorway.

Farnum Center is one of our legacy organizations. It's a non-profit. It has served Manchester and all of the state for many, many years in a very effective way. And what's really important is that they serve everybody. So they're serving, you know, they accept Medicaid. They serve the uninsured. They serve the underinsured and private pay. And so I would say they're very much needed. Um -- and we're going to have this opportunity to be able to do that examination by providing them the breathing room to be able to transform into a model that's sustainable from a financial standpoint and meets the needs of the individuals.

CHAIRMAN WEYLER: Follow-up.

REP. EDWARDS: Thank you for that. Um -- I appreciate your answer. I -- I -- I'm still trying to get at the idea of if we let them fail, is there adequate capacity in the market, and I think the answer to that is no. We need the capacity. It sounds pretty significant. So the -- so the follow on question to that is -- um -- if we let them fail, is there another White Knight entity that would come in and take over the capacity that's got a demonstrated track record of financial success?

MS. FOX: Great questions. What is unique is the people that Farnum serves. And so, yes, we could have a White Knight come in. We could have capacity but not access. And so access for individuals who are Medicaid enrollees, who are uninsured, is very difficult without a program like Farnum.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

****** REP. EDWARDS: So -- so thank you, Mr. Chair. I, you know, I -- I'm -- I'm really uncomfortable with this proposal. And -- uh -- I may be the only one that's this uncomfortable, but I would like to move to table this item.

CHAIRMAN WEYLER: First I'm going to accept a question from Senator Rosenwald.

SEN. ROSENWALD: Thank you, Mr. Chairman. Thank you, Representative. Um -- I had asked a question about this item as well. And the response we got back from the Department was that it would be only bridge funding while Easter Seals looks to develop a sustainable model. What would that sustainable model look like? I mean, would it involve not taking people who are uninsured, limiting access to Medicaid enrollees? How could Farnum become financially sustainable? 'Cause I don't think we want to support them forever and ever.

MS. FOX: So, thank you, Senator. Um -- we don't know what that new model is because this is a field that's emerging and changing pretty rapidly. And the reason why we're here before you and why Farnum and Easter Seals need this funding is to be able to model it out, to have that fiscal analysis, to look at programming, to look at the needs that they're serving today and how important those are; but what needs can they be serving that are unmet and that we project into the future. And so that's where this assistance will come in. And, in the meantime, they need to keep the doors open.

CHAIRMAN WEYLER: Further.

SEN. ROSENWALD: Thank you. Are there models out there for programs that do take all comers and are financially sustainable? Or does the very nature of them taking all comers mean they need extra support all the time?

MS. FOX: So right now Farnum has 78% of their -- the people that they serve are Medicaid enrollees. So a change in payer mix does make a difference.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

Um -- the models are out there. I can't point to one in particular; but, again, this is why this analysis is needed and to really dig deep to find out is this the -- where we go in the future or do we change. But what my number one purpose is, is to keep access for those that we know are most vulnerable and need service and need to have access on a daily basis.

SEN. ROSENWALD: Comment.

CHAIRMAN WEYLER: Follow-up.

SEN. ROSENWALD: On the Prescription Drug Affordability Board last year, we got a breakdown of the number of the highest prescribed drugs for various insurance payers. And for Medicaid the highest number of prescribed drugs were the medication-assisted treatment drugs. So it's a very high needs population. Just a comment. Thank you for your indulgence.

CHAIRMAN WEYLER: Representative Edwards.

REP. EDWARDS: So thank you, again, Mr. Chair. And so there was mention by Miss Fox that we want to continue to keep the facility open so that services could be continued. I may be missing it, but there's nothing in this proposal that would help pay for the continuation of services. It's all strategic management planning; and having once written the strategic plan, it -- it feels to me that we ought to be able to get the same product for 10% of the request here. So I -- I -- I don't know that this is a justified amount really for the work being requested.

MS. FOX: So I apologize for that not being included in the letter. The investment funding and looking at new models, and this is over a 18-month period, by the way, not just one year, is close to half a million. And then the bridge funding to maintain services is 1.7 million. So that bulk of the funding is to keep the operations going, and not have any disruption in the ongoing services.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

REP. EDWARDS: So you're probably being gentle with me saying that you didn't put it in the write-up. But is it really in the write-up and I -- I just overlooked the breakdown? I mean, you can correct me. It's okay. If it's there, it's there. If it's not, it's not.

MR. WHITE: So we didn't include the breakdown because typically we're getting into the contractual elements there which we submit to G & C, as the numbers that Katja quoted could change through negotiations. So, generally speaking, the Department is pretty hesitant to put very detailed specifics that are subject to negotiation because they could change. And to bind us on the fiscal letter for those very details could prove challenging.

If you look at the bottom of Page 2, what we tried to explain there to your point, Representative Edwards, was that by requiring and supporting the organization and it's that support, I think, that we were not as clear as we could have been.

REP. EDWARDS: Thank you for that. And when you're ready, I think I still want to propose a table to get this more clearer.

CHAIRMAN WEYLER: Is there further questions from any of the Members before I accept a tabling motion? Representative Leishman.

REP. LEISHMAN: Thank you, Mr. Chairman. So by providing this funding, do you as an agency ever go in there to audit or look at their books and their expenses and why they're coming up short?

MS. FOX: So yes. Um -- we have a requirement in all of our contracts with our -- um -- substance use providers that they provide monthly financials. And so we look at those on a regular basis. We also have been working very closely with Easter Seals to open up their books to take a deeper dive into their finances.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: Representative Erf.

REP. ERF: Does this facility support the getting the people out of New Hampshire Hospital, for instance, and back into the community? Is this part of that whole process?

MS. FOX: I would not say directly. I think that in some instances someone may end up at Farnum Center. Their primary purpose is to serve individuals who have a Substance Use Disorder; but there is the co-occurring mental health conditions as well.

CHAIRMAN WEYLER: If there's no questions -- oh. Representative Edwards.

REP. EDWARDS: I think in this budget cycle we did a lot to clean-up and streamline the authority of the Governor's Commission on Alcohol and Drug Abuse to invest without interference from State leadership. And I -- I think -- I -- and we made sure that they had the full access to their 5%. I'm -- I -- I just think that we're -- we fully funded substance abuse disorders, and I -- I'd like more homework done on this, please.

CHAIRMAN WEYLER: And your motion?

** REP. EDWARDS: I have a motion. I don't know if it's -- it's not been seconded, but I've -- I've moved to table.

CHAIRMAN WEYLER: Motion to table. Is there a second? No one wishes to second. The motion dies. Is there a motion to adopt the item?

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

CHAIRMAN WEYLER: Senator D'Allesandro, seconded by Senator Birdsell to adopt 24-094. Any further discussion? Seeing none,

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

are you ready for the question? All in favor say aye? Opposed no?

REP. EDWARDS: No.

CHAIRMAN WEYLER: How many nos?

REP. EDWARDS: One.

CHAIRMAN WEYLER: Okay. Item is adopted. Thank you very much.

*** {MOTION ADOPTED}

REGULAR CALENDAR

(9) RSA 198:15-y, III Public School Infrastructure Fund:

CHAIRMAN WEYLER: Moving on to Tab 9 and the Regular Calendar. First item is 24-099, Office of the Governor. All right. Motion to approve the item by Representative Leishman, seconded by Senator Rosenwald. Further discussion? Seeing none. All in favor say aye? Opposed no? 24-099 is adopted.

*** {MOTION ADOPTED}

(10) RSA 206:33-b Transfers from Fish and Game

CHAIRMAN WEYLER: Moving on to 24 -- Tab 10, 24-100, New Hampshire Fish and Game. He's been waiting patiently all this time. Any discussion, any questions on 24-100? Seeing none. How do you wish to proceed?

** SEN. BIRDSELL: Move the item.

SEN. GRAY: Second.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: Senator Rosenwald moves to adopt. Senator Gray seconds. Further discussion. Seeing none, all in favor say aye? Opposed no? The item is adopted. Thank you, Director.

*** {MOTION ADOPTED}

(11) RSA 604-A:1-b, Additional Funding:

CHAIRMAN WEYLER: And moving on to Tab 11, Judicial Council.

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

SEN. GRAY: Second.

CHAIRMAN WEYLER: Senator D'Allesandro moves to adopt the item. Senator Gray seconds. Is there any further discussion? Seeing none, are you ready for the question? All in favor say aye? Opposed no? That item is adopted.

*** {MOTION ADOPTED}

LATE ITEM:

CHAIRMAN WEYLER: Late item, 24-018 from Governor's Office, Emergency Relief and Recovery Funds.

REP. ERF: {Inaudible}. No action --

CHAIRMAN WEYLER: That's an information item. Unless there's any questions. Senator Rosenwald, do you have a question?

SEN. ROSENWALD: {Inaudible}.

CHAIRMAN WEYLER: I think Director Caswell is here. Good morning.

TAYLOR CASWELL, Executive Director, Governor's Office for Emergency Relief and Recovery: Good morning. Taylor Caswell, Governor's Office for Emergency Relief and Recovery.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: Senator Rosenwald for a question.

