

JOINT FISCAL COMMITTEE

Legislative Office Building, Rooms 210-211

Concord, NH

Thursday, November 8, 2012

MEMBERS PRESENT:

Rep. Ken Weyler (Chair)

Rep. Beverly Rodeschin

Rep. Sharon Nordgren

Rep. John Reagan (Alt.)

Sen. Chuck Morse

Sen. Bob Odell

Sen. Sharon Carson

Sen. Sylvia Larsen

Sen. John Gallus

(Convened at 10:14 a.m.)

1. Acceptance of Minutes of the September 14, 2012 meeting.

CHAIRMAN WEYLER: Good morning. Sorry for the delay. Call the Joint Fiscal Committee meeting to order for November 8th, 2012. First item on the agenda is approval of the minutes.

****** REP. RODESCHIN: I move to accept the report.

SEN. MORSE: Second.

CHAIRMAN WEYLER: Representative Rodeschin moves to accept, Senator Morse seconds. Any corrections or additions? Seeing none; are you ready for question? All in favor say aye? Opposed no? The motion is adopted.

******* {MOTION ADOPTED}

2. Old Business:

CHAIRMAN WEYLER: Moving on to Tab 2. There are some

items under Old Business we will be discussing. We have a letter there for Item 227 with additional information you've all received.

** SEN. MORSE: Move to take 227 off the table.

CHAIRMAN WEYLER: Motion to remove 227 from the table. Is there a second?

REP. RODESCHIN: Second.

CHAIRMAN WEYLER: Motion by Senator Morse, second by Representative Rodeschin to remove Item 12-227 from the table.

All in favor say aye? Opposed no? The motion is adopted. The item is removed from the table.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: The item is dealing with a request for conversion of marital masters to judges is there a motion on the item?

** SEN. MORSE: Move.

CHAIRMAN WEYLER: Senator Morse moves to approve.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Representative Reagan seconds. Is there any further discussion? Seeing none; are you ready for the question?

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

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*** {MOTION ADOPTED}

CHAIRMAN WEYLER: All right. Senator Morse.

** SEN. MORSE: Move to take Item No. 274 off the table.

CHAIRMAN WEYLER: Motion to take Item 274 from the table --

REP. REAGAN: Second.

CHAIRMAN WEYLER: -- by Senator Morse, second by Representative Reagan. Is there any further discussion? Seeing none; are you ready for the question? All in favor say aye.

SEN. MORSE: I move to approve.

CHAIRMAN WEYLER: Let me get it off the table first. All in favor say aye? Opposed no? The item is removed from the table.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Recognize Senator Morse to --

** SEN. MORSE: I move to approve.

CHAIRMAN WEYLER: -- to approve the item.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Second by Representative Reagan. Further discussion? Seeing none; all in favor say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

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3. RSA 14:30-a, III Audit Topic Recommendation by
Legislative Performance Audit and Oversight Committee.

CHAIRMAN WEYLER: Moving on to Tab 3, a request to approve an item for Legislative Performance Oversight Committee. I'll entertain a motion to approve.

** REP. REAGAN: Would move to approve.

CHAIRMAN WEYLER: Representative Reagan moves to approve.

SEN. LARSEN: Second.

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

*** {MOTION ADOPTED}

CONSENT CALENDAR

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

CHAIRMAN WEYLER: Tab 4. There are consent items. There's two items on the consent under Tab 4.

** SEN. MORSE: Move to approve.

CHAIRMAN WEYLER: Senator Morse moves to approve the items.

SEN. GALLUS: Second.

CHAIRMAN WEYLER: Senator Gallus seconds. Further

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discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? Two items are adopted.

*** {MOTION ADOPTED}

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

CHAIRMAN WEYLER: Moving on to Tab 5. I believe there are some questions on these items.

REP. REAGAN: I had a question.

CHAIRMAN WEYLER: Representative Reagan is recognized.

REP. REAGAN: My question is satisfied.

CHAIRMAN WEYLER: All right. You found out --

REP. REAGAN: Yes.

CHAIRMAN WEYLER: -- what these are about? Very good. See what else I had. Anyone else want any of these numerous items removed? All right. So 1, 2, 3, 4, 5, 6 -- ten items on Tab 5 under a Consent Calendar.

** SEN. MORSE: Move to approve.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Senator Morse moves to approve, Representative Reagan seconds to approve all ten items. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? Items are adopted under Tab 5.

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*** {MOTION ADOPTED}

6. RSA 124:15 Positions Restricted:

CHAIRMAN WEYLER: Moving on to Tab 6. I would like to have some data passed out. Does everyone got a copy of this? We discussed these in our discussion with the House. We had these same things passed out. There are positions being established outside of the budget process. You'll see there the history on the lower table of how many positions have been established, both full-time and part-time, by the Fiscal Committee. One of the things we've established as you look at the table above, some of these positions remain, even though they supposedly are grant positions and after the grant expires the positions remain, even though all the pages we read say that they will go away when the grant goes away. So I am reluctant as a member of this Committee to add new employees, especially when you see how many had to be eliminated in the budget process. It would seem to exacerbate the problem that the budget process would encounter. Senator Morse.

SEN. MORSE: Could we ask the Department of Corrections to come up. I'm in the same position as you, but I have members that would like to ask questions.

CHAIRMAN WEYLER: I would appreciate having a discussion. One of our members would also like that. We'll recognize Commissioner Wrenn and Mr. Mullen, the Budget Director. Open to discussion. Senator Morse is recognized.

WILLIAM WRENN, Commissioner, Department of Corrections: Good morning, Mr. Chairman. Good morning, Members of the Committee. Senator.

SEN. MORSE: Commissioner, could you just explain what's going on here?

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MR. WRENN: This is a grant position, Senator. It's actually a position that we had last year. We're looking to continue it. One of the reasons why it wasn't placed in the budget is that we're told not to place items like this in the budget until we have the grant in hand. We didn't have the grant in hand until June. It was after we had prepared the budget. So that -- that's a problem for us. But we're looking to continue it. It's a part-time position. It works with our folks that don't have any high school education to try to get them at least a GED before they leave our establishment. And it could exacerbate the lawsuit that we currently have that exists with the female prison system in the parity issue between the men and the women. This position also teaches GED at the Shea Farm, female halfway house as well. So we're just looking to continue it until next June.

CHAIRMAN WEYLER: Further?

REP. NORDGREN: Hum --

CHAIRMAN WEYLER: Representative Nordgren.

REP. NORDGREN: Yes. I brought it up in our meeting because I'm concerned about the lawsuit, but I was concerned about that whole situation before the lawsuit. So I'm -- I was happy actually about the lawsuit and particularly the Shea Farm and the women's prison, I think, are understaffed in the area of, in particular, like this position, the GED position. Getting people out into the workforce. I think it's a valid issue that we're sort of saying okay, don't put it in your budget because you don't have the money; but then when you do have the money, you can't come back here to reinstate it. That's sort of a Catch-22 for people. So I would support their proposal and let -- and this is just in this budget year. It's not

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something that they even felt to put it in the new budget next year, because this only goes until June 13th. So I would support that.

CHAIRMAN WEYLER: Is this person presently employed?

MR. WRENN: Hum -- it would be the same person that was employed last year, but they're not presently employed at this moment. No.

CHAIRMAN WEYLER: They were an employee under the same grant?

MR. WRENN: Yes.

CHAIRMAN WEYLER: Why does it come late?

REP. NORDGREN: They just got the money in June.

ROBERT E. MULLEN, Director, Division of Administration, Department of Corrections: The person's position was employed up through June when the grant expired. The reason why it comes late is due to the fact that we're not notified of this award. We applied for the award in May. We weren't notified of it until the end of July. Then we had to go back to the Division of Personnel to get the supplemental job description approved and due to delays and that procedure is coming before the Committee today.

CHAIRMAN WEYLER: Senator.

SEN. MORSE: I mean, my position stands. But --

** SEN. ODELL: I'll move --

CHAIRMAN WEYLER: Senator Odell.

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SEN. ODELL: I'll move accept it, Mr. Chairman.

CHAIRMAN WEYLER: Senator Odell moves to approve the item.

REP. NORDGREN: Second.

SEN. LARSEN: I'd like to speak in support of the motion to accept.

CHAIRMAN WEYLER: Representative Nordgren seconds. Senator Larsen is recognized.

SEN. LARSEN: We know that we are working very hard to improve and to reduce recidivism rates in our state. And the best way to do that and to save the 35,000 it cost to put someone in the prison is to give them every opportunity to succeed. Obviously, everyone knows that a GED helps people succeed and that's only the beginning what they need to do. But if we are going to send people back out into the community and ask them to succeed, we have to give them some tools.

We know that there's a lack of parity in some of the education programs offered to women in the prison. Certainly, Shea Farm is a place also where that ought to be happening. So I would -- I would strongly urge everyone to think about the cost savings that this investment will produce. It's Federal money and it can be reviewed again and, of course, in the budget discussions.

CHAIRMAN WEYLER: I have a question. How many high school graduates are you getting through your school system that is based in your prison?

MR. WRENN: Well, I don't have the number off the top

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of my head. I could get that number for you if you'd like. But I know that just two weeks ago we graduated 15 through our Granite State High School which was the largest graduating class we've had to date.

CHAIRMAN WEYLER: I've been looking at -- we set up a school system specifically to have high school graduates. We invest a certain amount of money into it, and we expect a certain number of graduates out of it, and it seems like it's fairly expensive for those 15.

MR. WRENN: It's not to say there aren't others that are taking the GEDs, as well as taking classes that are preparing to get their diploma. We have actually seen an increase in the amount of inmates that are taking classes now which we're happy with, because it's sometimes difficult for us to convince them that this is the best road for them in preparing them to leave. So we believe that that message is getting out there, and we are starting to see an increase.

As far as the school goes, we have to provide special-education opportunities by law to the inmates anyways. So having the school system to offer options for all the inmates, I think, is really a positive thing that we can offer them.

CHAIRMAN WEYLER: Thank you. Further questions from the Committee? Seeing none; are you ready for the question? The motion is to approve the item. All in favor say aye? Opposed no?

SEN. MORSE: No.

