



**Report of the Department of Liquor and Lottery Task Force  
December 2017**

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**Table of Contents**

I. Executive Summary .....1

II. Background .....1

    A. The Department of Liquor Control .....1

    B. The Liquor Control Board .....2

    C. The Vermont Lottery .....2

    D. The Lottery Commission .....3

III. Statutory Authority and Responsibilities of the Task Force .....3

IV. Summary of Task Force Activities .....5

V. Issues Considered by the Task Force .....6

    A. Efficiencies from Combining the Department of Liquor Control with the Lottery .....6

    B. The Combination of the Liquor Control Board and the Lottery Commission .....9

    C. Should the Board of Liquor and Lottery be a Full-Time, Professional Board.....10

    D. Positive and Negative Impacts of Creating the Department of Liquor and Lottery .....11

VI. Plan for Creating the Department of Liquor and Lottery .....11

VII. Additional Policy Recommendations .....11

VIII. Appendices

    Appendix 1: 2017 Acts and Resolves No. 83, §§ 166 and 167

    Appendix 2: Witness List

    Append. 3: Draft Legislation

## **I. Executive Summary**

During the summer and fall of 2017, the Department of Liquor and Lottery Task Force met six times to develop legislation and a plan necessary to merge the Department of Liquor Control and the Liquor Control Board with the State Lottery and the Lottery Commission, in order to form a new Department of Liquor and Lottery. The Task Force has prepared draft legislation that is included in Appendix 3 of this report that it recommends the General Assembly take up for consideration at the commencement of the legislative session in January.

## **II. Background**

### **A. The Department of Liquor Control**

The Department of Liquor Control is an independent department within State government that employs 55 individuals. It is headed by the Commissioner of Liquor Control, who is appointed by the Governor from a group of candidates proposed by the Liquor Control Board.<sup>1</sup>

The Department is responsible for licensing alcoholic beverage retailers, wholesalers, and manufacturers, as well as tobacco retailers. Each year, the Department processes the applications for some 13,000 alcoholic beverage licenses and permits.<sup>2</sup>

In addition, the Department of Liquor Control is responsible for the distribution and retail sale of spirits and fortified wines. The Department operates a 30,000 square foot warehouse from which products are distributed to the State's 80 agency liquor stores on a weekly or biweekly basis. The spirits and fortified wines sold through the State's agency liquor stores belong to the State until they are sold to customers, which include restaurants and bars that hold a third-class license. In fiscal year 2017, the Department sold roughly 413,000 cases of spirits and fortified wines; generating a gross revenue of \$86,960,000.00 and a net contribution of \$25,278,000 to the General Fund.

The Department's Compliance and Enforcement Division employs 14 field investigators, who are full-time law enforcement officers that proactively work with licensees to ensure compliance with the State's alcoholic beverage and tobacco laws and regulations. There is roughly one investigator for every 300 licensees. The investigators conduct alcohol and tobacco compliance checks and inspections of licensed premises. In fiscal year 2016, the Department performed 598 alcohol compliance checks and 1,066 tobacco compliance checks, as well as 2,785 inspections of licensed premises.

The Department's educators provide training to individuals that sell alcohol and tobacco products to the public to ensure that they are sold and served in a safe and legal manner. In fiscal year 2016, the Department taught 201 in-person classes attended by 3,190 individuals, while an additional 5,413 individuals utilized the Department's online training program.

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<sup>1</sup> The current Commissioner of Liquor Control was appointed by the Liquor Control Board under a prior version of 7 V.S.A. § 106. That section was amended by No. 144 of 2016, § 16 to provide, in pertinent part, that "[w]ith the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the Liquor Control Board a Commissioner of Liquor Control for a term of four years." 7 V.S.A. § 106(a)(1). Pursuant to No. 144 of 2016, § 20, the current Commissioner is serving a four-year term that will end on January 31, 2020.

<sup>2</sup> During the 2016-2017 licensing year (May 1 through April 30), the Department issued or renewed 13,187 licenses and permits.

## B. The Liquor Control Board

The Liquor Control Board is a five-member citizen board. The members are appointed by the Governor biennially for staggered five-year terms.<sup>3</sup> Members are limited to serving no more than two consecutive full terms.