SEN. ROSENWALD: Thank you, Mr. Chairman. Good morning, Commissioner. So when I look at this page there are three items that jump out at me. One is -- uh -- Emergency Temporary Housing Support.

MR. CASWELL: Hm-hum.

SEN. ROSENWALD: Which as you and I discussed was basically putting people in hotels. And we're turning back seven and a half million. The MAT withdrawal management. Well, maybe not MAT, the detox money of \$5 million and nothing was spent, and the preventing youth homelessness where 19 million of the 25 million is being returned. These items were from two years ago.

MR. CASWELL: Hm-hum.

SEN. ROSENWALD: And so my question basically is what happened? Why are -- why are we hearing about this two years later, and -- um -- why specifically weren't these monies spent if this is what we thought we needed to address these needs?

MR. CASWELL: Yes, ma'am.

SEN. ROSENWALD: It's a complicated three-part question, I guess.

MR. CASWELL: Yes. Yes, it is a complicated question, and I'll do my best to answer for you.

So you had the three items that you mentioned here. Youth residential, and I'll start with those two, and the SUD Withdrawal Program. Um -- the Youth Residential Program was designed initially to provide funding to do substantial infrastructure enhancements for eligible organizations under that program. And we designed the program in coordination with other parties, including HHS, around what the described need was

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

at the time. And when we got the approvals to the program, we launched the program, we had very few applicants, and we made some adjustments to the program to make more eligibility for a wider scope of population -- uh -- and that remained the case.

We did get applications from a few organizations; but, for the most part, those applications were not necessarily for big infrastructure investments and expansions. They were for things like, HVAC systems and smaller cost items. So in the end, yes, that program was one of a couple of programs that resulted in under use. And so they've, you know, over the course of -- there's a number of things that have to happen after we -- we recognize that a program might be under used and the biggest one in terms of time is the fact that we do allow these programs to stay open for some period of time in order to accommodate any unanticipated cost that might come as a result. So unpaid invoices and such. So we leave those open for quite some time to be able to not have to go back at some point to a program that has been fully closed out.

And then, secondly, because there are some of these programs, but I wouldn't say there are a lot. It is not -- it is not -- our focus is on the existing programs, both within GOFERR and with other agencies to make sure that those programs are operating efficiently and spending and having their burn rates to meet all of the regulatory deadlines that we have. And so in the -- in the course of reallocating, it's more of a scheduled sort of reallocation process than it is, you know, as we get it. So I don't know if that answers your question on the process.

I would say with regard to the homelessness item that we discussed -- so you may recall -- um -- back some time -- a couple years ago now, when we were administering the Emergency Rental Relief Program, and that was being done by New Hampshire Housing Finance Authority. That program was one where there were two separate federal programs, ERA-1 and ERA-2. Both had slightly different rules associated with them, and there were

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

rules associated with how you spent those funds and how you could apply for more from the Federal government.

We were in a position where that program was getting a lot of use to help individuals pay the rent in their -- wherever they were living. And so we had been repeatedly requesting additional funds to come back from the Federal Government and they would go through whatever process they would go through to -- to redistribute any funds that they had among all states that were requesting them.

So, at the time, I believe we were in December, I want to say '21, but it might have been '22, where we had a situation where we were running low on those funds, and we had limited locations to be able to put people going into the -- the -- the cold winter. And so that's when the question of hotel usage came up and the use of ERA funds, the Emergency Rental Relief Program, to pay for those.

We were at a point in time where we had not heard back from the Federal Government. So the decision was made to use ARPA funds to cover that -- that hotel cost and that was in the amount of \$20 million. The bulk of those funds were used. I believe the final number was around 17 million. And in the end when we did see a -- a -- an additional payment from the Federal Government for the Emergency Rental Relief Program, we took 5 million of that to effectively reimburse the ARPA funds, which then went through that whole process of write down and contractually coming back from New Hampshire Housing and ended up on this list.

CHAIRMAN WEYLER: Further question.

SEN. ROSENWALD: But -- so in terms of the timing, because this was -- the ERA-1 and 2 was some time ago.

MR. CASWELL: Hm-hum.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

SEN. ROSENWALD: Did you just find out that we weren't spending these funds or could we have known about it last spring when we were working on the State Budget, and perhaps we could have looked at what we were doing with state funds differently to address homelessness and we haven't talk about the withdrawal program yet.

MR. CASWELL: Sorry.

SEN. ROSENWALD: But could we have known this last spring while at least the Senate still had control of the budget?

MR. CASWELL: Yes. So -- so -- so, again, I would say and I'd have to go back to look at all the exact timing. But let's just for conversation sake say that as we got to spring, sometime in, you know, mid-April, we were clear that there was not going to be any additional expenditures under that program. The ERA program itself was still in operation and involved a very significant amount of administration to maintain that program and to begin the process of closing down those programs.

It is within that system that we would have also been going through the same process as it related to any ARPA funds that were related to that. And I would just emphasize that there are -- there is a significant amount of administrative and regulatory burden that we have to navigate when we work through the proper use of these funds. We don't want to be in a position where we are saying to the Legislature we've got an extra amount of money here for you to be able to utilize and then have to come back and say, oh, we were wrong. We have to make sure that's absolutely correct and -- um -- and we're facing the deadlines, as you know, coming up at the end of this year. And -- uh -- we are in a somewhat constant juggling process to make sure that we're fully aware of where those resources are and what their -- what their spend rates are so we are in a position to make sure that all of the funds that we possibly can are obligated adequately by the end of this year.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

So that whole process involves a good amount of work. And I hate to blame it on administration and bureaucracy, but in many cases that is -- that is the reason why we are -- might be aware of a final number, but we aren't able to completely confirm that number to the extent that I can come and say, we're ready to spend that money again.

CHAIRMAN WEYLER: Follow-up.

SEN. ROSENWALD: The withdrawal management 5 million, none of it was spent. What was the timing on -- you must have set up a program, no one bid on it. When did we know that that \$5 million was not going to be spent at all?

MR. CASWELL: So looking at my notes here, and I would say if -- I don't have the final dates. And I would -- I would -- I would ask if I could get you that. Because that's a very good question. I know that we -- um -- the initial program closed in the spring of 2023; but I don't have the exact date. So let me get that for you, Senator, and I will get back to you.

CHAIRMAN WEYLER: All right. Any further questions on this informational item? Doesn't require a dispositive motion. Any other of the information items anyone wishes to have explained?

SEN. ROSENWALD: Question on the HHS Dashboard.

CHAIRMAN WEYLER: Okay. The Dashboard, 24-105.

SEN. ROSENWALD: Thanks. On Table 9, the elderly. If you look at mid-level CFI for January, it fell off a cliff by 90% of the caseload. What happened?

MS. WHITE: I think someone's finger fell off their key pad. It -- it looks like a data entry error.

SEN. ROSENWALD: Okay.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

MR. WHITE: And -- and I'm waiting to verify that. Once I verify that, I'll get right back to you.

SEN. ROSENWALD: Thank you.

MR. WHITE: Of course.

CHAIRMAN WEYLER: Good catch. {Inaudible}. Yeah, it is a surprise. All right. Representative Edwards.

REP. EDWARDS: Thank you, Mr. Chair. Coming in today I heard a very static, broken-up news report that there was a significant incident at Hampstead Hospital. And -- um -- and we -- you all have worked so hard to get controls and you've had success at getting controls of situations at Hampstead since the State took over. So I'm just curious if you could tell us what you can about the incident, and if you think this incident is indicative of a new trend or is this an anomaly? Or, you know, what -- what -- what -- what's your thought on it?

MORISSA HENN, Deputy Commissioner, Department of Health and Human Services: Good morning, Morissa Henn, Deputy Commissioner at DHHS, and I oversee Hampstead. Thank you for the question.

And as you've probably heard on the news this week, we are having a rocky period at Hampstead. And as much as we had a challenging month or so over the summer, what we have right now are a very small number of very complicated kids who have acute mental health issues, layered on top of long histories of trauma and adversity, and that presents itself in the course of their treatment as escalated behaviors at times.

Um -- what I can tell you is that the quality of care and the safety of that facility is superb. For those of us, including many of you who spend time inside that facility, contrary to what you may hear on the news reports, it's a place of healing, it's a place of calm, and it's a place where occasionally that is interrupted on a couple units due to a small number of youth.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

So we, you know, just I want to provide a little history; but I think I want to just acknowledge, first off, is that the situation there is a stable one, and we have a couple youth that are difficult. And we have an incredible staff who are rising to the challenge of using the best therapeutic modalities to address those needs and get those kids the services they need, not just during their hospital stay, but to help return them to the community and into lives of -- of, hopefully, a brighter future.

Just remember, historically, Hampstead previously before the State purchased it had a very different patient population. Hampstead Hospital under its prior for-profit ownership played a really important role in New Hampshire system of care, but it was one that was limited to less acute patients who didn't exhibit the challenging behaviors we're seeing.