CHAIRMAN WEYLER: No. How many negative votes? Two of us.

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SEN. MORSE: Two.

CHAIRMAN WEYLER: The item is adopted. Thank you.

*** {MOTION ADOPTED}

MR. WRENN: Thank you.

CHAIRMAN WEYLER: All right. Moving on to -- that was Fiscal item 12-319. We are moving on to 12-351. I'll recognize -- where are we? 328 is the next item. Recognize Legislative Budget Assistant.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: For the record, Mr. Chairman, the Insurance Department submitted a letter dated November 6th asking that that item be withdrawn.

CHAIRMAN WEYLER: Item 328 is withdrawn and removed from the agenda. We move on to Fiscal item 12-351. This is -- it appears to be a continuation of a program so the person is already there, I believe. This is not a new position there.

** SEN. MORSE: Move approval.

CHAIRMAN WEYLER: Senator Morse moves approval.

SEN. CARSON: Second.

CHAIRMAN WEYLER: Seconded by Senator Carson. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? The motion is adopted. 351.

*** {MOTION ADOPTED}

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7. RSA 14:30-a, VI, Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$50,000 from any Non-State Source and RSA 124:15 Positions Restricted:

CHAIRMAN WEYLER: Okay. Moving on to Tab 7. This is the money from the Department of Justice for the National Mortgage Settlement. I've had discussions with the Attorney General. Here again, there's quite a group of new people being requested for a Fraud Unit. It appears that the origin of the money have already done investigation into fraud that has brought this settlement money forward for the fraud investigation that was previously done. My opinion is this appears to be redundant that we set up another Fraud Unit. This is the fraud settlement before us. Senator Morse is recognized.

SEN. MORSE: Before I make a motion, Mr. Chairman, I'll explain where I'm headed with this. Basically, the \$6 million in item number seven, 3.5 million New Hampshire Legal -- that would be transferred to New Hampshire Legal Assistance and another 2.5 million that would go to New Hampshire Housing Finance Authority. That is in Section 1, and everyone should understand this has already been through Governor and Council. It's going backwards in the approval process. So what I -- what I would be moving to do when I make a motion is accept the 6.5 million, approve the \$6 million, and then I would make a motion to table the jobs portion of this. I have spoken with the Attorney General. That way it doesn't have to go back to Governor and Council and we can make a decision in the future on those jobs.

CHAIRMAN WEYLER: Anybody from Attorney General wish to comment?

ANN RICE, Deputy Attorney General, Department of

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Justice: Good morning, Mr. Chair, Members of the Committee. I'm Ann Rice, the Deputy Attorney General, and with me is Senior Assistant Attorney General James Boffetti.

With respect to Senator Morse's proposal, we -- that is a workable solution for this item if you're so inclined not to -- not to address the Financial Fraud Unit. I would like to correct, Representative Weyler, your statement. This was not an investigation. The National Mortgage Settlement did not result from an investigation that was conducted by our office. We simply don't have the kind of expertise or staff to do the kind of investigation that led to and resulted in this national wide settlement. But we did get for New Hampshire \$35 million that is to be spent directly in New Hampshire for victims of the mortgage crisis. And the Financial Fraud Unit that we are proposing is one small piece of that that would allow us to go forward and do the financial investigations that two legislative study committees have recommended.

There have been two study committees that have said we need to strengthen our ability to do financial frauds in New Hampshire. Right now we do not have one financial accountant person, we don't have a CPA, anyone who can -- the expertise to do the kind of investigations and synthesizing of financial records that would allow us to do financial fraud investigations. We don't have a prosecutor with the kinds of skills that is needed. We do not have a paralegal that is needed. So all of these are things that we need to put on staff before we can do the kinds of financial fraud investigations that lead to settlements like the National Mortgage Settlement.

CHAIRMAN WEYLER: I did not mean to infer that you had done the fraud investigation. It has been done by Federal sources --

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MS. RICE: That's --

CHAIRMAN WEYLER: -- which have resulted in this award. So if we already know that we found fraud by some other group, we're reinvestigating. That's the redundancy that I see. We already -- they already found the fraud. We put in a Fraud Investigation Unit to look at the same investigation that's already been done. That's my view.

MS. RICE: And this would address all sorts of different kinds of fraud. It certainly wouldn't just be limited to the mortgage settlement or the investigation. We are talking about all sorts of financial fraud. Embezzlement, things like the FRM, reports of Ponzi schemes in New Hampshire. Tax fraud cases. With immerse situation we -- New Hampshire may have lost illegally millions of dollars in real estate transfer taxes. Those sorts of things are all things that we could do for New Hampshire with a fully staffed fraud unit like we are proposing. And I do want to say that because of the mortgage crisis, our office has taken on an additional -- I think our hot line we have responded to since January 1st an additional 2,500 calls from New Hampshire residents who are victims of the housing crisis. We have taken on 835 mortgage claims that have been given to our office and that we need to figure out what to do with and transfer and get investigated. All of those are things that we have taken on since January 1st with no new staff.

CHAIRMAN WEYLER: Representative Norgdren.

REP. NORDGREN: Thank you, Mr. Chair. I think it was good that you clarified that this is not just investigating the mortgage fraud system, because I think that was maybe a misunderstanding some of us had. And I think, you know, one of the issues that we've dealt with now for over a year is

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the Ponzi scheme issue and the numerous hearings and all that and the reports have gone on. I just worry that if we continue to ignore the fact that we need this kind of service by our Justice Department, we're just setting ourselves up for another scandal like we already had. I mean, this isn't just mortgages. This is other things that are out there. This is the real world, and New Hampshire's just going to be open to get caught again. So I would hope that we could reconsider the plan that Senator Morse has proposed and consider funding this so that we at least look like we are grown-ups and are taking care of our residents. Thank you.

CHAIRMAN WEYLER: I also support the amendment that Senator Morse has brought forward. It allows you to move your assets around to do whatever you need to do. You already have people that are already in the criminal investigation section, and I think be reassigned or whatever. So I think this could be workable for all of us without adding new employees. Anyone else? Senator Morse.

****** SEN. MORSE: Yeah. Well, I'm not ignoring anything. And I'm certainly not childish about how I handle this. There was a difference of opinion between the House and the Senate on how to go forward on this which needs to be worked out. I thought this action basically gave us a month to go through working this out and getting the \$6 million out to the community right away.

The Attorney General did not see any problem with what I proposed to him. So I would recommend that the Senate, and I'm sure you'd recommend the House, support what I'm going to do. No one is ignoring the problem. I mean, how we set that division up, I think, is debatable and has always been debated in the budget, because we just didn't have enough money to fund all of that. We put back a little piece of it in the Senate. But the -- I don't want to

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repeat that. That's a ridiculous statement that I'm ignoring something. I would move that we approve the requested action on item number 1.

SEN. CARSON: I'll second.

CHAIRMAN WEYLER: All right. That is as amended by your amendment.

SEN. MORSE: Well, I have another motion beyond that.

CHAIRMAN WEYLER: All right. You going to --

SEN. LARSEN: Could you put the other motion -- excuse me, Mr. Chairman. Could I request the second motion be revealed so that we --

SEN. MORSE: The second motion was as I stated earlier. I would move that we table the action on item number two which is the \$500,000 in jobs.

SEN. LARSEN: Further question, Mr. Morse -- Senator Morse. In tabling it, would we be able to again review it in December after we have had more opportunity to talk with the Attorney General and others?

SEN. MORSE: That would be up to the House and the House sets up Fiscal. But the --

CHAIRMAN WEYLER: We may not have a Committee by the end -- by the end of December. May take January before you have a new Fiscal Committee.

SEN. MORSE: I think reality is we have discussed it earlier in the Senate. And if the House would put together the Fiscal Committee, I'm sure the Senate would go along with it, so.

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CHAIRMAN WEYLER: So your motion is to approve item one of the first part, part one of 12-304?

SEN. MORSE: Yes.

CHAIRMAN WEYLER: Is that correctly stated? That's been moved and seconded. We had a motion to second on that, right?

SEN. CARSON: Yes.

CHAIRMAN WEYLER: Did you have it written down?

SEN. ODELL: Senator Carson.

CHAIRMAN WEYLER: Right, Senator Carson seconds. Further discussion? Seeing none; all in favor say aye? Opposed no?

REP. NORDGREN: No.

CHAIRMAN WEYLER: One in opposition. The motion is adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: That's just part one.

** SEN. MORSE: I move we table requested action number two.

SEN. CARSON: I will second.

CHAIRMAN WEYLER: That's moved and seconded by -- moved by Senator Morse, seconded by Senator Carson. Further discussion?

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SEN. LARSEN: Hum --

CHAIRMAN WEYLER: Senator Larsen.

SEN. LARSEN: While I want to see these monies approved and a Fraud Unit established, it's my understanding that it can be something which we can finalized in December or early January. And so I will be voting to table with the understanding that it will come back for revisiting, discussion.

CHAIRMAN WEYLER: Thank you.

SEN. LARSEN: Thank you.

CHAIRMAN WEYLER: Seeing none; motion to table. All in favor say aye? Opposed no?

REP. NORDGREN: No.

CHAIRMAN WEYLER: One in opposition and the tabling motion is adopted.

***** {MOTION ADOPTED}**

MS. RICE: Thank you.

CHAIRMAN WEYLER: Thank you. Okay. Next item is number 329, Department of Safety as a consultant position. Is there a motion?

****** SEN. MORSE: I move to approve.

CHAIRMAN WEYLER: Senator Morse moves to approve.

SEN. CARSON: Second.

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CHAIRMAN WEYLER: Second by Senator Carson. Further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? That motion is adopted.

*** {MOTION ADOPTED}

8. RSA 7:12 Assistants:

CHAIRMAN WEYLER: Moving on to tab number 8, Item 12-305. This is general litigation expenses. We have seen this routinely. Is there a motion?

** REP. REAGAN: Move to approve.

SEN. LARSEN: Second.

CHAIRMAN WEYLER: Representative Reagan moves to approve. Senator Larsen seconds to approve the item. Is there any further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? That motion is adopted.