The Board is charged with broad responsibilities for Vermont's liquor control system. One of these responsibilities is supervising and managing the sale of spirits and fortified wines through the Department and the State's agency liquor stores, including listing and setting prices for products. The Board also adopts rules necessary to implement Vermont's alcoholic beverage laws, and enforcing those laws through its quasijudicial and licensing functions.<sup>4</sup> In that role, the Board oversees some 13,000 liquor licenses and permits, as well as the State's 80 agency liquor stores. In addition to its duties in relation to alcoholic beverages, the Board has oversight responsibilities with respect to tobacco licensing, compliance, and enforcement.

The Board meets monthly and Board members receive a per diem of \$50.00 per meeting plus mileage expenses and incidental costs.<sup>5</sup>

Each full-day Board meeting includes enforcement proceedings, an opportunity for the public to address the Board, and a meeting with the Commissioner. The Board spends a significant portion of each meeting conducting hearings and enforcement proceedings. Pursuant to 7 V.S.A. § 211, the Board is permitted to utilize a hearing officer to conduct hearings related to alleged violations, although it has not done so to date.

## C. The Vermont Lottery

The Lottery is overseen by a Director, who is biennially appointed by the Lottery Commission with the approval of the Governor. The Director supervises and administers the Lottery within the rules adopted by the Lottery Commission.<sup>6</sup> The Lottery employs a total of 21 staff, including five field sales representatives.

The Vermont Lottery is a member of the Tri-State Lotto Compact with its sister lotteries in New Hampshire and Maine. The Vermont Lottery serves as the business office for the Tri-State Lotto, performing functions such as billing and the payment of prizes.

The Lottery has over 650 agents that sell lottery products throughout Vermont. Lottery products may only be purchased for cash and Lottery agents use a proprietary point-of-sale system and special ticket stock to ensure security. The Lottery also utilizes 100 vending machines at certain high volume locations, such as supermarkets.

Roughly 75 percent of sales are of instant scratch tickets that are stored and shipped by UPS directly to the agents from the warehouse at the Lottery's headquarters. The remaining ticket sales are from online multi-jurisdictional games such as Megabucks, Mega Millions, and Powerball. The Lottery warehouse holds an average of about 18 million instant tickets and is typically only 70 to 90 percent full depending on the time of year. The warehouse processes roughly 500 orders per week for a total of roughly 5,000 books of tickets shipped each week.

Lottery agents can cash winning tickets with prizes valued at up to \$499.00. Winning tickets with prizes valued at between \$500.00 and \$5,000.00 can be cashed at the Lottery's

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<sup>3</sup> 7 V.S.A. § 101.

<sup>4</sup> See 7 V.S.A. §§ 101, 104, and 108.

<sup>5</sup> See 32 V.S.A. § 1010.

<sup>6</sup> 31 V.S.A. § 657.

headquarters or at any People's United Bank location in Vermont.<sup>7</sup> All lottery prizes above \$5,000.00 must be cashed at the Lottery's headquarters and are subject to State and Federal income tax withholding.<sup>8</sup>

The Lottery had approximately \$122 million in gross sales in fiscal year 2016, which netted roughly \$25.5 million for the Education Fund.

#### D. The Lottery Commission

The Lottery Commission is a five-member citizen board. The members are appointed by the Governor for three-year terms.<sup>9</sup> Members of the Commission are prohibited from having a pecuniary interest in any Lottery licensee or contract awarded by the Lottery.<sup>10</sup>

The Commission is responsible for overseeing and adopting rules necessary to establish and operate the State Lottery.<sup>11</sup> Biennially and subject to the approval of the Governor, it appoints the Director of the Lottery.<sup>12</sup>

The Commission meets monthly and Commission members receive a per diem of \$50.00 per meeting plus mileage expenses and incidental costs.<sup>13</sup> Each of the Commission's meetings is roughly two hours in length.

### **III. Statutory Authority and Responsibilities of the Task Force**

The General Assembly established the Department of Liquor and Lottery Task Force in 2017 to develop a plan and draft legislation necessary to merge the Department of Liquor Control and the Liquor Control Board with the Lottery and Lottery Commission to form a new Department of Liquor and Lottery. Specifically, the Task Force is charged with the following duties:

1. identify and examine efficiencies that can be realized through the combination of the Department of Liquor Control's and the State Lottery's administrative, licensing, regulatory, and educational functions, as well as in the marketing, warehousing, distribution, sales, and control of alcoholic beverages and lottery products;
2. identify and examine long-term efficiencies that can be realized by merging the Department of Liquor Control with the State Lottery;
3. examine the current role, functions, and composition of the Liquor Control Board and the Lottery Commission, and determine:

<sup>7</sup> Lottery prizes above \$500.00 may be subject to the withholding of child support.