One of our commitments informed by advocates, by the Child Advocate, by the Legislature, is to keep kids here in New Hampshire, who often have some of the biggest challenges and struggles in their lives, and not do what occurred previously, which was look for facilities far away that could accommodate them. Part of the growing pains of that challenge is making sure that we can serve them well while limiting the disruption to the overall milieu and the burden on local law enforcement, and that's what we're going to do.

So under our new CEO, Justin Looser, who comes from not only a clinical behavior health background, but an exceptional history in terms of his ability to help hospitals in New England adapt to the challenges of high acuity, high escalated patients. We're getting there, but there's going to be some bumpier weeks. And we are, you know, committed to doing everything to supporting our staff, making sure they and patients feel safe and get the care they need without giving up on kids who need our support and a facility that truly is a place of quality and healing today.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: Follow-up.

REP. EDWARDS: Thank you for the follow-up. So -- so what I think I took away from that is that we may actually be on a cusp of a new trend because of a particular subset of patients that are there. This -- this -- we should not expect this incident to be an anomaly and the last incident. It's just the next one in some reasonably predictable likelihood of future events.

MS. HENN: I think the way that I would answer that more directly is this facility is absolutely committed and on track to meet the challenges of serving an acute population of complicated kids who have nowhere else to go. And we are committed to not giving up on them, not simply resorting to their languishing in emergency departments or far away states.

What I would say is that the data that we're tracking over time, while I don't want to minimize how scary some of these situations are for staff and how much complexity it presents for the incredible first responders in the Hampstead community, as well as State Police and beyond, this is -- this is -- we're going to have situations that are escalated.

If you were to look at data from other hospitals across the country, if you were to look at data, as our CEO has shared from hospitals he worked at, it's not out of the ordinary for us to occasionally have situations where we need to call on police, 911, et cetera. We're not a medical facility. So when someone, you know, tries to hurt themselves, for example, we have to seek EMT support and sometimes even local hospital support just as any other program serving kids would.

So the answer to the question is the kids aren't going to go away. We have -- we have youth who are probably about 1% of those DHHS serves who have very, very acute complex needs. Their behaviors at time over the course of treatment will escalate. What will change is that we are fully committed to being able to manage the vast majority of those on our own. And, as you know, the -- the contract for a clinical vendor is there will be a new

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

contract this summer and whether it's the current vendor or a new vendor, that's also an opportunity to revisit how are our approaches clinically, programmatically, bureaucratically are working to make sure that we're rising to that challenge.

REP. EDWARDS: Thank you for the answer. And I -- and my concern is just we haven't built the new youth development center and I'm just worried about ongoing community support for that new facility. So, I --

MS. HENN: Yeah.

REP. EDWARDS: -- appreciate your answer. I understand it completely. Just -- just I'm worried about ongoing community issues.

CHAIRMAN WEYLER: Senator Rosenwald for a question, Senator D'Allesandro, and Senator Birdsell.

SEN. ROSENWALD: So I've had conversations with the Commissioner and the Associate Commissioner about one particular child who experienced very long E.R. stay. And in the end, Hampstead's PT -- PRTF declined to take this child -- um -- and so the answer was to go to another state. My question is since we own this place, what is our obligation to serve the children of New Hampshire versus sending them away from their families and out-of-state? Are those decisions made clinician to clinician? Are they made by the administrative staff? Does the Department get involved to say this is one of New Hampshire's kids. This is a public hospital and PRTF. We need to treat our own children. Where -- where is that responsibility?

MS. HENN: It's a great question, and what I would say is when it comes to -- um -- some of the youth who, again, this being New Hampshire and a relatively small state, I'm very familiar with the case you're talking about. And -- and -- and many of the first names of these youth who struggle the most become ones that we -- we all know, because we are bringing

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

together the Department and all the parts that are involved in their care to be more coordinated.

That also involves close communication and improved communication with our other providers in the community, including those hospitals where some of these youth are -- are staying.

I mean, one of the things -- I think what I would -- the way I would answer the question is we build -- the system of care in New Hampshire, this continuum of supports from community-based and prevention and screening through the more wraparound supports for families in their communities all the way up into residential and inpatient, it's -- it's a big -- it's a big process of -- of unfolding that, and we're a few years in.

So what we as a Department are doing right now is an assessment of where we are succeeding and where we need improvements and changes. One of those, as I mentioned, is making sure that Hampstead is prepared and supported to serve the types of youth it's serving, both in a residential facility at the, you know, that campus at the future YDC, and the hospital, of course.

But there are clearly, you know, it's only been two years that we've even had contracts for residential providers, such as at the PRTF. So what we will do in this assessment is identify where are we -- where is it working and where are the gaps and how do we through the budget process, through legislation, through programmatic change fill those in. And so an example we'll be thinking about those youth who currently are not able to -- um -- are too disruptive to the milieu and PRTF. We can't -- we have to find a way to serve them and it may be that we need a hybrid approach. But what we're doing through this assessment is looking at what other states have done who are in the similar situation. Is it because of intellectual developmental disabilities? Is it because of specialized

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

medical needs? How do we make sure that the vast majority, basically 99% or higher, are staying within state?

And so I think we are -- we're getting there, but it is going to take more time, assessment, and then quick action to -- to finally be able to accommodate all of those youth, including the ones like the one you're referring to who we -- who we deeply want to serve close to home.

CHAIRMAN WEYLER: Senator D'Allesandro for a question.

SEN. D'ALLESANDRO: Thank you, Mr. Chairman. We had this conversation earlier, and I appreciated your response very, very much. I've been around here a long time. I remember Tobey. I remember Tobey and our solution was YDC. We were going to make the YDC. We took that money from the Federal Government. We were going to solve that problem. Um -- we got this other situation where we sent kids out-of-state which bounced back on us in a very negative fashion. Now we have the situation at Hampstead, and the question is we're going through a process here. And I -- I think the key to the process is communication to let us know what -- what is going on.

MS. HENN: Hm-hum.

SEN. D'ALLESANDRO: And any time you get the -- the news media involved in it, it changed the whole perspective of that situation. That's why I called you.

MS. HENN: Hm-hum.

SEN. D'ALLESANDRO: And tried to get what was really going on there. And I think that's the critical issue. We've been evolving. I've been here for 50 years. We've been in an evolutionary process for the last 50 years. And -- and the way to address this one was to get to buy Hampstead Hospital, to take the students that we were sending out-of-state, retain them at Hampstead Hospital, do the best we can as far as treatment modality is concerned.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

I think there's a risk associated with all of this. And -- and I think our job is to take that risk and reduce it. And by -- by doing the things we're doing, hopefully, we are going to accomplish that. That takes care of the majority of the population.

So I think communication is the key and letting -- letting us know, the players in this game, what -- what's going on. And that, to me, that -- that is -- that's the key, Mr. Chairman. And if there's a breakdown there, then everyone loses. Thank you. Thank you.

CHAIRMAN WEYLER: Senator Birdsell for a question.

SEN. BIRDSELL: Thank you, Mr. Chair. Thank you for taking my question. Excuse me. Who -- I just learned about the incident this morning from someone else, but who was the first responders? Was it Hampstead Police again? EMTs? Who responded first?

MS. HENN: I believe it was a mix of both State Police and Hampstead Police last night.

SEN. BIRDSELL: Okay. Follow-up.

CHAIRMAN WEYLER: Follow-up.

SEN. BIRDSELL: Um -- I -- as you know, in the Youth Development Center meeting we've -- we've been discussing this. Is there any -- um -- was there someone there to greet the first responders when they got there this time?

MS. HENN: We -- the -- the leadership team is currently in meetings -- um -- making sure to identify, you know, to -- to review what happened and to understand if there's any room for improvement as well as ensure that going into the weekend we, hopefully, have some quieter days. But -- but you brought that up importantly and I think it builds on Senator D'Allesandro's

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

point. It's communication at a Concord level, at a sort of strategic and oversight level. It's also communication in a micro sense of making sure that when incidents occur, we are managing them with local responders in a way that's maximally effective and respectful of everyone involved.

SEN. BIRDSELL: Final question.

CHAIRMAN WEYLER: Final question.

SEN. BIRDSELL: As you know, in speaking with the Select Board and the police, they're getting continuously frustrated by the continued calls that they have to do. Um -- is there any look at trying -- typically the State Police are supposed to be the -- the ones in charge of and we know they're way down in -- is there any process or thoughts about putting -- maybe stationing some police at that facility so that they will be there in case something like this happens?

MS. HENN: So we're in conversations again. As we -- as we look at the overall safety model, you know, per the earlier item, there are -- in general there's safety assessments going on across State campuses right now about an array of situations inside, outside. And we actually have, as Councilor Stevens mentioned it at Governor and Council this week, we have the results of an overall safety assessment being delivered by Homeland Security next week. So combined with that, as well as the new contract that's being -- um -- developed and will be released this summer, or issue -- or in place this summer -- um -- we are always optimistic looking at that.