*** {MOTION ADOPTED}

9. RSA 198:42, IV, Distribution Schedule of Adequate Education Grants; Appropriation:

CHAIRMAN WEYLER: Moving to tab number 9. The item is 12-352. This is the -- I'd like to see someone from the Department of Education, and I believe there's someone here from the Charter School Association.

REP. NORDGREN: Kenny, could you ask them to speak into the microphone so people in the back can hear?

CHAIRMAN WEYLER: All right. You need to hold the

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microphone very close, within two or three inches so it picks it up on the speaker.

Miss Liponis, are you here? Could you come forward, join us at the table? Please come forward. If you'd all introduce yourselves, please.

PAUL LEATHER, Deputy Commissioner, Department of Education: Yes, I'm Paul Leather, Deputy Commissioner with Department of Education.

CAITLIN DAVIS, Department of Education: Caitlin Davis from the Internal Auditor of the Department of Education.

EILEEN LIPONIS, Executive Director, New Hampshire Public Charter School Association: Eileen Liponis with the New Hampshire Public Charter School Association.

CHAIRMAN WEYLER: Okay. I wish that this item had come forward months ago so that we wouldn't be holding up applications for new charter schools. The Board of Education has taken unprecedented action by putting a moratorium on which is not in their power to do so. When we brought this forward in the budget process, Miss Liponis gave us a set of numbers which have now proved accurate. Department of Education low-balled them, which is causing the action before us today, which should not have been done. Now, I need to let people know that are here that this is a request for the Fiscal Committee to add millions of dollars more to a budget item that has already been approved.

In the normal course of events, we would not have the ability or the power to add these extra millions to anybody's budget. However, because of the controversy over this item between the House and the Senate, the Senate accepting your numbers, the House accepting Ms. Liponis'

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numbers, which have proved to be correct, the compromise position was not only to allow a 10% overspending, which we have done, but also to come back to us and that part of HB2 very narrowly enabled this Committee to approve these millions of dollars which is unprecedented. However, the item before, which we've already approved for 600,000, is a routine thing. We don't put a lot of money in the litigation fund. We just wait and see what the litigations, in fact, are. So these are items -- that item is routinely done that way and it allows this Committee to add money as needed. This is an extraordinary situation. It probably won't happen going forward again that we'll be able to do this. So I hope that the charter schools, which you have said publicly you support, you should have come to us earlier with these monies so that the Board of Education would not take this unprecedented action. And I hope going forward with our actions today they don't disapprove further ones that would go forward into the next budget. We have always supported charter schools in every budget and you are aware the years you've been here that that has happened. So I would hope that they would rethink their actions of disapproving charter school applications because it imperils a very large grant that was given to us by the Federal Government of 11 -- I think 11.6 million. How much of that grant is now in peril? Can you comment?

MR. LEATHER: We've not been notified that the grant is in peril at this time.

CHAIRMAN WEYLER: Has it been reduced at all?

MR. LEATHER: There was a reduction in the last year, and we have been told that we can seek to have that restored in this coming year.

CHAIRMAN WEYLER: We hope that the restoration of that money will allow for the approval of all the new charter

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school applications. We have had very good results from the charter schools. We have had very good comments from the parents. I am a strong supporter of charter school and I believe the Legislature has always been. So I don't anticipate delaying these things any further. I hope that when Miss Liponis comes forward with numbers that they are believed and that we have some faith in them because it proves she was right and you were wrong. And that's why we have to do this action today which is somewhat extraordinary.

Fortunately, the budget is showing some surpluses that we can have this money to support these schools. So I want to make it very clear that this is an unprecedented action, but we are very narrowly supported by the legislation in HB2 to enable us to approve this money. Anything further?

MR. LEATHER: No.

CHAIRMAN WEYLER: Miss Liponis?

MS. LIPONIS: (Shaking head in the negative.)

CHAIRMAN WEYLER: Representative Norgdren.

REP. NORDGREN: Well, I guess I'm a little concerned that this isn't the way the budget process usually works. We don't tell a department go spend money and then we'll give you whatever you need. We put in the budget what's requested and they live within the budget. So I guess this is totally outside the realm of --

CHAIRMAN WEYLER: That's what I explained.

REP. NORDGREN: I know.

CHAIRMAN WEYLER: Because of the difference in numbers.

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REP. NORDGREN: Well, any Department in the whole state could claim that. Obviously, the mental health centers are having huge numbers. The police departments are having to deal with that repercussion. So I guess I just don't know why we've decided that one group, whoever they are, can come in and say, whoops, we really needed more money 'cause we established them without using the money first or have them in the budget. It just seems backwards, chicken and egg thing to me.

CHAIRMAN WEYLER: If there were a difference between the two, the House and the Senate, and there was a compromise position in any one of those areas you referred to, that action could be taken in HB2, just as this was. I'll entertain a motion.

** REP. REAGAN: I move to approve.

CHAIRMAN WEYLER: Representative Reagan moves to approve the item. Senator Morse seconds. Is there further discussion? Senator Morse.

SEN. MORSE: Sure. I just want to make it clear that we just approved over a million dollars three or four months ago to cover the year of '12. So it's not unprecedented. Mr. Leather has come in to see both of us in the last year to update us on where this was headed. So and I -- and while this budget is going to be difficult to land in '13, the Governor has notes that has this in his number. Senator Odell and I have been with him. The numbers will work. We are not going to be in a rosy position, but we will be able to get through '13. So I support this motion.

CHAIRMAN WEYLER: Thank you. Senator Larsen.

SEN. LARSEN: I would just want to speak out to say

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that I think that this state needs to get a handle on how we are approving charter schools. They need to know that there's funding, but we need to know that we can meet that funding demand. We need to have a full discussion next session how that is met. And if there's overlap, if there's -- it cannot go on that we continue to approve without some understanding on what our spending is going to be as a result of that. This 4.4 million shows quite clearly where we're headed and the estimate is it could be three times, four times that in the next budget. We have a list of proposed schools for the future. There needs to be a review. And I would simply add that the State Board of Education had the authority in that it has approval authority for charter schools. We need to include more local school approval of charter schools so that there's an understanding between local and state, and I believe that the State Board of Education had the authority that they did. It's simply a way to allow for a review by the Legislature and not to have just simply State Board approval that goes into millions of dollars into our future that we don't have a handle on. So I just raise it as a note of caution that we are -- this is just the tip of the iceberg in terms of spending. And just like public schools and every other item we look at budgeting for, we need to know what we are budgeting for in terms of our charter schools.

CHAIRMAN WEYLER: There are extraordinary efforts that have to be made by the parents that set up these charter schools and deliver their children to them and take charge of the transportation every day, twice a day, to deliver their children to charter schools. These are not something that's easily undertaken. And these parents are really desperate to change the education process for their children. And in most cases that I've heard of it's been a successful change.

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SEN. LARSEN: I'm not saying --

CHAIRMAN WEYLER: That's what I always think.

SEN. LARSEN: If I might respond? I'm not saying that they are not successful in many, many instances. But I think we have to watch for duplication, we have to watch for where the cost can exceed our ability to pay for it and if it's a duplication of services.

CHAIRMAN WEYLER: Thank you. Representative Norgdren.

REP. NORDGREN: Yeah. Thank you, Mr. Chair. May I just follow up on that? I mean, I think the purpose isn't that we're negative about charter schools. It's the budgeting process that we need to know how many schools we're going to plan for in a budget year so you can't just come in on Monday and say on Friday I need the money but it's not in the budget. So I think, you know, Senator Larsen's correct that we just need to plan. Because we are feeling sort of flat-footed because suddenly here we are, and now there's a whole bunch more in the pipeline and who knows how many more will be added. So I think that's where --

CHAIRMAN WEYLER: That's why the Federal Government has given us the planning process. The funds for planning are coming from the Federal Government, and we should be able to forecast based upon that because that's a three-year event. And if it goes the three years then it will be well-worth what we'll need in succeeding budgets. So perhaps people that need to be informed about the budget process when they come into do it, an application of how much the three years will carry them and to let the Legislature know in the budgeting process what their expectations are. Further discussion? Seeing none; I believe we have a motion to approve.

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REP. REAGAN: Yes.

CHAIRMAN WEYLER: And a second.

REP. RODESCHIN: Yes.

CHAIRMAN WEYLER: Ready for the question? All in favor say aye? Opposed no?

SEN. LARSEN: No.

REP. NORDGREN: No.

CHAIRMAN WEYLER: Two negatives. The motion is adopted. Thank you very much.

*** {MOTION ADOPTED}

10. RSA 215-A:23, IX, and RSA 215-C:39, X, Registration Fees:

CHAIRMAN WEYLER: Moving on to Tab 10, New Hampshire Fish and Game, 12-313. I have a question. Someone must be here from Fish and Game. Director, good morning.

GLENN NORMANDEAU, Director, New Hampshire Fish and Game Commission: Good morning, Mr. Chairman. For the record, Glenn Normandeau, Director of Fish and Game, and I'm here with our Colonel, Martin Garabedian.

COLONEL MARTIN GARABEDIAN, Conservation Officer, New Hampshire Fish and Game Commission: Good morning.

CHAIRMAN WEYLER: Good morning. I am delighted you have a surplus in this account. Does that mean you had more -- it's not clear from the item whether there's more registrations than you had planned for?

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COLONEL GARABEDIAN: Actually, this is based on unexpended funds brought forth from last Fiscal Year. It was actually one of our worst registration years ever. Because we foresee that we were going to have registration decrease, we cut back on a lot of expenditures in the accounts, such as overtime and current expenses. And when the Fiscal Year ended, we had the unexpended accounts.

CHAIRMAN WEYLER: Because of the cutbacks?

COLONEL GARABEDIAN: Yes.

CHAIRMAN WEYLER: What were the number of registrations? I'm surprised you didn't include it in the item.

MR. GARABEDIAN: It is under the explanation. I believe it says 47,728 were registered last year, and we are generally somewhere around 80,000.

CHAIRMAN WEYLER: Forgive me for not reading it as thoroughly as I should have.

SEN. MORSE: You have it underlined.

CHAIRMAN WEYLER: I even had it underlined, but I had to read 200 pages. As I looked at that one, I wasn't certain. All right. So now we understand. We appreciate the fact that you've made a profit or a correction and I will support the item. Is there a motion?