<sup>8</sup> The Lottery is required to withhold State and federal income taxes on any prizes of \$600.00 or more where the winner does not furnish a correct taxpayer identification number.

<sup>9</sup> 31 V.S.A. § 651.

<sup>10</sup> *Id.*

<sup>11</sup> 31 V.S.A. § 654.

<sup>12</sup> 31 V.S.A. § 652.

<sup>13</sup> See 32 V.S.A. § 1010. It should be noted that 31 V.S.A. § 653 provides that "[e]ach member of the Commission shall receive \$30.00 a day and necessary expenses for time actually spent in the performance of the duties of his or her office." However, that section is superseded by 32 V.S.A. § 1010(b), which provides in pertinent part that "[n]otwithstanding any other provision of law, members of professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, or any other boards or commissions that are not listed in subsection (a) of this section but are otherwise entitled by act of the General Assembly to receive per diem compensation, shall receive per diem compensation in the amount of \$50.00 per day for each day devoted to official duties."

**UNEDITED DRAFT, FOR DISCUSSION ONLY**

- a. how each body's role, functions, or composition will be affected by their combination; and
  - b. the limitations or barriers to combining the two bodies and how those limitations or barriers can be addressed;
4. examine whether the Board of Liquor and Lottery should be a full-time, professional board;
  5. identify and examine the positive and negative impacts of creating the Department of Liquor and Lottery with respect to the State's ability to control the distribution of alcoholic beverages, tobacco products, and lottery products without diminishing the Department of Liquor Control's and State Lottery's respective contributions to the General Fund and the Education Fund; and
  6. develop a plan and draft legislation necessary to accomplish on or before July 1, 2018 the merger of the Department of Liquor Control and the Liquor Control Board with the State Lottery and the Lottery Commission in order to create the Department of Liquor and Lottery and the Board of Liquor and Lottery. ' 6

The draft legislation produced by the Task Force is required to include provisions that would:

1. On July 1, 2018:
  - a. Combine the Department of Liquor Control and the State Lottery to create a Department of Liquor and Lottery, which shall include a Division of Liquor Control to administer and carry out the laws relating to alcohol and tobacco set forth in Title 7 and a Division of Lottery to administer and carry out the laws relating to the State Lottery set forth in 31 V.S.A. chapter 14.
  - b. Combine the Liquor Control Board and the Lottery Commission to create a Board of Liquor and Lottery.
2. Provide that:
  - a. The Board of Liquor and Lottery shall be the successor to and a continuation of the Liquor Control Board and the Lottery Commission.
  - b. The rules of the Liquor Control Board and the Lottery Commission in effect on July 1, 2018 shall become the rules of either the Board of Liquor and Lottery or the Department of Liquor and Lottery until they are amended or repealed.
    - i. The Department of Liquor and Lottery shall be a successor to and a continuation of the Department of Liquor Control and the State Lottery.
    - ii. All positions and appropriations of the Department of Liquor Control and the State Lottery shall be transferred to the Department of Liquor and Lottery.
  - c. The Commissioner of Liquor Control shall become the Commissioner of Liquor and Lottery, and shall direct and supervise the Department of Liquor and Lottery subject to the direction of the Board of Liquor and Lottery.
  - d. The Commissioner of Liquor and Lottery shall assume the powers, duties, rights, and responsibilities of the Commissioner of Liquor Control and the Director of the State Lottery.

The Task Force is composed of six members, one member from the House, one member from the Senate, the Chair of the Lottery Commission, the Chair of the Liquor Control Board, and two members appointed by the Governor. Act 83, § 167 requires the Task Force to submit a report, on or before January 15, 2018, "to the Governor, the House Committees on General, Housing and Military Affairs and on Government Operations, and the Senate Committees on Economic

Development, Housing and General Affairs and on Government Operations with its findings and a plan and draft legislation necessary to create on or before July 1, 2018 the Department of Liquor and Lottery and the Board of Liquor and Lottery.”