In general -- um -- from a hospital security standpoint, there aren't permanent police that are usually in these facilities nationally. That tends not to be a practice. Um -- there are safety staff that are integrated into the milieu who get to know the kids, who build trust, but who also have some specialized skills. I think for now that is the approach that we are seeking.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

But as you and I have had probably hours of conversation this week, we're open to all ideas to learning from other models. But, fundamentally, we want to be able -- we believe we can solve these issues through a clinical and therapeutic approach and -- and reduce the reliance on first responders. That's what -- that's what best practice tells us we can be able to do by having the right activities, by wrapping supports around the kids. By keeping them busy, adolescents tend to stay out of trouble. That is -- that is where we are emphasizing approaches while also digging into conversations with Homeland Security and police about what do we need to make the whole community feel safe and make that campus stable as well.

CHAIRMAN WEYLER: Final question.

SEN. BIRDSELL: Final comment, I guess. I just want you to be aware that as the first responders get frustrated, the residents of Hampstead are starting to pay attention, especially when you have the media honing in on it. The residents are starting to get pretty frustrated. So my feeling is we need to get this moving quicker.

MS. HENN: Yeah.

SEN. BIRDSELL: Thank you.

CHAIRMAN WEYLER: Thank you. Any further requests for information on the informational items from the Committee Members? Seeing none.

Before we move on to the audits, like to set the date for the next meeting. April 19th is the third Friday which is the traditional one we usually shoot for. Is there any problems on that date with anybody's schedule at the present moment?

REP. ERF: What date did you say?

CHAIRMAN WEYLER: 19th of April. Okay. All right. Let's -- 10 o'clock on the 19th of April. Representatives, any

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

problem? All right. Expect the Senate might be a little busier than we are. Okay. Let's get ready for audits.

Audits:

CHAIRMAN WEYLER: And you'll tell us what one we'll do first.

REP. ERF: {Inaudible}.

CHAIRMAN WEYLER: And thank you all for coming and waiting patiently if we needed your response. All right. We got four different audits. Which one are we going to take up first?

CHRISTINE YOUNG, Director, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, and Committee Members. For the record, I'm Christine Young, Director of Audits for the LBA. We're here to present several audit reports this morning, the first of which is the Performance Audit of the Department of Education, Special-Education Dispute Resolution Processes.

Paige Lorenz, an audit manager with our office, was the in-charge manager on this audit, and she will present the report. Also joining us from the Department of Education is Christine Brennan, the Deputy Commissioner of the Department, who will be available for comments and questions. And, with that, I'll turn it over to Paige for the presentation of the report.

PAIGE LORENZ, Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning. My name is Paige Lorenz, and I'll be presenting the Department of Education Special-Education Dispute Resolution Processes Audit Report. The purpose of our audit was to assess how effectively did the Department of Education manage Special-Education Dispute Resolution Processes during State Fiscal Years 2020 through 2022.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

We reviewed over 1600 regulatory requirements and corresponding internal controls for six processes available through the Department to help parents and schools resolve special-education disputes. These are primarily issues related to students with an individualized education program or IEP.

Our Executive Summary starts on Page 1. We found the Department lacked adequate controls and did not effectively manage dispute resolution processes. Existing controls were limited, informal, inconsistently implemented, and not clearly documented or communicated. Dispute resolution requirements were unnecessarily complex, an issue we first reported on in 1991. Many Department requirements were established through ad hoc rules which could not be enforced. We also found Department practices were not always consistent with laws and rules. Ineffective internal controls and the resulting issues we identified compromised compliance and transparency and potentially compromised state eligibility for federal assistance.

Ineffectiveness also added unnecessary costs and barriers for parents and other stakeholders. Our recommendation summary begins on Page 5.

The Department concurred fully or in part with all 20 of the Observations in the report. Five Observations may require legislative action. Each of the six dispute resolution processes is summarized in our background section starting on Page 11.

Table 1 on Page 12 also lists each process available through the Department. Our management control chapter starts on Page 27 and contains eight Observations addressing deficiencies systemically affecting special-education dispute resolution processes.

Well-designed, properly implemented, and monitored controls can help efficiently and effectively achieve objectives, ensure responsibilities are fulfilled, and ensure operations remain consistent. However, as we discussed in Observation numbers 1, 2

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

and 3, management oversight of the existing limited controls was ineffective. There were no strategies or plans aligning dispute resolution processes to a department-wide mission to achieve objectives, and inadequate organizational controls adversely affected dispute resolution efficiency and effectiveness.

Processes were generally managed independent of each other and management significantly relied on staff members institutional knowledge to carry out operations. As a result, non-compliance occurred, responsibilities were not always fulfilled, performance and decision making were not supported by quantitative assessments, and known risks were unmitigated.

Additionally, Observation Number 4 on Page 40 addresses stakeholder engagement and collaboration processes which are critical for management to understand and set dispute resolution expectations.

Formalizing engagement collaboration processes could help the Department promote transparency, support process improvement, and use resources efficiently. However, we found stakeholder engagement and collaboration processes were not formalized and buried among stakeholders. This compromised transparency and contributed to inefficiency and effectiveness.

Starting on Page 45, Observation Numbers 5 and 6 address effective contract management controls and ensuring enough qualified individuals are contracted for dispute resolution processes.

We found existing controls were minimal and unimplemented and monitoring was inadequate. Contract terms were incomplete and terms included in contracts were inconsistently fulfilled, which contributed to non-compliance. Management did not formalize training requirements, nor did Management ensure the Department contracted with enough qualified individuals to fulfill dispute resolution regulatory and contract requirements, including for the scheduling of contractors.

Observation Number 7 starts on Page 55. The Observation addresses controls over conflicts of interest for Department staff, contractors, and parties to dispute resolution processes.

We found controls were not comprehensive and conflicts of interest risk were not sufficiently mitigated. Impartiality and independent requirements for staff and contractors were inconsistently understood, implemented, and followed. Additionally, parents did not always know how to report potential conflicts of interest. We identified several actual conflicts of interest which occurred for one dispute resolution process during the audit period.

Observation Number 8 starts on Page 60. The Observation addresses developing controls to comprehensively understand monetary and non-monetary costs associated with administering special-education dispute resolution processes. We found associated controls were inadequate which resulted in waste and increased fraud risk. The Department also did not identify improvements to help address cost to stakeholders while using dispute resolution processes.

Our regulatory framework chapter starts on Page 65 and contains six Observations. Observation Numbers 9 through 14 address federal requirements, the development and implementation of state requirements through laws, rules, policies and procedures, and ensuring requirements are effectively communicated to the public and relevant stakeholders.

The Department lacked procedures to help ensure necessary changes to its dispute resolution regulatory framework were timely and comprehensive. State Law and rule inconsistently reflected Federal requirements, conflicted with each other or were ambiguous and did not include authority for two of the six dispute resolution processes available.

Many dispute resolution practices and requirements were informally developed over time without appropriate adoption into

rule, were not documented or properly communicated internally and externally and could not be enforced.

Our performance and enforcement chapter starts on Page 87 and contains six Observations.

Effective performance management helps provide a basis for making objective data informed decisions. Well- controlled enforcement procedures could increase the likelihood outcomes are efficiently and effectively achieved.

However, as we discussed in Observation Numbers 15, 16 and 17, the Department did not have sufficient and accurate data to evaluate efficiency and effectiveness of dispute resolution processes. There is no Department-wide tracking or monitoring of dispute resolution processes to identify trends and address issues. Available dispute resolution process outputs were limited, unreliable, and primarily focused on federal reporting requirements, while other quantifiable goals, objectives, and targets were not developed, resulting in non-compliance with State reporting requirements.

Local educational agency compliance with the requirements was not monitored or enforced, nor did the Department ensure decision -- decisions and agreements resulting from dispute resolution processes were implemented, which contributed to Management's inability to determine efficiency, effectiveness, and achievement of outcomes.

We also found dispute resolution agreements to be generally unregulated resulting in stakeholders expressing concerns about the use of certain terms and conditions. Parents reported fears of violating agreements because of these terms and conditions. This directly affected legislators, the departments, and our ability to obtain quality feedback for process improvements from these stakeholders.

Observation Number 18 starts on Page 101. The Observation addresses developing a public communication system to ensure

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

complaints are fully addressed, and external communications are timely and effective. We found the Department did not establish and publicize clear lines of communication, including instructions in law, rules, and guidance for stakeholders to formally file requests and complaints. Allegations were not always fully addressed and non-compliance of certain notice and posting requirements occurred.

Observation Numbers 19 and 20 start on Page 105. These Observations address records and data management controls. Reliable records and data are necessary for measuring performance, supporting decisions, and evaluating risk. Risk management controls should be developed in accordance with relevant laws and rules, including additional -- additional confidentiality requirements in federal and state laws.

We found the Department lacked records management policies and procedures resulting in records being incomplete, missing, or untimely provided to Management. At times records lacked sufficient documentation and were not auditable. The Department's ability to effectively manage two dispute resolution processes was limited, in part, due to unclear and conflicting record restrictions in State law.

Addressing our recommendations and making improvements to Special-Education Dispute Resolution Processes will likely be a multi-year undertaking. However, conducting a comprehensive analysis of the Department's dispute resolution regulatory framework, evaluating current responsibilities, developing a risk based approach to prioritize needs, and developing and implementing related plans should help assist Management with making necessary changes.