REP. NORDGREN: Can I just ask a question?

CHAIRMAN WEYLER: Another question from Representative Nordgren.

REP. NORDGREN: Usually when we do the budget, we

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figure a certain percentage of lapses. Are you spending your lapse from last year? Will you still have lapses at the end of the budget or --

MR. NORMANDEAU: Well, we lapse funds into the Fish and Game Fund. This is a separate account that is dedicated to OHRV type and law enforcement related things that is not part of the regular Fish and Game Fund. It's its own non-lapsing account.

REP. NORDGREN: Thank you.

CHAIRMAN WEYLER: We'll have discussions about that later in the audit. I know you'll stay for that?

MR. NORMANDEAU: I'm afraid I will be.

CHAIRMAN WEYLER: All right. We'll get through this as quickly as we can. Is there a motion?

** SEN. MORSE: Move approval.

CHAIRMAN WEYLER: Senator Morse moves to approve.

SEN. LARSEN: Second.

CHAIRMAN WEYLER: Senator Larsen seconds. Is there any further discussion? Seeing none; all in favor say aye? Opposed no? The motion is adopted. See you in a little bit.

*** {MOTION ADOPTED}

11. RSA 228:12 Transfers from Highway Surplus Account:

CHAIRMAN WEYLER: Item -- tab number 11, Item 12-308, Department of Transportation, using money for training. Is

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there a motion?

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

CHAIRMAN WEYLER: Representative Reagan moves to approve.

SEN. LARSEN: Second.

REP. NORDGREN: Second.

CHAIRMAN WEYLER: Seconded by Senator Larsen. Is there further discussion? Seeing none; you ready for the question? All in favor say aye? Opposed no? That item is adopted.

*** {MOTION ADOPTED}

12. Chapter 224:14, II, Laws of 2011, Department of Health And Human Services; Program Eligibility; Additional Revenues; Transfer Among Accounts:

CHAIRMAN WEYLER: Moving on to Tab 12. We have several items. First item is 12-322 from Health and Human Services, grant money. Is there a motion?

** SEN. MORSE: Move approval.

CHAIRMAN WEYLER: Senator Morse moves to approve.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Representative Reagan seconds. Is there further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? That item is adopted.

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*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to 12-323, dental plans.

** SEN. MORSE: Move approval.

CHAIRMAN WEYLER: Senator Morse moves to approve.

REP. NORDGREN: Second.

CHAIRMAN WEYLER: Representative Nordgren seconds. Is there any further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? 323 is adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Moving on to next Item 338, bio-hazards.

** SEN. MORSE: Move approval.

CHAIRMAN WEYLER: Senator Morse moves to approve.

SEN. CARSON: Second.

CHAIRMAN WEYLER: Senator Carson seconds for Item 338. 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}

CHAIRMAN WEYLER: Next item is 339, youth behavior. Is there a motion?

** SEN. MORSE: Move approval.

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CHAIRMAN WEYLER: Senator Morse moves to approve.

SEN. LARSEN: Second.

CHAIRMAN WEYLER: Senator Larsen seconds. Is there any further discussion? Seeing noon; are you ready for the question? All in favor say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

13. Chapter 224:85, I, Laws of 2011, Department of Administrative Services; Consolidation of Certain Business Processing Functions:

CHAIRMAN WEYLER: Okay. Move on to Tab 13. This is moving money around. Commissioner may want to come forward and tell us the progress that's happening. Commissioner Hodgdon. This item was put in the budget to combine back-office operations that seemed to more clearly fit with Administrative Services. So how -- is this the first thing in the progress?

LINDA HODGDON, Commissioner, Department of Administrative Services: Good morning. For the record, my name is Linda Hodgdon, and joining me is Mark Fairbank who is the Project Manager on our second phase of our NHFirst project to roll out human resource across State Government. And he is also the Project Manager assisting me with this particular project. So this is what's in House Bill 2 that talks about the consolidation of back-office functions. The area that made the most sense to start was accounts payable. We had the most metrics and the most standardization in accounts payable across State Government, and we were already in most agencies scanning the documents. That was an improvement from the first phase

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that was available with our financial version. So we are scanning those documents. So we are now starting to move people and the way the process is laid out in the law is that comes to Fiscal and then Governor and Council to actually move those people.

So Administrative Services and Safety are partnering first to make sure that we worked out all of the bugs. And then we are starting to have the conversation with other agencies to move through that process. So this is the first one that's come before Fiscal that you've seen. We actually had some savings in 2012. House Bill 2 talks about some savings in 2012. Those came from vacant positions. So the Waiver Committee has not been approving accounts payable type positions and HR type positions because it's assumed that those will be consolidated as we go forward and efficiencies found in the shared services center.

CHAIRMAN WEYLER: Very good. We appreciate the effort you've made in this and in the vehicles which we'll have another item soon. Further discussion? Questions for the Commissioner? Seeing none; I appreciate all the efforts you've done.

MS. HODGDON: Thank you.

CHAIRMAN WEYLER: Thank you very much. Good luck in continuing the project. Is there a motion?

** SEN. LARSEN: Move approval.

CHAIRMAN WEYLER: That was from Senator Carson moves approval?

SEN. LARSEN: Larsen.

SEN. MORSE: Larsen.

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CHAIRMAN WEYLER: Senator Larsen. Sorry.

SEN. LARSEN: Carson, Larsen.

CHAIRMAN WEYLER: They rhyme almost.

SEN. LARSEN: Yes, they do.

REP. RODESCHIN: Who seconds?

SEN. MORSE: Second.

CHAIRMAN WEYLER: Senator Morse seconds. Further discussion? Delighted we are making progress on these efficiency moves. Seeing none; are you ready for the question? All in favor say aye? Opposed no? That is adopted and appreciate it.

*** {MOTION ADOPTED}

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

CHAIRMAN WEYLER: All right. Moving on to Tab 14. First item is 12-346, Department of Cultural Resources. Is there a motion?

** SEN. CARSON: I will move approval, Mr. Chair.

SEN. MORSE: Second.

CHAIRMAN WEYLER: All right. Now I'll get it right. Senator Carson moves and Senator Morse seconds to move approval. Is there further discussion? Seeing none; are you ready for the question? All in favor say aye? Opposed no? That item is adopted.

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*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Next Item 12-356. This is authorization to transfer 618,470 Federal funds. I had a question on this one. Anyone here from Emergency Services? Okay. From Department of Safety I see the Budget Director. I'll get his title right. Mr. Beardmore.

JOHN BEARDMORE, Director of Administration, Department of Safety: Good morning. For the record, I'm John Beardmore, Director of Administration at the Department of Safety. And with me is Chief Kevin O'Brien, Chief of Policy and Planning for the Department of Safety.

CHAIRMAN WEYLER: Very good. I had a question. Seemed like this was to -- all right. Local grants to training. Was this money they had contributed and now you're spending?

MR. BEARDMORE: There's a couple things going on here. But if you look at the third page, you'll see as I think you did, Mr. Chairman, the bulk of the money is being moved into Class 72. What this is, our Homeland Security Grants from the Federal Government, and the Department is undertaking a really extensive effort to train first responders at the Fire Academy. Not all of this money is going directly to the cities and towns. A lot of the money is being spent on -- I think we are pushing \$3 million through in a very quick amount of time training first responders, mostly fire officers. We're paying for additional instructors. We're paying for backfill time in the cities and towns. We're paying mileage for the instructors. So you're seeing some money going to Class 70 and that's, in a nutshell, what we're doing. It's ongoing now. Locals are having really great success with this effort. And it's spending a good chunk of Federal homeland

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security money.

CHAIRMAN WEYLER: Very good. Thank you for answering that question.

MR. BEARDMORE: You're welcome.

CHAIRMAN WEYLER: Further questions from the Committee? Seeing none; are you ready for the question?

REP. RODESCHIN: Somebody has to make a motion.

CHAIRMAN WEYLER: First we need a motion.

** SEN. LARSEN: Move approval.

SEN. CARSON: I will second.

CHAIRMAN WEYLER: Move approval by Senator Larsen, second by Senator Carson for Item 12-356. Further discussion? Seeing none; you ready for the question? All in favor say aye? Opposed no? Item is adopted. Thank you, gentlemen.

MR. BEARDMORE: You're welcome.

*** {MOTION ADOPTED}

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

CHAIRMAN WEYLER: Okay. Tab 15, Department of Corrections, 12-318, State Criminal Alien Assistance Program. I had a question on this one as well. Commissioner

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Wrenn still here? I had a note to myself that you're buying a lot of vests and bullets. Are we getting ready for a battle here?

MR. WRENN: Hum -- the vests we're looking to outfit our transportation units, the ones that transport inmates to various other facilities, doctors' appointments. Transportation unit is on the road all day making these transports. They have never been outfitted with vests before. We think it's necessary because they are armed when they make these transports, and we believe they should have vests. Bullets, I believe, are for training purposes. Firearms training purposes.

CHAIRMAN WEYLER: All right. I thought we'd already paid for a lot of these things before. You've never had these people properly protected before?

MR. WRENN: I don't know if I'd call it properly protected. They've never been outfitted with vests. One of the -- you know, we do have vests inside the prison system in our maximum security unit.

CHAIRMAN WEYLER: I remember that stab-proof vests.

MR. WRENN: But I think it's important to have those that are armed with weapons to also wear vests and we are making an attempt to do that with this money.

CHAIRMAN WEYLER: I would concur. I just thought that this was already being done so I was somewhat surprised.

MR. WRENN: It probably should have been done a long time ago.

CHAIRMAN WEYLER: Thank you. Further discussion? Seeing none; I guess I need a motion.

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** SEN. GALLUS: Move approval.

REP. NORDGREN: Second.

CHAIRMAN WEYLER: All right. Senator Gallus moves to approve and Representative Norgdren seconds on Item 12-318. Further discussion? Seeing none; all in favor say aye? Opposed no? The item is approved. Thank you, gentlemen.

*** {MOTION ADOPTED}

16. Chapter 224:219, Laws of 2011, Judicial Appointments; Number Limited; Vacancies:

CHAIRMAN WEYLER: Okay. Item 16. We have a request for another marital master position to be filled. We've already approved three.