#### **IV. Summary of Committee Activities**

While the General Assembly was adjourned, the Task Force convened six times in 2017 to hear testimony from stakeholders and experts on a number of issues within its jurisdiction.<sup>14</sup> The Committee took testimony on and discussed the following subjects:

- The statutes that create and govern the Department of Liquor Control and the Lottery.
- The organization and day-to-day operations of the Department of Liquor Control.
- The responsibilities and jurisdiction of the Department of Liquor Control.
- Department of Liquor Control revenues and how they are used.
- The Liquor Control warehouse and offices.
- The duties, role, and functions of the Liquor Control Board.
- The organization and day-to-day operations of the Lottery.
- The responsibilities and jurisdiction of the Lottery.
- Lottery revenues and how they are used.
- The Lottery warehouse and offices.
- The duties, role, and functions of the Lottery Commission.
- The taxes on alcoholic beverages.
- Opportunities and challenges from a merger to create the Department of Liquor and Lottery.
- Opportunities and challenges related to the siting and construction of a combined facility for the Department of Liquor and Lottery, including the need to conduct a feasibility study.
- Questions and concerns expressed by employees of the Department of Liquor Control and the Lottery.
- Maine’s Bureau of Alcoholic Beverages and Lottery Operations, how it operates and its creation.
- Idaho’s Liquor Division and Lottery, how they operate, similarities and differences to Vermont, and opportunities for savings and efficiencies that could result from a merger of the two.
- The differences between State agencies and departments, and whether to structure the combined of Department of Liquor Control and Lottery as a Department or Agency.
- Human resources challenges that may be raised by a merger and how those challenges would be addressed.

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<sup>14</sup> See Appendix 2: Witness List.

## **V. Issues Considered by the Task Force**

### **A. EFFICIENCIES FROM COMBINING THE DEPARTMENT OF LIQUOR CONTROL WITH THE LOTTERY**

#### *Administrative Functions:*

A merger of the Department of Liquor Control and the State Lottery would present an opportunity for a number of administrative functions to be merged initially through the sharing of duties between the two office locations. However, because current facilities will not permit the offices of a combined Department of Liquor and Lottery to have a single central location, some functions may not be able to be merged until a new facility is constructed or located. Even after a combined facility is constructed or located, some functions, like a location to cash winning lottery tickets, will need to remain separate from other combined administrative offices. This could be accomplished through a separate entrance, or similar arrangement, at a future combined facility.

The sharing of duties across the combined Department of Liquor and Lottery could potentially result in long-term vacancy savings as positions are eliminated through attrition. Further, a combined Department would permit the consolidation of the two entities websites.

The Task Force recommends that the merger to form the Department of Liquor and Lottery include the utilization of Vermont Certified Public Manager (VCPM) consulting teams to maximize any administrative efficiencies resulting from the merger.

#### *Licensing Functions:*

All 80 State agency liquor stores also hold a license from the Vermont Lottery. Likewise, most, if not all, of the Vermont Lottery agents have some form of an alcohol or tobacco license, or both. Creating a combined Department of Liquor and Lottery could enable the creation of a single portal or location where businesses wishing to sell alcoholic beverages, tobacco, and lottery products could obtain their licenses. While this would likely be more business friendly than the current licensing process, it would probably not result in efficiencies for the combined Department because of the differences in the terms of licenses. Alcohol and tobacco licenses are issued and renewed on an annual basis, while Lottery licenses are issued only once.

#### *Regulatory Functions:*

There would likely be few, if any, efficiencies in terms of regulatory functions realized as a result of merging the Department of Liquor Control with the State Lottery. The Liquor Control Board and the Lottery Commission already utilize the same assistant Attorney General for purposes of rulemaking. Similarly, a combined Board of Liquor and Lottery would still have the same quasi-judicial role with respect to the enforcement of the Liquor Control laws and regulations, while the adjudication of violations by Lottery agents would continue to be performed by the Commissioner or Deputy Commissioner of the new Department acting in the place of the former Lottery Director.



*Educational Functions:*

The merger of the Department of Liquor Control and the State Lottery would create the potential for improved understanding by Department of Liquor and Lottery employees of best practices related to the sale of controlled products. However, under the current system for training retail employees that sell alcohol, tobacco, and lottery products, a merger would likely result in few, if any, efficiencies. Currently, Lottery field representatives perform trainings when they visit agents, but most training of point of sale staff is conducted in-house by each agent and the trainings can vary from one agent to another. In contrast, all persons selling alcohol and tobacco products must complete a Department of Liquor Control training before they are legally permitted to sell the products.

Thus, while centralized training programs for alcohol, tobacco, and lottery products could be developed following a merger, the current training systems of the two entities do not present an opportunity to realize efficiencies through a merger.