I'd like to thank the Department for their help during the audit. Management and staff were cooperative and worked hard to meet our reporting time lines. Unless there are any questions for me, I will turn it over to Deputy Commissioner Christine Brennan for questions.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: Thank you. Very thorough. Representative Edwards has a question.

REP. EDWARDS: Thank you, Mr. Chair. As I'm looking at your recommendations and skimming through some of the part -- partially concurred comments, it -- it dawned on me to ask the question do -- do -- as you were doing the audit, did you do an evaluation of the existing workforce within this Department to determine whether or not they -- they actually had the requisite skill set to properly interpret this guidance and to be able to lead an effort like this? This is -- this is -- this is serious management issues here as opposed to -- um -- working the human component of dispute resolution. And so I'm wondering if we have a skill set problem?

MS. LORENZ: I'll let Christine Brennan speak a little bit more to it.

REP. EDWARDS: And I don't mean to criticize anyone there 'cause I don't know anyone there. I just want to make sure that -- I mean, this is -- this is stuff people go to school for and study and get to be really good at. I'm just wondering if they have the workforce to -- to execute this.

MS. LORENZ: For our audit work purposes, in Observation Number 3, organizational management controls, some of those concerns are brought up in terms of having enough resources to carry out these responsibilities. So --

CHRISTINE BRENNAN, Deputy Commissioner, Department of Education: Good afternoon. I think it's close to that time. Christine Brennan, Department of Education. Um -- first of all, I wanted to thank Christine Young and Paige because we did have -- and my team back there, we did have beautiful thorough conversations. And we were all in agreement that serving people with special needs and making sure that families understand the processes are -- there were -- there are things that can always be improved.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

I want to thank you for that question because that did come up in the -- our conversations. For example, our hearing officers and -- um -- their role. The history was that before we didn't use hearing officers, and it's best that we do. And sometimes getting those contracts and hiring people with those skill sets is difficult.

Another -- another way in which we looked at that is looking at the IEP facilitated process where we need people with expertise in the process and finding those people to fill -- to fill the contract to help the schools make the decisions. And I think another part of it is, and the human part you're talking about, is some of these decisions when kids are -- when there's a dispute at the local level, we want to solve those problems as quickly as possible so the kids are getting services and -- that they need and that families and schools can come to a fast agreement. Does that answer your question?

REP. EDWARDS: No, because I like yes and/or no. Either -- either the requisite skill set is already available to implement this -- these fixes or it's not, and we have to go find somebody with the requisite skill sets to add. So I'm -- I was looking for a yes or no; but I understand your answer.

CHAIRMAN WEYLER: Further questions? Representative Erf.

REP. ERF: Thank you, Mr. Chair. Could you e-mail us a copy of your presentation that you were reading from?

MS. LORENZ: So all of these are posted on YouTube with the captions next to it, and I'm going to defer to my Director.

REP. ERF: Okay. Post on YouTube sounds like a video.

MS. LORENZ: Well, it's streaming on YouTube and it's observed.

REP. ERF: No, no. Could you actually e-mail us a copy of what you were reading from?

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

MICHAEL KANE, Legislative Budget Assistant, Office of Legislative Budget Assistant: Representative Erf, we'll have a transcript. Um -- we typically don't give out our presentations. We could have notes and everything on it. But we will have a transcript of the meeting with everything that Paige said on a verbatim.

REP. ERF: Okay. That's fine. I guess I was just ask, in general, it be nice if we could get those. I mean, the Executive Summary is obviously much shorter than what she read.

MR. KANE: Okay.

REP. ERF: And then what she read is much shorter than what's here.

MR. KANE: Okay.

REP. ERF: And it really provides a much better map to the whole document. I think that's generally true of any of these; but this is particularly --

MR. KANE: Okay.

REP. ERF: -- hefty one.

MR. KANE: Absolutely. I'll talk to Christine and Jay Henry after. Sure.

CHAIRMAN WEYLER: Representative Wallner.

MARY JANE WALLNER, State Representative, Merrimack County, District #19: This is really more of a question, I think, for Mr. Kane and Representative Weyler. But this -- um -- audit will be forwarded to the Education Committee of the House and Senate?

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

MR. KANE: We do, yes. We usually send this to the Chair of the relevant policy committees. Our audit will provide the necessary copies.

REP. WALLNER: And when do you think this will go to them?

MR. KANE: Probably next week.

REP. WALLNER: And one other question. Do you arrange with them to have a presentation and -- um -- have similar to what we've had here today?

MR. KANE: It depends on the Chair. Sometimes the Chair requests a presentation. So there are instances where we do. There are other instances where we aren't requested to present. So -- um -- if you think it would be something that's helpful, I'd probably reach out to the House Education Chair, Senate reach out to Senate Education Chair, and we can definitely provide -- our office can definitely provide a detailed presentation to them as well.

REP. WALLNER: Mr. -- I -- I would like to request that where we follow-up with having the Education Committee at the least in the House, and I don't know about how the Senate feels about it, but in the House, that the Education Committee take a look at this and have a thorough review of it.

MR. KANE: Okay. I can reach out.

CHAIRMAN WEYLER: Something we'd also like to do is, especially with something this extensive, is get -- hear from the Department on, say, a quarterly basis your progress on these items. Because there's many items listed and you have to list them and tell us what's going on in progress.

Also, since the Fiscal Committee has a responsibility of dealing with the fiscal changes, I mean, the legislative changes, I need a liaison from the Department of Ed to help us with that and help formulate it. Some of us will be the

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

co-sponsors. Unfortunately, nothing will happen probably till next year as far as getting legislation filed. We've passed our deadlines. But we will be ready to file some legislation on these items that require it. So I need a liaison who I can deal with.

SEN. D'ALLESANDRO: Who's on Education for us?

CHAIRMAN WEYLER: Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you. Thank you, Mr. Chairman. I would echo the sentiments of Representative Wallner, although no one from Senate Education is here. I -- I think that the presentation before the Senate Education Committee is really an imperative based on the document that was presented to us. There's a lot here. And I think our people should really get their -- wrap their arms around it. It's quite significant. So I hope that we could pass that on to our Education people. I'll -- I'll work with that. Thank you.

CHAIRMAN WEYLER: Yes, we will do so. Anything further? Thank you very much. And a motion from Representative Erf.

****** REP. ERF: Move to accept, place on file, and release the public -- release to the public in the usual manner.

CHAIRMAN WEYLER: Motion. Is there a second?

SEN. GRAY: Second.

CHAIRMAN WEYLER: Second by Senator Gray. Any further discussion? All in favor say aye? Opposed no? Okay. We'll be in touch. Thank you very much.

***** {MOTION ADOPTED}**

CHAIRMAN WEYLER: {Inaudible}.

MS. YOUNG: Okay.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: All right. Welcome.

MS. YOUNG: Okay. For the second Audit we'd like to present our assessment of the internal controls in place over the salary and benefit expenditures at the Department of Corrections. Kimberly Bisson, Senior Manager with our office, was the in-charge manager on the audit, and she will present the report. And also joining us from the Department of Corrections is Helen Hanks, Commissioner of the Department, who will be available for comments and questions. And, with that, I'll turn it over to Kimberly.

KIMBERLY BISSON, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, Members of the Committee. For the record, my name is Kimberly Bisson, and I will be presenting the report on our assessment of the internal controls in place over the authorization, payment, recording, and reporting of the Department of Corrections' salaries and benefits expenditures during the nine months ended March 31st, 2023.

If you turn to the Table of Contents you will see that the report contains 15 findings and recommendations, one of which suggests legislative action may be required. Auditee responses were provided either by the Department of Corrections, Department of Administrative Services, or Department of Information Technology, and are included following each finding in the report.

The Departments concurred fully in part -- fully or in part with 14 Observations and did not concur with one Observation.

The Department operates three prisons: The New Hampshire State Prison For Men, the New Hampshire Correctional Facility for Women, and the Northern New Hampshire Correctional Facility, as well as the Secure Psychiatric Unit and the Residential Treatment Unit. The Department also operates the Corrections Transitional Work Center and Transitional Housing Unit. In

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

addition, the Department's Division of Field Services has District offices located in each county throughout the state to accommodate probation and parole officers.

The Division of Personnel and Information is located at the Department's headquarters and is responsible for the administration of payroll, benefits, and human resource functions. The Department's payroll process is one of the most complex within the state.

During the nine months ended March 31st, 2023, the Department employed 791 people, operated under six different Collective Bargaining Agreements, and paid out approximately \$86.3 million in salaries and benefits expenditures. On top of this complexity of operations, the Department served as one of two pilot agencies for the State's new workforce management system, and dealt with severe staffing shortages, experiencing vacancy rates of up to 50% for correctional officers. As a result, its existing correctional officers were frequently required to work between three and five mandatory eight-hour overtime shifts per week.

The Department was also compelled at times to call upon the assistance of the New Hampshire National Guard.