** SEN. MORSE: Move approval.

CHAIRMAN WEYLER: Senator Morse moves approval.

SEN. CARSON: Second.

CHAIRMAN WEYLER: Senator Carson seconds. Is there further discussion? Seeing none; you ready for the question? All in favor say aye? Opposed no? The item is adopted.

*** {MOTION ADOPTED}

17. Miscellaneous:

18. Informational Materials:

CHAIRMAN WEYLER: All right. Informational items after

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Tab 18. Are there any questions while we have all these experts here that anybody would like to ask? Anything you think needs to be pointed out, Mr. Pattison? Anything of interest that should be brought up? The Dash Board is there and we see that Commissioner Toumpas is doing an excellent job of balancing the spending to the challenges that the hospitals have laid before you. I appreciate that. Anything else?

SEN. MORSE: I just want to point out on that Dash Board it went from approximately 25 million down to \$9 million that we are at a balance so that's all positive.

CHAIRMAN WEYLER: That was a good job. I want to compliment him.

This is likely our last meeting of this Fiscal Committee. I thank you all for your attention. I hope we haven't held you up too much. There's a lot of valuable time out there in all those Commissioners and important people, and I appreciate your presence and you're here to explain all the items to us. And usually the items, thanks to our Legislative Budget Assistant, he makes sure you give us enough detail usually if we just remember to read it all.

So I appreciate all the time you spend, and hopefully, we can take as little of your time as we need. I don't expect us to schedule another meeting, because the members of this Committee will change after December 5th and then there will be an organization of the two bodies. New members will be appointed on these committees. Some of us may come back again, some of us may not, but we'll see what happens.

REP. NORDGREN: Mr. Chair, do we not accept the reports?

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CHAIRMAN WEYLER: We will now move on to the Audit --

REP. NORDGREN: Okay.

CHAIRMAN WEYLER: -- section. But I know a lot of you will be leaving for that so I just wanted to make that comment and thank you all for your attention. All right.

Audits:

CHAIRMAN WEYLER: Now recognize Mr. Mahoney, I think, is probably -- or Steve is here. All right.

CHRISTINE YOUNG, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman, and Members of the Committee. My name is Christine Young, and with me this morning is Glenn Normandeau, Executive Director of the Fish and Game Department. I'm here to present the report on Internal Controls Over Revenue for the Fish and Game Department Off-Highway Recreational Vehicle Registration Program during the six months ended December 31, 2011. The report includes eight findings and recommendations. And the Department concurs fully with all of them. There are two findings in the report that may require legislative action.

Our Executive Summary is on Page 1 where we note the objective of the audit was to evaluate whether the Department established and implemented adequate accountability and other internal controls over the receipt, deposit, reporting, and distribution of proceeds from the sale of registrations for snowmobiles, all-terrain vehicles, and trail bikes, collectively known as Off-Highway Recreational Vehicles or OHRVs.

As described in the summary of results, overall we

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found controls to be suitably designed to ensure the proper receipt, deposit, recording, and distribution of proceeds from OHRV registration sales. Areas where we recommend strengthening controls are reported in our findings. OHRVs are registered at the Department headquarter in Concord or at more than 190 OHRV registration agents located throughout the state. Agents are required to submit an accounting of registrations sold and related receipts to the Department monthly. The Department retains a portion of OHRV registration fees to support its OHRV Program and the Search and Rescue Fund and distributes the remainder to the Department of Resources and Economic Development as shown in the chart on Page 2.

The most recent prior audit that considered the OHRV Program's internal control was a 2003 financial audit of the Department. The current status of the revenue-related observations in that prior report is shown in the Appendix on Page 17. And I commend the Department for their efforts to resolve those prior audit findings. There were seven revenue-related findings in that prior report and all of the findings are either fully or substantially resolved.

Our findings begin with Observation No. 1 on Page 5 where we note a number of areas where the Department could improve controls over the OHRV registration process. The Department does little to validate the accuracy of information on registration forms submitted by its agents. We also note the untimely keying of registration information into the OHRV database limited the usefulness of that data and delayed the distribution of registration fees to the proper State Agencies and accounts. We recommended the Department revise the registration document to strengthen controls over that process.

Since a significant discount is given to registered snowmobiles to those who are members of snowmobile clubs,

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we also recommended the Department consider periodically comparing a sample of registrations sold at the lower snowmobile club member rate to club membership information to ensure proper registration fees are being collected and submitted to the Department.

Finally, we recommended the Department should consider reviewing the use of an on-line registration process to help make the process more controlled and efficient for the Department, its agents, and its customers.

In Observation No. 2 on Page 6, we recommended the Department strengthen controls over the inventory of OHRV registration decals, including implementing policies and procedures for logging registration decals at the Department's Concord sales office. We also recommended recording all registration decal activity in the OHRV database, improving segregation of duties control over the custody of decals, restricting employee access to OHRV decal inventories, and enforcing or eliminating a policy requiring agents to return a signed copy of the decal issuance document.

Observation No. 3 on Page 8 discusses the need to strengthen controls over the sale of OHRV registrations in the Department's Concord sales office. We recommended employees safeguard their user names and passwords and not allow other employees to process transactions under their credentials. We also recommended the establishment of forced log-offs in the point-of-sales systems to limit the risk that an unintended point-of-sale terminal could be inappropriately used.

Finally, we recommended segregating duties over price controls in the point-of-sales -- over price changes, excuse me, in the point-of-sales system and securing keys in a manner that promotes the integrity of the lock

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controls.

On Page 10, Observation 4 recommends the Department periodically reconcile revenues reported in the three information systems used to process OHRV registration revenue. This Observation also recommends a review of the daily cash-out process in the Concord sales office to determine whether a blind cash count could be integrated that would allow for more control over cash for deposit.

Observation No. 5 on Page 11 notes the Department was not able to fully support the accuracy of the two quarterly distributions related to the audit period that were made to the Department of Resources and Economic Development. In addition, the quarterly distributions were not based on or reconciled to OHRV revenues recorded in NHFirst, the State's accounting system. The distributions were also not processed timely. One of the distributions was made five months after the quarter end.

We recommended the Department establish procedures to fully document its distribution process. The procedure should include a reconciliation of revenue recorded in the OHRV database to NHFirst and a review and approval of the distribution calculation.

Observation No. 6 on Page 13 discusses deficiencies in the Department's information sharing and communication efforts. We recommended the Department request timely changes to statutes and keep OHRV registration forms and other program materials current.

In Observation No. 7 on Page 14, we report the Department provided compensatory leave benefits to part-time employees without apparent authority in statute, administrative rule, or the collective bargaining agreement. We recommended the Department only provide authorized benefits to employees and to review its

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part-time employment policies and procedures with the Department of Administrative Services, Division of Personnel.

Finally, Observation No. 8 on Page 15 recommends the Department prepare annual job performance evaluations for employees as required by statute in administrative rule.

This concludes my presentation. I'd like to thank the Director and his staff for their cooperation during the audit, and we would be happy to answer any questions the Committee may have.

CHAIRMAN WEYLER: Thank you very much. Director, your comments?

GLENN NORMANDEAU, Commissioner, New Hampshire Fish and Game Commission: I don't have anything in particular unless you have questions. We concurred with most of their issues. We did have some timeliness issues. We currently have a manual -- highly manual system of OHRV registration. We lost a data entry person in our last budget. So that has made all of our manual data entry go even slower, which is one of the issues that was with that transfer to DRED. We just didn't have it all put into the system.

We will be going to the Legislature this next go-round, I hope, because we want to automate our OHRV registrations. New Hampshire Auto Dealers Association told me they support that. A lot of their membership sell OHRVs. However, I would need the authority to -- to establish a transaction fee for the electronic system with whatever contractor we would end up having operate that system. I currently only have that authority for hunting and fishing licenses, and we are currently working to have an electronic point-of-sale systems for all of our hunting and fishing license folks, our brick and mortar dealers like we

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have on-line now. And we'd really like to do that for OHRV and then basically all the data comes in in real-time instead of the 15th of the following month getting boxes of paper that have to be then physically entered into a database, which is the source of much of our issues.

Other than that, probably the only other note of comment was the issue of the comp time which was picked up by -- frankly, not only didn't know it was going on but had no idea that there was an issue with that. Again, being short staffed, we had a couple of part-time people. At certain times they worked over 32 hours in one week because there were issues. And, you know, they were given comp time for the following week. As soon as it was pointed out what was going on with that, we immediately changed that program. And it was the audit went on a lot longer than the comp time did after I understood what the rules were in that situation. So I'm happy to answer any questions.

CHAIRMAN WEYLER: Thank you for your cooperation.
Senator Larsen.

SEN. LARSEN: Just a quick question. Did you say that you would need legislative authority to have some kind of on-line system for your --

MR. NORMANDEAU: It's not to have the on-line system, but it's to actually pay whoever the vendor would be for that. So, typically, let's say -- well, an example is our current on-line system. If you want to get a hunting and fishing license on-line, the -- you know, you can be at your home computer and print it out. But in addition to all the regular, you know, license costs, there's a -- I believe we're at a \$2 transaction fee that goes along with that. That transaction fee, Fish and Game never sees that. That transaction fee is taken by the vendor that's actually providing our on-line service collecting all the data, et

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cetera, et cetera, and that's how they get paid for what they do. And there's a couple of different statutes that allow the Director to negotiate those fees, which is part of a contract negotiation that says that, you know, something to the effect of the Director has the authority to negotiate a reasonable fee. I mean, we can't -- you can't set the number because you're going to be doing a negotiation in a contract. And if we had to go get legislation for the exact penny, following that it would be another year. But that's in the Fish and Game side of the statutes, not in the OHRV side. So I would need a similar authority before we can do on-line OHRV registrations.

SEN. LARSEN: So I assume you will be pursuing that kind of authority --

MR. NORMANDEAU: We hope to.

SEN. LARSEN: -- as soon as possible?

MR. NORMANDEAU: Again, you know, the point to it, of course, it's not money we get. It's the -- for the contractor that would be handling the data and the setup and the systems.

SEN. LARSEN: If I might just further? It's for customer convenience as well, I would assume?

MR. NORMANDEAU: We would hope so. But this would -- this wouldn't be so much -- it's probably not accurate to call it on-line. It would be these 190 folks who are current dealers, if you will, or current licensing agents, would end up with a printer and computer screen at their establishments and they would be entering the data electronically. That data would be coming to the Department. Generally, the data dumps are done over the course of the night, and the vendor at a remote location

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also has a backup system so if something happens, you know, we don't lose it, et cetera, et cetera. But everything would be happening in real-time instead of these major paper delays.

SEN. LARSEN: Thank you.

CHAIRMAN WEYLER: Do you have a sponsor?

MR. NORMANDEAU: We haven't even put it together yet, frankly. We are going to be working on it shortly, though.

CHAIRMAN WEYLER: I volunteer if you don't have a better one. Maybe one that's already on the Committee.

MR. NORMANDEAU: Good enough. Thank you.

CHAIRMAN WEYLER: If not, contact me. I have until December 7th, and I'll even ask Senator Larsen to be a co-sponsor.

MR. NORMANDEAU: Great. Appreciate that.

CHAIRMAN WEYLER: Further questions? Seeing none; recognize Representative Rodeschin for a motion.

** REP. RODESCHIN: I move to accept the report, as written.

SEN. LARSEN: Second.

CHAIRMAN WEYLER: Place on file and release in the usual manner.

REP. RODESCHIN: Oh, that's right.

CHAIRMAN WEYLER: Second by Senator Larsen. Further

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discussion? Seeing none; all in favor say aye? And the report is adopted.

*** {MOTION ADOPTED}

CHAIRMAN WEYLER: Thank you for your fine work. I guess you were helpful to the operation. And, obviously, we will -- I think that's a great idea. And I can see some of these OHRV dealers offering as a freebie when someone buys it. So that will perhaps, hopefully, increase that number up from the 400 or 47,000.

MR. NORMANDEAU: If we have some snow this winter, maybe we can make that happen. I sure hope.

CHAIRMAN WEYLER: Thank you very much.

MS. YOUNG: Thank you.

CHAIRMAN WEYLER: Now go to the Department of Corrections audits. Steve, how are you?

STEPHEN FOX, Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good morning, Mr. Chairman. For the record, my name is Stephen Fox. I'm the Performance Audit Supervisor for the LBA Audit Division.

First of the two Corrections Performance Audits that you have in front of you is our performance audit on Nonsecurity Staffing in the major institutions. Jay Henry, to my left, was the Senior Audit Manager in charge of that audit and he will be giving the presentation.

CHAIRMAN WEYLER: Thank you. Please proceed, Mr. Henry.

JAY HENRY, Senior Audit Manager, Audit Division,

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Office of Legislative Budget Assistant: Good morning.

CHAIRMAN WEYLER: Good morning.

MR. HENRY: For the record, my name is Jay Henry, and I'm a Senior Audit Manager with the LBA Audit Division. With me at the table is Commissioner William Wrenn and Assistant Commissioner William McGonagle. I'm presenting our performance audit of the Department of Corrections Nonsecurity Prison Staffing for State Fiscal Years 2010 and 2011. The purpose of our audit was to determine if the Department efficiently and effectively staffed its three prisons with nonsecurity personnel.

CHAIRMAN WEYLER: You're starting with nonsecurity?

MR. HENRY: Yes.

CHAIRMAN WEYLER: Okay.

MR. HENRY: To provide inmate services. Our Executive Summary is on Page 1. We found -- we found while the Department effectively staffed some services, six could be provided more effectively with additional staffing resources. Nothing we observed, were told, or reviewed led us to conclude services were overstaffed.

On Pages 3 and 4, we summarized our ten recommendations. The Department fully concurs with seven and partially concurs with three. None of the Observations required direct legislative actions.

Starting on Page 5, we provide some background on the Department, its nonsecurity staffing and inmate services. Because nonsecurity personnel work within the prisons, they also have security responsibilities, but they are not certified correctional officers. Some nonsecurity positions

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and functions needed to operate the prison are required by law, rule, or court order.

Figure 1 on Page 7 shows the services provided in the prison. We judgmentally selected and reviewed 14 services and programs which are identified in the bolded text. Figure 1 also presents the lines of authority within the Department. While wardens are responsible for the operations of their prisons, other units within the Department are responsible for staffing and overseeing most inmate services.

The services we reviewed are each described on Pages 10 through -- 7 through 10. And Table 2 on Page 11 presents a number of State positions in these 14 service areas which totaled 174 as of January 2012.

Starting on Page 13, in the first of our six Observations dealing with weaknesses in the delivery of inmate services, we found the Department did not provide the same level of programs and services to male and female inmates. The women's prison facility and staffing levels did not permit the Department to provide comparable level of services to female inmates.

In 1992, the U.S. District Court of New Hampshire ordered the Department to provide female inmates with a facility, condition of confinement, and programs and services on parity with those provided to male prisoners. Subsequent to the drafting of this Observation, the Commissioner has been sued for failing to achieve parity of services. We recommend the Department provide the Legislature with options to deliver services to female inmates on par with males in the next budget cycle.

In Observation No. 2 on Page 15, we found the Department did not provide educational and vocational

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services uniformly at the three prisons, even though some of these services are required.

In Observation No. 3 on Page 17, we found the upholstery and wood shops at both men's prison have closed when the shop managers are on leave. Table 3 on Page 18 shows the number of employees at each shop and the number of days each had to be closed. This hampers the Department's ability to consistently provide these services and can make it difficult for correctional industries to generate revenue to cover its own expenses as required in the 2013 budget.

Starting on Page 19 in Observations 4, 5 and 6, we found staffing resources for the library, religious, and recreational services to be insufficient based on industry standards and Department policy.

Starting on Page 25, we present four recommendations for improving management controls over the Department's operations.

Observation No. 7 found Department personnel identified recruitment and hiring process as an impediment to maintaining adequate staffing for nonsecurity positions. Vacant positions can negatively affect services. For example, Department managers and staff identified in nursing staffing was a problem at all three prisons.

In Observation No. 8, starting on Page 27, we found vacancies in the sexual offender treatment program reportedly resulted in reduced services for sexual offenders. One program employee reported the program had not been fully staffed for a very long period of time, and has been backlogged for years. The program administrator estimated there were 350 sexual offenders waiting for initial assessments as of July 2012.

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The Department needs treatment -- the Department is required by administrative rules and policy to have enough staff to assess inmates' needs for treatment in a timely manner. However, unlike assessments, there is no requirement for services to be provided to inmates prior to their minimum parole date. By not offering sexual offenders services in a timely manner, sexual offenders may be less likely to be paroled when they can reach their minimum parole date. As a result, the Department may be needlessly paying for and keeping inmates in prison longer than necessary.

Starting on Page 29, Observations 9 and 10 recommended the Department expand its policies to require maintenance plans for each prison and update its dental policies.

Starting on Page 33, we presented the Department with two other issues and concerns we considered noteworthy. We suggest the Department review staffing needs in its medical records office giving it increased workload, consider the need for electronic medical records system, and increase its monitoring of compensatory time balances.

Lastly, I'd like to thank the Department and its staff and officials for the help throughout this process. In addition, I'd like to mention we interviewed a number of stakeholders and also inmates from all three prisons to obtain their perspectives on services. At this time, I'd be ready to answer any questions the Committee has.

CHAIRMAN WEYLER: Thank you, Mr. Henry. Commissioner, your comments?

WILLIAM WRENN, Commissioner, Department of Corrections: Good morning again, Mr. Chairman, and Members of the Committee. Again, you'll see our responses to each

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of the recommendations that were made. Pretty much we concur with all of them. There may be some that we concur in part with. You'll see the reasons for that in our responses.

Many of these recommendations have to do with hiring personnel and increasing the numbers of employees that, as you know, has been very difficult in the last few budgets. In many cases we're one person deep. So that when people are out, there are going to be days that that program or that area is going to be shutdown. Or there may be some delays in filling a vacancy just due to the logistics of our hiring processes. We also have to remember that it's not just hiring somebody, we also have to train them because they do fill a role in security as well. And they do have to go to an academy to be trained. So there is always a delay in bringing that person up to where they can fully handle those areas of their response -- under their responsibilities. We do the best we can. Many of these we've already -- we are already working on many of these recommendations. We are already working on our sex offender treatment program. We've already redesigned that whole program and we are getting a much better result today. And I have my Director of Medical and Forensic Services here to explain that further if you'd like more in-depth answer for our sex offender treatment program. Some of this has to do with emergency medical -- electronic medical reporting records system which we put into our Capital Budget request this year 'cause we do recognize the need for that. We did have an agreement with our former vendor for our computer system. They were looking at designing a EMR system and the State of Maine, New Hampshire, and Virginia were part of group that were looking to -- we all signed a Memorandum of Agreement for this electronic medical records system. However, they sold the business and that MOU went down the drain. So we're now looking at a different method of funding that. So we do recognize the importance of it, as

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well as some of the other things that were mentioned in the audit.

CHAIRMAN WEYLER: Questions from the Committee?

REP. RODESCHIN: I have one.

CHAIRMAN WEYLER: Representative Rodeschin.

REP. RODESCHIN: Thank you. It's been quite some time for my visit to the prison, especially with the women, and the women were very crowded. You had bunks there for the women. Has that changed?

MR. WRENN: No, Representative. As matter of fact, it's gotten worse. I hate to say that. Our population, especially on the women's side, has increased. We -- and I hate to bring this up in this setting, but when we had SB 500 in place, our populations were going down. When SB 52 came in, and essentially neutralized SB 500, we've noted that our populations are now going back up again. The women's prison population has gone up even faster than the men. So we are having those issues.

Now, we still have the contract with Strafford County and they are housing some of our inmates down there which gives us a little room. So we're not busting at the seams in Goffstown. But I think we're up to approximately 30 or 32 inmates at Strafford County now. So that goes to show you how many more would be in our facility. Our count today for the women was 122 in our facility. So if we added the 32 that be 154 in that facility, which would be greatly overcrowded.

REP. RODESCHIN: Further question?

CHAIRMAN WEYLER: Further question.