On Page 3 you will find a summary of the Department's salaries and benefits expenditures for the nine months ended March 31st, 2023, and a breakdown of the Department's employees by the respective Collective Bargaining Agreements is located on Page 4.

We conducted our audit in accordance with Government Auditing Standards. The objective of the audit was to evaluate whether the Department has designed, implemented, and operated suitable internal controls over the authorization, payment, recording, and reporting of its salaries and benefits expenditures.

As reported in the Summary of Results beginning on Page 1, we found that the Department had not established adequate

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

internal controls over the authorization, payment, recording, and reporting of salaries and benefits expenditures during the nine months ended March 31st, 2023.

While the Department's controls over new hires, pay changes, and timekeeping were tested and found to be operating effectively, certain other necessary controls were not properly designed, implemented, or operating effectively. Additionally, some salary and benefits expenditures may not have been paid in accordance with applicable statutes, Administrative Rule, and Department of Administrative Services policies and procedures.

The objective, scope, and methodology are described on Pages 5 and 6, and the Observations begin on Page 7.

Observation Number 1 notes that the internal control structure in place at the Department of Corrections during the audit period exhibited numerous weaknesses in each of the five components of internal control which are the control environment, risk assessment, control activities, information and communication, and monitoring. These weaknesses impacted its ability to process salary and benefits expenditures accurately and effectively and in accordance with applicable Collective Bargaining Agreements, Administrative Rule, and the Federal Fair Labor Standards Act. These weaknesses are further discussed in detail in Observations 2 through 7 and 12 through 14.

Observation Number 2, beginning on Page 12, recommends that the Department establish and document a formal risk assessment process supported by written policies and procedures for identifying, monitoring, and responding to risks that could affect its ability to achieve its objectives, and also recommends that the Department establish, document, and maintain business continuity and disaster recovery plans for critical administrative support and financial reporting activities.

Moving on to Page 13, Observation Number 3 recommends that the Department establish formally documented Management approved

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

policies and procedures covering the recruitment and retention incentive programs in place at the Department. The policies and procedures should cover all nuances of the Department's incentive programs that are necessary for its staff to comply with the statewide program policies.

Observation Number 4 on Page 16 identified weaknesses within the Department's process for allowing employee use of mobility punches to clock in and out of scheduled shifts and recommends that the Department evaluate the use of the mobility punch function within the State's Workforce Management System to determine whether the identified potential misuses require further investigation, and whether continued use of this function is appropriate.

If continued use is deemed appropriate, the Department should amend its current time and attendance policy to incorporate procedures covering the use of mobility punches and also work with the Department of Administrative Services to gain access to reports from the Workforce Management System, which would allow for the periodic review of those punches by Management.

Continuing on to Page 18, Observation Number 5, recommends the Department develop and implement internal controls to ensure that manual payroll check requests are clerically accurate and calculated in compliance with the applicable requirements, ensure staff requesting manual payroll checks have appropriate training, and establish formally documented policies and procedures.

Observation Number 6 on Page 20 recommends that the Department implement policies and procedures and provide training over the reallocation process to ensure that future job reallocations are sufficiently controlled, entered into NHFirst correctly, and are performed in accordance with Administrative Rule.

On Page 21, Observation Number 7 recommends that the Department strengthen its monitoring and review process by establishing formal policies and procedures to ensure its current practices can be continued in the absence or departure of key employees.

Observations Number 8 through 11 beginning on Page 22 are directed towards the Department of Administrative Services. Observations Number 8 and 9 on Pages 22 through 25 recommend that the Department of Administrative Services seek formal clarification from the Attorney General's Office to determine whether its compensation practices for double time pay and for academic employees were carried out in accordance with the applicable Collective Bargaining Agreements.

Observation Number 10 on Page 26 recommends that the Department of Administrative Services publish non-exempt employee classification listings as specified in the Collective Bargaining Agreements, and Observation Number 11 on Page 27 recommends the Department to work with the Department of Information Technology to ensure backup data is periodically tested as prescribed in the Statewide Information Security Manual.

Also, on Page 27, Observation Number 12 recommends that the Department of Corrections comply with RSA 21-G:22, and the related Executive Branch Ethics Committee Advisory Opinion regarding conflicts of interest, including ensuring appropriate steps are taken during the hiring process and to establish controls to ensure employees in familial relationships are not in a position to review, approve, or participate in transactions processed by one another or to make important management decisions without the involvement and oversight of the Commissioner.

Observation Number 13 on Page 28 recommends the Department develop a plan to ensure that its internal policy and procedure directives are reviewed at least every three years in accordance with its established policy; and Observation Number 14 on Page

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

29 recommends that statements of financial interest be filed in accordance with statute.

Lastly, Observation Number 15 on Page 30 recommends that the Department seek statutory revision to ensure its current organizational structure aligns with statute.

The Appendix beginning on Page 33 reports on the current status of prior audit findings. The status key at the bottom of Page 34 shows that the Department has fully resolved three Observations, while two are in the process of remediation.

This concludes my presentation. I'd like to thank the Commissioner and Department of Corrections staff, as well as the Department of Administrative Services for their cooperation throughout the audit. I'll now turn the presentation over to Commissioner Hanks for any comment she may have.

CHAIRMAN WEYLER: Commissioner.

MS. HANKS: I don't know, is it good afternoon? For the record, Helen Hanks, Commissioner of the Department of Corrections. You know, I knew when this audit was going to come forward it was going to be professionally painful, and that it was. Uh -- and, also, many of you know that I advocated for electronic software system to make improvements and assure you that even in the areas where we did not concur in whole, we've been making significant strides even since this audit period to improve the process. And it was to no shock that they recommended additional payroll staff because of the size of the organization and the complexity that was described based on the number of bargaining agreements. I think this audit also affirms that as one state that ourselves as a state agency with our partners at DAS and DoIT need to have some collaboration and policies that help all of us under this software system and other avenues navigate these things successfully. And, clearly, it is incredibly important to pay the hard-working individuals within our Department and any State Agency correctly and not to impact their pay. So certainly answer any specific questions.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: Yeah, it was rather surprising to discover how many Collective Bargaining Agreements you have to deal with.

MS. HANKS: I'm a lucky Commissioner, sir.

CHAIRMAN WEYLER: And how is the recruiting efforts? You still have a fairly large vacancy rate.

MS. HANKS: We do. But I will affirm for you we've had significant increases in the number of recruits, and I'd like to make the comparison as a singular law enforcement agency had just graduated 20 new law enforcement officers, and I have 11 in the queue for another Academy. And so for our talent acquisition group they're doing an exceptional job. And then the retention side of the equation is equally important. We have a decrease in people exiting. So I want to just appreciate you all for supporting the ARPA-related recruitment incentives, the retention incentives. They have helped steady the ship while we continue to move forward. And the support of the Legislature through the budget process and our reallocation, it's made significant strides in our success and I appreciate that.

CHAIRMAN WEYLER: Glad to hear we're having some progress. Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you. Just one point. Maybe the auditor can address this one. The incentive situation, if that isn't clearly understood and not clearly applied, if there's a discrepancy there, that could cause some concern and some problems among the -- among the staff. What's -- what's -- what's being done to address that?

MS. YOUNG: This is Observation Number 3 you're asking about?

SEN. D'ALLESANDRO: Yeah.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

MS. YOUNG: Yes. I mean, I can let Kimberly speak more specifically to it; but I think here we're just recommending that the Department establish agency specific policies and procedures related to those programs. Um -- you know, there's certain nuances for each Department. And while the Department of Administrative Services has an overall statewide policy, we recommended strengthening controls by having an agency specific policy to deal with the items listed on Page 15, items 1 through 5. And we thought that may help the Department in strengthening their procedures over this process.

SEN. D'ALLESANDRO: Okay. Thank you. Thank you, Mr. Chairman.

CHAIRMAN WEYLER: Representative Erf.

REP. ERF: Thank you, Mr. Chair. This is actually for Mr. Kane. The same comment as the previous one, but also -- regarding the presentation, but also I note that the summary of the -- there's no summary basically of the recommendations and the -- all that stuff. It be nice to have that as well.

MR. KANE: Sure. So I'll have meetings with our Audit Division, just kind of go over things that will be very helpful for the Legislature going forward, its both performance and financial. And we'll have these conversations going for that you'd find that very helpful to have it summarized.

REP. ERF: Well, that's the summary representation, yes; but also the -- almost every one I've seen has that summary at the beginning, which this was the -- the previous one did with the -- of the observations, the legislative recommendations, the very beginning. If you look at the performance one, it was right at the very start.

MR. KANE: Yeah.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

REP. ERF: Starting on Page 5 of the prior audit. I don't see that the beginning of this one.

MR. KANE: Okay. We'll take a look at that.

REP. ERF: Thanks.

MR. KANE: Sure.

CHAIRMAN WEYLER: Okay. Representative Erf for a motion.

****** REP. ERF: Uh -- move to accept, place on file, and release to the public in the usual manner.

SEN. GRAY: Second.