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REP. RODESCHIN: So this puts a further burden on the facilities that you're putting these women in; am I correct? Do they get paid for that or what happens?

MR. WRENN: We do have a contract with them, and it's a contract we've had for several years with Strafford County and they're paid on a per diem basis.

REP. RODESCHIN: Thank you.

CHAIRMAN WEYLER: Okay. Now I know you'll be bringing this forward to Division I when you speak to them in the near future. And as long as you've complied with the request that they ask you to streamline your hiring, et cetera, then you'll have a good, strong -- if you're making the efforts that are required here, then we'll likely make the efforts to give you the staffing you needed. Can you tell me the status of the ongoing litigation? I know some of these consent decrees go back 20 years and we still haven't fully complied with all of them.

MR. WRENN: Well, it's not something that we didn't expect. We knew that eventually because of the parity issue in defining what parity is, in this particular case, that eventually the Court was going to have to step in and determine that. We know that we have deficiencies that primarily sit with the facility itself, because of the size of the facility and the lack of space there, and the space that has to be devoted to living space, housing space, it really prevents us from doing what is necessary down there for our educational classes, industries programs. We do the best we can. But we know that what little we do down there does not equate to what we're doing on the men's side. So we knew eventually that that was going to be an issue that was going to be brought before a court.

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Frankly – and as you know we've had it in our Capital Budget request for several years now for a new facility – frankly, I don't think it's going to be resolved until a new facility is built in the state to allow us the room to do that. But then once we do that, then we'll have to have the increased staffing in order to do the additional whether it be education, or industries, or medical and recreation and things like that to bring us into that parity area.

CHAIRMAN WEYLER: Further questions from the Committee? Representative Larsen -- Senator Larsen.

SEN. LARSEN: You mentioned you had someone in the audience who is your -- who could talk on the sexual offender treatment services.

MR. WRENN: Yes, I do.

SEN. LARSEN: I would be interested just to hear briefly. I heard 350 waiting to get services.

MR. WRENN: Yeah, that doesn't exist today.

SEN. LARSEN: Just an update would be useful, I think.

MR. WRENN: This is Director Helen Hanks. She's our Director of Medical and Forensic Services.

CHAIRMAN WEYLER: Good morning.

HELEN HANKS, Director, Division of Medical and Forensic Services, Department of Corrections: Good afternoon now, sir.

CHAIRMAN WEYLER: No, still morning.

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MS. HANKS: Honorable Members of the Committee. I'd be happy to give you that update, Senator Larsen. I am actually quite proud of where we have come. During the audit period, it was as Jay Henry has indicated. But since June 1st of 2012 through yesterday's date, we had 57 completions from our newly re-designed sexual offender treatment service. Historically, we averaged only approximately 45 a year in our longer 18-month intensive program, but we have redefined it using a curriculum based out of American Community Correction Institute which is an evidence-based cognitive behavioral treatment track. And what we have done is aligned the service with our behavioral health team overall so that individuals who both have mental health diagnosis, as well as sexual deviant behavior, has a true multi-disciplinary team to address all issues, an individual treatment plan within a therapeutic community and this is working quite well. In fact, the treatment is individually driven by the person's motivation to participate. So the length of treatment is absolutely indicative on the individual. So when someone asks us how long is the treatment service, it is absolutely based on the individual's participation, their discipline within the institution, and application of the resources we're providing. We have had successes occur within four months. We have individuals who will be in the treatment service for a long time based on the nature and violence of their crime, as well as their application of the treatment.

CHAIRMAN WEYLER: Further?

MS. HANKS: Oh, further. I apologize. We have also --

CHAIRMAN WEYLER: No, I think she had a further question.

MS. HANKS: I wanted to add 'cause you didn't. We had gotten all individuals at this point who were over their

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minimum into the treatment service. We gave them priority. We have adjusted our policy to indicate that so that is our priority. And I've also established electronic monitoring system so we know who needs assessments, who has been assessed, and it's linked up with our offender management system and no longer is it separate from that information so that we have cookies of information sets. Thank you.

SEN. LARSEN: That may be a conversation – if I might ask a further question – might be a conversation for further, more in-depth; but how do you judge the effectiveness of treatment and do you have a way to report, you know, X number have gone through the system and you believe that they are rehabilitated?

MS. HANKS: What we're doing is establishing quality improvement initiatives just based on what we have done. We are looking at length of treatment. We are looking at parole violations. We are establishing those measures. It's too early to give you a database on the change, but we are setting up those measures so that we can.

SEN. LARSEN: Hm-hum.

MS. HANKS: Thank you.

CHAIRMAN WEYLER: Thank you. Further questions? Seeing none; Representative Rodeschin is recognized for a motion.

CHAIRMAN WEYLER: Move we accept the report.

** REP. RODESCHIN: We accept the report and put it on file.

CHAIRMAN WEYLER: Place it on file and release it in the usual manner. Doesn't it say that there?

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REP. RODESCHIN: Yeah.

CHAIRMAN WEYLER: All right.

REP. RODESCHIN: But I don't have that page.

CHAIRMAN WEYLER: Oh. Is there a second?

SEN. LARSEN: Second.

REP. REAGAN: Second.

CHAIRMAN WEYLER: Second from Senator Larsen. Further discussion? Seeing none; you ready for the question? All in favor say aye? Opposed no? Please don't anybody else leave. We are down to a quorum. One, two, three, four, five, six. Okay. Good morning, Steve.

MR. FOX: Mr. Chairman, the second of our two performance audits the Department of Corrections staffing has to do with security or uniform staffing in the institutions. Steven Grady, who is Senior Auditor Manager in our office, was in charge and he will present that report to you.

STEVEN GRADY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Good morning. For the record, I am Steve Grady, Senior Audit Manager for the LBA Audit Division. I was the in-charge auditor for the security staffing audit. And I know you're familiar with the Commissioner and the Assistant Commissioner.

This audit was performed at the direction of the Fiscal Committee consistent with the Joint Legislative Performance Audit and Oversight Committee recommendation. The audit was designed to determine if the Department of Corrections efficiently and effectively managed security

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staff; that is, three principal prison facilities, during State Fiscal Years 2010 and 2011. Our report contains 17 Observations and Recommendations. The Department concurred with seven, and concurred, in part, with ten.

The Department of Administrative Services was affected by one Observation and Recommendation with which it concurred. Two Observations and Recommendations may require legislative action. In the course of my presentation, I'll be summarizing much of the report's content. I will be discussing several Observations and two issues in detail, however.

Our Executive Summary begins on Page 1. During the audit period, the Department staffed the posts it believed were the minimum necessary to ensure the safety and security of the community, staff, and inmates. However, several factors combined to create a staffing environment which may become unsustainable. Our background section begins on Page 7.

Uniformed employees provide day-to-day supervision of inmates. In 2010 through 2012 filled uniformed employee positions decreased more than 10%. This resulted, in part, in regular and holiday hours work decreasing but overtime and compensatory time increasing significantly. Overtime costs also increased significantly. For those uniformed employees who worked overtime, the average number of overtime hours and overtime wages more than doubled from 2010 through 2011. Security staffing section of our report begins on Page 11.

This section of our report contains Observations 1 through 8. Security staffing must strike a balance between what is necessary to ensure the safety of inmates, employees and the public, and ensuring the efficient use of State funds. As we detail in Observation No. 1, also on Page 11, the Department did not complete a staffing

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analysis to determine staffing needs and help ensure efficient and effective deployment of uniformed employees.

Staffing Analyses establish a shift relief factor which helps balance resources against requirements. However, the adopted shift relief factor was based not on an analysis but rather on a national average. In practice, facilities were not equally allocated staff for their required minimum posts. Staff allocations did not align with the shift relief factor and 7% more overtime will likely be required in the State Fiscal Year 2013 using existing staffing patterns.

This overtime will likely -- will likely be required -- correction. This roughly equates to each uniformed employee working one overtime shift every week of the year.

Our recommendations include developing a staffing policy, completing formal Staffing Analyses, and developing shift relief factors and ensuring staffing patterns are sustainable without excessively relying on overtime.

Observation No. 2 begins on Page 13. This Observation addresses security posts, the duty assignments given to uniformed employees. We found no complete documented post plans, plans which detailed the days and hours of operation and the relative importance of each post, incomplete and inconsistent post orders which details specific duties and procedures for each post, and no post-evaluation assessments of the efficiency and effectiveness of post orders and plans.

Our recommendations include ensuring post plans are complete, post orders are complete and consistent, and post evaluations are conducted regularly.

Observation No. 3 begins on Page 16. Observation No.

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3 addresses cost benefit analyses and details that despite increasing reliance on overtime, an evaluation of the most cost-effective methods to provide minimum security staffing was not completed until June 2011. And this analysis considered only when new full-time employees would be most cost-effective -- would be more cost-effective than paying existing employees overtime. It excluded the possibility of using part-time employees. We estimate approximately \$884,000 in overtime wages might have been saved over the audit period if 25 part-time personnel had been employed for 24 hours per week.

Our recommendations include considering the use of part-time employees in the future analyses, updating analyses regularly, and ensuring analyses are available for decision-makers, including the Legislature.

Observation No. 4 begins on Page 19. This Observation details inefficiencies in the management of voluntary and forced overtime. Higher paid supervisors performed overtime on posts normally staffed by corrections officers and corporals. Some senior and supervisory uniformed employees nearing retirement eligibility increased their overtime from between 12 to as much as 724%. The only limit on overtime was a prohibition against working more than 16 consecutive hours in a 24-hour period. Also, offsetting authority, authority which permitted management to relieve staff of regular duty in order to avoid future overtime shifts was inconsistently used.

Lastly, uniformed employees received an extra 10% of their salary to compensate for off-time -- off-duty availability. And they are expected to be available for recall when required. This recall authority was not used, and instead on-duty uniformed employees were forced into overtime shifts with the burden of forced overtime repeatedly placed on the same shifts.

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Our recommendations include assigning overtime posts to uniformed employees in the same rank as the post requires, limiting the total amount of overtime any uniformed employee can work in a given pay period, and proactively using offsetting and recall statuses.