CHAIRMAN WEYLER: Motion and second from Senator Gray. Further discussion? I will ensure that the number 15 which requires legislative correction give me a contact for liaison. Again, it'll be next year before any legislation starts to move forward, but we want to be ready for it. So give me a liaison. We'd also appreciate maybe some progress reports as you go and make these corrections. At least on a six-month basis give us some report on what's going on.

MS. HANKS: Happy to do that and thank you for your offer.

REP. LEISHMAN: I had a quick question, Mr. Chairman.

CHAIRMAN WEYLER: Push the red.

REP. LEISHMAN: Follow-up to Representative D'Allesandro's and that Item three. Yeah, I think it said there were like three employees that received a \$10,000 incentive as far as hiring. Um -- I guess I was under the misunderstanding that incentives would be given if they were hired and they met the one year requirement. But these -- you had three people apparently that left after they received the 10,000. Has that been changed where

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

someone has to at least complete a year of service and then they get the \$10,000 or --

MS. HANKS: Representative Leishman, the Fiscal item that came before had a specific time in which they would be paid, and it wasn't at the one year mark. But the Fiscal item that did go before you also indicated that if they left we would work with the Attorney General's to recoup that money. So we are in the process of recouping those -- those dollars from individuals.

REP. LEISHMAN: Yeah, I saw it mentioned that you had reached out to the Attorney General. Any success there yet?

MS. HANKS: Not yet; but we are very much persevering.

REP. LEISHMAN: All right. Thanks so much. Thanks, Mr. Chairman.

CHAIRMAN WEYLER: All right. We have a motion. Any further discussion? Seeing none, are you ready for the question? All in favor say aye? Opposed no? All right. We'll see that criminal justice gets copies.

***** {MOTION ADOPTED}**

CHAIRMAN WEYLER: Coming next, looks like it's the Lottery.

MS. YOUNG: Okay. The third audit. These will be our Management Letters. These audits are a byproduct of our financial audits for both the Lottery Commission and Liquor Commission. This first presentation will be for Lottery Commission.

With me to present the report is Jean Mitchell. She's the Financial Audit Supervisor from our office who supervised the audit that our Senior Manager, Kimberly Bisson, was responsible for managing. So we are trying to sort of divide and conquer here this morning. Yeah, this afternoon at this point.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

Joining us from the Lottery Commission is Charlie McIntyre, Executive Director, and John Conforti, the Chief Compliance Officer, to respond to any questions that you might have.

And, with that, I'll turn it over to Jean for the presentation. This one should be much shorter than the prior two, so.

JEAN MITCHELL, Financial Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Chairman Weyler, Members of the Committee. For the record, my name is Jean Mitchell. I'm the Financial Audit Supervisor, and we're here today to present the Lottery Commission Fiscal Year 2023 Management Letter.

If you turn to the Table of Contents, you will see that the report includes four internal control comments, none of which are deemed material weaknesses, and there's two compliance comments. And you'll note Observation number 6 suggests legislative action may be required. The Observations begin on page number three.

Observation Number 1 notes Lottery is unable to develop complete and accurate expectations for its historical horse racing revenue submitted by the gaming operators as part of their monthly revenue reconciliation process. Free Play wager data, a component of the reconciliation, is not included on some of the tote system daily reports.

We recommend Lottery consider amending historical horse racing Administrative Rules to require the submission of Free Play activity. If this is not feasible, Lottery should determine if current mitigating controls should be strengthened or further mitigating controls could be implemented.

Turning on to Page 4 is Observation Number 2. We recommend Lottery update its ineligible players listing policy to require vendors and partner organizations to provide listing of all employees working in the United States to comply with Muscle and

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

Lucky for Life gaming rules and vendor contracts. If Lottery believes its current practice to be sufficient to identify ineligible players, Lottery should amend its current vendor contracts to ensure contract language matches current practices and inquire of gaming administrators to determine the policy aligns with gaming rules.

Moving on to Observation Number 3 on Page 5. We recommend Lottery comply with its policy and formally document its quarterly review of user access permissions, including the results of the review.

It further recommends procedures be implemented to ensure user access is immediately removed for any employee who leave the Commission or move to a new role where access is no longer required.

The final Internal Control Observation Number 4 on Page 6 recommends Lottery establishing document of formal management approved control procedure for retailer promotional credits and adjustments, supported by formally documented policies and procedures.

The Compliance Observations begin on Page 8 with Observation Number 5, and it notes two out of the four tote system providers operating in the state did not provide SOC 1 Type 2 reports as required by Administrative Rules. This increases the risk that there could be control gaps at the tote system providers which go unmitigated potentially negatively impacting historical horse racing revenues to the Lottery.

We recommend Lottery implement policies and procedures to ensure compliance and consider the consequences when tote system providers do not comply with Administrative Rules.

The final Observation Number 6 on Page 9 notes Lottery was not in compliance with the \$6 million biennial transfer limit required by the chapter law for the biennium ended June 30, 2023. We recommend Lottery comply with or seek to amend the

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

biennial transfer limit outlined in the Chapter Law for the biennium ended June 30, 2025.

The Appendix located behind the tab on Page 11 reports the current status of Observations contained in our Fiscal Years 2021 and 2022 Management Letters. As noted on Page 13, one prior Observation is fully resolved, and five are in the process of being remediated.

This concludes my presentation. I would like to thank the Lottery Commission, Management and Staff for their assistance and cooperation during the audit. And with your permission I will now turn the presentation over to Executive Director Charles McIntyre for any comments he might have.

CHARLES MCINTYRE, Executive Director, New Hampshire Lottery Commission: Good afternoon, Mr. Chairman, Members of the Committee. Charlie McIntyre, Lottery Director. I want to thank the folks from LBA for their efforts and their industry in this area. Obviously, an important function that we are audited annually.

With me is our Chief Compliance Officer and in his way as making sure of compliance, I'd like to note that the clock in the Fiscal Committee room hasn't been adjusted for daylight savings time. It still reflects 11:17. So I think the Fiscal Committee should be in compliance with the clock.

CHAIRMAN WEYLER: We're not perfect either.

MR. MCINTYRE: With that, Mr. Chairman, Members of the Committee, I would be happy to answer questions or our CFO -- Chief Compliance Officer ask.

CHAIRMAN WEYLER: Senator Rosenwald.

SEN. ROSENWALD: Thank you, Mr. Chairman. If I look at Page 4 at the top, am I correct in understanding that we may have under collected \$30 million between last year and this year on

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

historic horse racing? And is there a possibility of recouping those funds?

JOHN CONFORTI, Chief Compliance Officer, New Hampshire Lottery Commission: Thank you for the question, Senator. Uh -- I don't believe that that Observation is indicating that that is an amount that is under collected.

So just to clarify, the current process or the process as it was audited -- um -- game operators are able to reduce their tax liability through Free Play, through offering Free Play. There's a up to a 15 percent discount that could be -- could be taken out of their taxable revenue.

The Commission at the time of the audit was monitoring that through periodic audits as we do with all other forms of gaming. Um -- and as LBA pointed out, we also look at daily reporting with respect to the historic horse racing. And we -- but those daily reports don't include the Free Play. So we'd only been doing that review periodically.

The periodic reviews that we had done had tied out and not had any concern about the amount of Free Play that was actually being -- being identified. We haven't had an audit observation that recognizes that.

I believe what LBA is looking for, though, is to make sure that we actually strengthen that even more to ensure that we're doing that. And, in fact, we are doing that now as a monthly desk audit. But to your -- your general question, Senator, we don't see any evidence that there were actually under payment of historic horse racing revenues to the State.

CHAIRMAN WEYLER: Representative Erf for a motion.

****** REP. ERF: Move to accept, place on file, and release to the public in the usual manner.

SEN. GRAY: Second.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

CHAIRMAN WEYLER: Motion and second. Any further discussion? Seeing none, you ready for the question? All in favor say aye? Opposed no?

***** {MOTION ADOPTED}**

MR. MCINTYRE: Mr. Chairman.

CHAIRMAN WEYLER: Congratulations! I know you get audited every year. I guess the newest game is the only one that had a few blips in it because the rest of it is running smoothly. I will see to it that at least no later than the next budget that this amount of transfer money is adjusted.

MR. MCINTYRE: That dollar figure goes back to, I think, 2008 when we were doing \$120 million in sales and this year we do 320 million. And so it's, you know, it's -- we're selling too many tickets.

CHAIRMAN WEYLER: We wait to see your recommendation for the figure.

MR. MCINTYRE: Appreciate that, Mr. Chairman. Thank you.

CHAIRMAN WEYLER: We'll make sure it's in the budget. Thank you. Thank you, Jean.

MS. YOUNG: Okay. We have a full house here. The last presentation today is the Management Letter of the Liquor Commission. With me to present the report is Jim LaRiviere. He's a Senior Manager in our office, and he was in charge of conducting this audit. And joining us from the Liquor Commission is the Chairman, Joe Mollica -- um -- Chief Financial Officer, Tina Demers, and Chief Operating Officer, James Vara. And now I'll turn it over to Jim for the presentation.

JAMES LARIVIERE, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Chairman

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

Weyler, and Members of the Committee. Again, for the record, my name is Jim LaRiviere. I'm here to present the New Hampshire Liquor Commission's Fiscal Year 2023 Management Letter.

If you turn to the Table of Contents, you can see the report contains five Internal Control Comments. No material weaknesses were identified, and the Commission concurred with all of the Observations. No comment suggests that legislative action may be required.

The Observations begin on Page 3. Observation Number 1 discusses the ongoing risks posed while the Commission continues to use its 36-year old information system mapper, while it -- while it's implementing its new system NextGen. Due to lack of effective system controls, an incident occurred in March of 2023 whereby unintentional changes were made to the mapper data table that resulted in off-premise licensees receiving a greater discount than they were entitled to receive. The Commission reports that the over applied discounts affected 26 entities totaling \$878,000. The Commission intends to recoup the lost sales; but as of the end of our audit still had neither notified nor billed the affected entities.

We recommend the Commission consider and respond to risk posed by the lack of sufficient controls over data integrity in its mapper system, ensure its NextGen system has appropriate controls in place to ensure data integrity, such as edit checks and other data validation procedures. The Commission should ensure appropriate controls are developed and programming changes made to the NextGen system, timely notify and bill off-premise licensees that received the incorrect discount.

Turning to Page 4, Observation Number 2 notes \$266,000 of equipment purchased in 2017 was never received. It was not discovered as missing until Fiscal Year 2023 when the equipment was needed for the implementation of the NextGen system. The missing items were believed to have been included on a shrink wrap pallet with other equipment and were purchased from a former vendor with whom the Commission no longer has recourse.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

The items weren't detected as missing during the Commission's annual physical inventory procedures.

We recommend the Commission strengthen its controls over the receipt and payment of goods by establishing policies and procedures, ensuring that all items received are physically inspected upon receipt and are properly accounted for, ensuring staff involved are familiar with the payment requirements, and ensuring that all equipment items of \$250 or more are properly identified, tagged, and recorded on the Commission's equipment listing in accordance with State policy.

Additionally, the Commission should perform a thorough physical inventory of equipment annually and investigate and resolve differences between physical items and the Commission's records on a -- in a timely manner.

Observation Number 3, beginning on Page 6, we recommend the Commission establish formal policies and procedures for the request, input, review, and approval of product price changes and depletion allowances that require a Commission match. We recommend the Commission review periodic reports of product price changes and depletion allowance offers that require a match to ensure that they were formally approved by the Commissioners, and design formal procedures for the authorization and approval of product price changes and depletion allowances matches that could be incorporated into the NextGen system process upon implementation.

Our last two Observations, Number 4 and 5, begin on Page 7. Observation Number 4 recommends the Commission develop a Disaster Recovery Plan which should be periodically tested, reviewed, and updated as needed, and the Commission should continue to establish a formal risk assessment process.

In Observation Number 5 on Page 9 recommends the Commission in coordination with the Department of Information Technology adhere to the Statewide Information Security Manual and test its system backup processes at least annually.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

The current status of prior audit findings for Fiscal Years 2022 and 2021 begins on Page 11 located behind the tab. Of the combined five comments contained in those reports, two are fully resolved and three are still in the process of being remediated.

This concludes my presentation. I'd like to thank the Lottery Commission for their assistance and cooperation throughout the audit. And with your permission, Chairman Weyler, I'd like to turn the presentation over to Chairman Mollica for any comments he may have.

CHAIRMAN WEYLER: Commissioner, welcome.

JOSEPH MOLLICA, Chairman, New Hampshire Liquor Commission: Thank you very much, Mr. Chairman, Members of the Committee. For the record, Joseph Mollica, Chairman of the New Hampshire Liquor Commission. And you know Tina Demers, our CFO, and James Vara, our COO. Like to thank Christine, Jim, and Jean. As you know, we get audited every year and we take our audit Observations seriously. And I always take responsibility for the findings and we address Observations and answer questions. Before that, we need to point out the three of the five Observations are IT resource related. I've discussed this with Commissioner Goulet, and we're moving forward in a different direction with our IT in the future.

Observation Number 1, the first Observation is a result of human error due to the 36-year old system with limited IT resources to maintain the system and migrate to the NextGen system. The two main employees with institutional knowledge of the system are retirees that come into the office part-time. And let me just state that we have been blessed to have these two employees come, these two gentlemen come in and assist us during this massive transition. There's very little embedded information other than what these two individuals have. Um -- over a 40-year period this system probably should have been upgraded four times, and it wasn't.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

As noted in the Observation in 2022, there's an inherent risk in running the legacy system with relied on retired staff resources. We weighed the risk of continuing operations with the current system, and the risk of deploying the new system before it was ready -- before we considered it was ready. Implementing the NextGen system before it was ready would have put hundreds of millions of dollars at-risk.

Unfortunately, one of these gentlemen made a mistake, and this is the result. The good news is that the go-live date for the NextGen system is in two weeks and will take place on April 1st. Everything is being transitioned now from the new system to the old system. The data is being loaded into the new system. So April 1st we're ready to go.

We'd like to put on the record that this discovery was internally corrected and self-reported to the LBA by the NHLIC. We have not notified or invoiced the licensees for several reasons.

First, we wanted to make -- ensure that the invoicing was correct, which is a huge undertaking because it took place in two different years. Because the data mining involved in the old system is, again, back to limited resources, and especially difficult while you're trying to implement a new system. So you say why was it so difficult? Well, there's power-buys to be involved, one-time buys, sale pricing, post-off, broker discounts, monthly sales, all have to be taken into consideration, go back and make sure that we're charging these licensees the correct amount for everything that they bought over that period of time. Each product and transition had to be fully vetted to ensure proper pricing and accuracy and that has been done.

Secondly, we wanted to wait until this audit was complete and give the Committee the opportunity to weigh in. As businessmen and women, our opinion is that we should invoice the licensees for the outstanding funds owed to the State, apologize

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

for any inconvenience to them, and move forward. That's what business people do.

Tina can walk you through at this point how -- who is affected and how many it's affected and to what dollar amount. If you'd like to do that, and then I'd like to go on to Observation 2.

CHAIRMAN WEYLER: What percentage these losses, what percentage of your total do they represent, like 1% or something?

TINA DEMERS, Chief Financial Officer, New Hampshire Liquor Commission: Oh, a lot less than that. You're looking at half a percent. So it -- for our 5,000 licenses that we have, this impacted 359 licenses. In FY 23 it was 322 for a little over 400,000. And in FY 24 it was 46 for about 470,000.

CHAIRMAN WEYLER: Thank you.

MR. MOLLICA: Thank you, Mr. Chairman. So in Observation Number 2 was the result of the IT lead at the time who's no longer at the Commission, signed off on a receipt of a bundle of equipment and approved payment to our -- to our project manager without verification. When the equipment was received, it was palletized and stored in the warehouse and not discovered of the shortage until it was taken down to be deployed as part of the new system.

After this discovery of a -- was made, a full inventory was done, and it was determined that this was an isolated incident. It did not -- it did not involve any alcohol at all, and a significantly we have now formed a formal process in place for packages coming into the HQ and all of the NHLIC.

And Observation Number 5, we rely on our embedded IT staff to provide us guidance for the necessary IT related policies. We have started conversations on the next step and are moving

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

forward with those policies in order to comply with this finding.

And we'd be happy to answer any questions that anyone may have. Thank you, Mr. Chairman.

CHAIRMAN WEYLER: Congratulations! You're very thorough, as is Mr. LaRiviere, especially as you -- you get audited every year, and he quite often does some of it. So it's a nitpicking process, at best, when have you to come back every year. So congratulations.

MR. MOLLICA: Thank you, Mr. Chairman.

CHAIRMAN WEYLER: Representative Erf for a motion.

****** REP. ERF: Move to accept, place on file, and release to the public in the usual manner.

SEN. GRAY: Second.

CHAIRMAN WEYLER: Motion and a second. All in favor say aye? All opposed no?

******* **{MOTION ADOPTED}**

CHAIRMAN WEYLER: And any further discussion? Any further questions? Congratulations! Appreciate your good work. And especially I'm impressed with the fact that you found the error rather than waiting for Mr. LaRiviere who never overlooks anything.

MR. MOLLICA: Thank you, Mr. Chairman, Members of the Committee. Thank you very much.

CHAIRMAN WEYLER: Thank you. All right. There's nothing further to come before us. We've discussed the final date. Anything else anybody wants from the Legislative Budget Assistant? Thank you all.

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024

SEN. GRAY: Chair taking action on the clock or since it's his room? Just a little humor.

CHAIRMAN WEYLER: Appreciate it. I will try to do something about it. We are adjourned.

(Committee meeting adjourned.)

C E R T I F I C A T E

I, Cecelia A. Trask, a Licensed Court Reporter, do hereby certify that the foregoing is a correct transcript from the official YouTube recording of the proceeding in the above-entitled matter. I was not physically present at the meeting and have transcribed the audio to the best of my professional skill and ability.

Cecelia A. Trask
N.H. Licensed Court Reporter - #00047

JOINT LEGISLATIVE FISCAL COMMITTEE

March 15, 2024