Observation No. 5 through 8 begin on Page 22. These Observations detail findings related to recruitment and retention efforts not keeping pace with attrition; the use of as many 21 uniformed employees for administrative duties which could have been performed by less costly non-uniformed employees; a command structure with narrow spans-of-control and excessive management layers, and inconsistent and inefficient use of corporals.

Our recommendations include using uniformed employees only in positions which require a certified, uniformed employee, developing a strategic workforce plan, widening spans-of-control and evaluating the use of Corporals and the need for the Corporal rank.

The next section addresses inefficient practices and begins on Page 31. It contains Observations No. 9 through 17.

Observation No. 9 beginning on Page 31 addresses compensatory time, comp time. Comp time is awarded to employees at a rate of 1.5 hours for each hour of overtime worked. It provides time off in lieu of overtime payments. However, because much of the Department's leave, including comp leave, was covered by employees on overtime, and already 1.5 times their normal rate, as much as \$334,000 in additional costs may have been incurred during the audit period by covering comp leave taken with other employees on overtime. Comp time not yet used also created a future liability of approximately \$179,000 if those balances were paid out or approximately \$271,000 if the leave were taken

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and covered by other employees working overtime. We recommended the Department limit the use of compensatory time to instances where overtime funding is not available.

Observation No. 10 begins on Page 32. Observation No. 10 details how approximately \$1.2 million was unnecessarily expended during our two-year audit period on evening and night shift differentials for ineligible employees. These overpayments date back to at least 2005. Also, weekend shift differentials were inappropriately excluded from overtime calculations and shift differential pay rates were inconsistently applied which led to inequitably paid shift differentials.

We recommend the Department work with the Department of Administrative Services and the Department of Justice to address overpayments, improper exclusions and inconsistencies.

Observation No. 11 begins on Page 34. This Observation details how including longevity and hazardous duty pay in overtime and holiday wage calculations led to overpayments exceeding statutory allowances by more than \$203,000 during the audit period. This was caused by a Federal requirement to convert flat rate bonuses into hourly rates and include them with wages. This may conflict with the original legislative intent.

We recommend the Legislature consider reviewing the implementation of longevity and hazardous duty statutes to ensure legislative intent is being met.

Observations No. 12 through 17 begin on Page 35. These Observations detail where management could improve efficiencies in areas such as staff rotation, the use of special leave to settle labor disputes, the control environment, including inadequately addressed previous

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audit findings and payroll deficiencies, information management, training, and security-related equipment. We make several recommendations for improved management practices to address these issues including rotating staff, resolving audit findings, improving payroll controls and assessing training needs. We also recommend the Legislature consider reviewing whether legislative oversight of settlements is required.

This concludes my presentation. I would like to thank the Commissioner and his staff for their assistance during the conduct of this audit. We'd be happy to answer any question you might have.

CHAIRMAN WEYLER: Comments from the Commission?

MR. WRENN: Again, Mr. Chairman, our responses are there. Many of these we concur. Some of these recommendations were really something that we believe out of our hands. They had to do with collective bargaining agreements and issues with the negotiations. Some of these practices went back to the 1990s. So these are things that both us and Administrative Services with their new employee relations manager are now trying to deal with today. But some of these go back and are established past practices. So you'll read in my responses many of these have to do with issues that are union issues that we have to deal with.

When we talk about things like having ranked officers working CO posts, well, we tried to stop that and that went to arbitration, and we lost that in arbitration. So it was an established past practice and according to the arbitrator we can't unilaterally stop that past practice which we tried to do. It ended up causing us to have to settle with the ranking officers for a -- supposed to be a portion of money. We gave them some time, some vacation

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time to adjust. They agreed to that anyways. They agreed to that settlement. But these are things that in many cases we've tried to do already, but we've hit a road block with the unions on it.

The SHU rotation, SHU is our Special Housing Unit. Our past policy was not working. The policy has been in existence for many years was not working just because of the logistics necessary to rotate somebody out. We changed that. We tried to change it. The union wouldn't agree to talk to us about it. So what we did was we took all the positions in our Special Housing Unit and we made them part of our internal unit. And what we do -- our interior unit, I should say. In our interior unit, we assign on a daily basis. So what we were able to do at that point in time is rotate people right out of there because they're assigned on a daily basis. Well, the unions fought that and that's something that may go to arbitration because they said we had no right to unilaterally change the character of those positions that these officers had already bid on. We disagree with that position. We think we have the ability to do that. But, again, it's a place where arbitration is going to factor into our making these changes. And these are changes that we've been trying to make for some time now.

So the ones we concur with and we are already working on, you know, we believe that we can make some good changes here. Some we concur, in part, and some that are going to be dependent on state level negotiations with the unions, and us working with Administrative Services on their Bureau of Accounts for their -- for the payroll practices because we don't have any control over the payroll practices. But these are things that we are working on.

CHAIRMAN WEYLER: Who advised the negotiators they could ignore the law?

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MR. WRENN: I'm sorry?

CHAIRMAN WEYLER: Who advised the negotiators they could ignore the law?

MR. WRENN: I don't know if they -- I don't know.

CHAIRMAN WEYLER: There's places in here where it seems they're doing things that are unlawful, such as some of the monies that are counted and so on, longevity and so on that are mentioned in here that they are not lawful.

MR. WRENN: Well, I think in some cases it does apply to like longevity and hazardous duty pay. I think that the State is complying with Fair Labor Standards Act, but I think there's a contradiction with State Law on that as well. I think that's what Mr. Grady was referring to that it might need further review to see if the intent of the State Law is being satisfied there. These are issues that are beyond Corrections though and these are issues that deal with State payroll issues and payroll policies.

CHAIRMAN WEYLER: What was the settlement if a superior officer fills in for a corrections officer? Is he paid at the corrections officer rate or at his superior officer rate?

MR. WRENN: No, he's still paid at the superior officer rate. Again, we had changed that but they -- we lost in arbitration. Now, we have approached the union to see if they -- we could come up with a standard rate that all supervisory officers would get. They would be somewhere in the range of like a corporal's rate of pay. They refused to negotiate with us on that, and that was something that was taken up with the new employee relations manager and the union on that. We tried to get them to agree with that but

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they wouldn't.

CHAIRMAN WEYLER: One ex-convict told me that at Christmastime there was nobody monitoring. Normally, he said meals are monitored by a corrections officer. On Christmas, Captain, Lieutenant, Sergeant monitoring all at their probably double pay -- double time pay, which would seem to be an abuse. But they were the ones doing the scheduling. So that's the sort of thing that is pumping up your budget to these high levels.

MR. WRENN: Well, they're only going to be able to fill a position that is vacant in our minimum staffing levels. And we have gone through each one of the facilities to determine which positions are the minimum staffing -- counted as the minimum staffing for the prison. Those that aren't counted as minimum staffing don't get filled if somebody doesn't -- doesn't come to work, because they're out sick or whatever the issue is. Only the minimum staffing positions that have been identified as such get filled. So they would have to fill one of those.

Now, if the Captain was filling a position in a housing unit and decided he's going to wander over to, you know, to whatever section of the prison, you know, that's a different story. But they're not filling -- they're not taking positions or not working extra hours just because they want to work extra hours. They have to fill one of those minimum security positions.

CHAIRMAN WEYLER: Thank you. Further questions?
Senator Odell.

SEN. ODELL: Thank you, Mr. Chairman. Commissioner, tell me a little bit about -- I think we call it spiking? Maybe prior career. But I was unaware that there was some of that going on within the prison system. Is that a

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serious problem? And did we when we changed some things for the Retirement System, did that affect the option of sort of pumping up the last two or three years? Did that apply to you?

MR. WRENN: Well, Senator, it not only goes on in Corrections, it goes on anywhere in the state and it's still active today. Because overtime is factored into the final earnable compensation numbers under the State Retirement System. And, you know, on the police side, private details, although I don't know if private details are anymore, but all of that is factored into those final compensation numbers. Until those things are changed, you're always going to have people that are going to work the last three years are going to work more to pump the numbers up or spike their numbers. There's really no mechanism to stop that. Even inside the prison you can't -- you can't really do anything to that individual to say, well, you can't work more than so much a year because we have no mechanism for that. We have no agreements to do that. We have no mechanism to even determine if they're going to retire. We don't know what their plans are until they outright retire. So you may have somebody that in their 20th year at age 45 may decide for the next three years they're going to work a lot of overtime 'cause they're going to retire in three years. Or you may have somebody that just works a lot of overtime every year and he's going to work till 30 or 40 years. It's really a hard thing to judge. But as long as -- I think the laws still say that overtime is factored into earnable compensation numbers, then that's going to be an issue.

Now, I think you guys put a cap on that now with some of the retirement changes that were made. So I don't know as if the amount of money that somebody could earn in the course of a year is all going to be factored into the retirement numbers since the changes that have been made. I

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can't remember all the changes that were made, but I think there was a cap that might have been put on that.

SEN. ODELL: I can't remember the changes either. But if we did it, let's say it was for all State employees, then your retirees would be -- your near retiree-age people would -- that would apply to them. We'd extend it from three to five years or something in terms of average. That would apply to you just as much it would State Police or anybody else.

MR. WRENN: Yes, absolutely. Anything that would affect State Police would affect my guys.

SEN. ODELL: Thank you.

CHAIRMAN WEYLER: Further questions? Representative Rodeschin has a motion.

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

CHAIRMAN WEYLER: Is there a second?

REP. REAGAN: Second.

CHAIRMAN WEYLER: Second from Representative Reagan. Further discussion or questions? Seeing none, all in favor say aye? Opposed no? The report is adopted. And, again, this will be handy when your budget review comes up. So it's good numbers there.

SEN. ODELL: Mr. Chairman, thank you for leading us the last two years.

19. Date of Next Meeting and Adjournment

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CHAIRMAN WEYLER: Is there a motion to adjourn?

** SEN. ODELL: So move.

SEN. GALLUS: Second it.

CHAIRMAN WEYLER: All in favor say aye? We are adjourned. Thank you.

(The meeting concluded at 12:08 p.m.)

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CERTIFICATION

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

Cecelia A. Trask, RMR, CRR

NH License No. 47



JOINT FISCAL COMMITTEE

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