*Marketing Functions:*

Potential efficiencies in marketing the products sold by the Department of Liquor Control and State Lottery could be realized without any changes to the two entities' existing facilities. These include the creation a combined website and combined outreach programs, as well as the potential to use a single vendor for the provision of marketing materials and services at a future date. In addition, some of the products sold by the two may be complimentary, which could result in further marketing efficiencies.

However, several potential concerns exist. In the short-term, contractual obligations with different vendors limit the ability to pursue combined marketing efforts. In addition, the marketing models for the Department of Liquor Control and the State Lottery are different. While Liquor Control is focused on creating the 802 Spirits brand through print advertising and a social media presence, the Lottery is focused on television, radio, and print advertising. In addition, the State does not manufacture the alcoholic beverages that it distributes and sells, but, with the exception of multi-state games, the Vermont Lottery designs and contracts for the production of the games it sells.

Given the potential complications to merging the marketing efforts of the Department of Liquor Control and the State Lottery, the Task Force recommends that the merged Department of Liquor and Lottery utilize Vermont's Chief Marketing Office as a resource when determining how best to integrate the marketing programs.

*Warehouse Functions:*

Potential efficiencies in the warehousing of the alcoholic beverages and lottery products could be realized following a merger with the construction of a new facility to meet the office and warehousing needs of the Department of Liquor and Lottery. While the warehouse needs of the Department of Liquor Control and the State Lottery are different, a new facility could be designed to specifically meet their current needs while also being built with an eye towards future growth. The existing Liquor Control warehouse is dated and already near capacity, and a new facility would provide significant benefits in terms of room for additional inventory, enhanced warehouse safety, and a modern design that facilitates the picking of orders for State agency liquor stores.

Similarly, a new, larger facility for lottery products would allow additional tickets that are currently stored at the printer's warehouse to be available for immediate distribution in Vermont.

In addition to enhanced efficiency and improving the potential for future growth, a combined warehouse facility would create opportunities to cross-train warehouse employees and could result in long-term savings versus the existing facilities.

To date, the Department of Liquor Control has performed an analysis of the need for a new Liquor Control warehouse, and \$75,000.00 has been appropriated for planning and siting options for a new Department of Liquor Control office and warehouse. The Department of Buildings and General Services recommended to the Task Force that an additional \$75,000.00 be appropriated to conduct the feasibility analysis necessary for a new Department of Liquor and Lottery office and warehouse. This additional funding would not include an analysis of site options, which would need to be performed later.

#### *Distribution Functions:*

While some potential efficiencies could be realized if alcoholic beverages and lottery products were distributed to the 80 agency liquor stores, in the short-term the differences between the distribution models for the Department of Liquor Control and the State Lottery would limit further efficiencies.

The Department of Liquor Control distributes spirits and fortified wines to 80 agency liquor stores using trucks owned by the Department and driven by Department employees. In contrast, the State Lottery distributes 98 percent of the lottery products sent to its more than 650 lottery agents by UPS. In addition, liquor agents order products based on their own sales experience within their market, while Lottery agents are resupplied on the basis of automated notifications sent from the point of sale systems to the Lottery.

The Task Force did discuss the potential for exploring additional efficiencies that might be realized through contracting out certain deliveries, as has been done by other states, or by changing delivery models in the future. However, identifying potential efficiencies that could be realized through such changes would be speculative at the present time.

#### *Sales Functions:*

Potential efficiencies could be realized through the development of a combined point of sale system for both liquor and lottery products. However, numerous challenges exist to combining the point of sale (POS) systems for Liquor Control and the Lottery. Currently, lottery products are sold using proprietary POS systems that provide inventory control and oversight, and ensure security and prevent fraud. Liquor Control sales are performed on a separate register because the spirits and fortified wines are owned by the State and thus must be segregated from agents' other products. In addition, lottery products may only sold for cash, while spirits and fortified wines may be purchased using cash or credit. In summary, the specialized needs of each sales program will prevent efficiencies from being realized in the short-term.

#### *Control of Alcoholic Beverages and Lottery Products and Enforcement of Related Laws:*

The creation of the Department of Liquor and Lottery could potentially create limited efficiencies with respect to the enforcement of the laws related to alcoholic beverages and lottery

products. At present, the Department of Liquor Control has dedicated law enforcement officers, while the Lottery does not. Thus, combining enforcement functions as part of a merger could produce some benefit with respect to the enforcement of laws related to the Lottery because of the availability of the Department of Liquor Control's law enforcement officers to assist with those efforts.

*Long-Term Efficiencies:*

In the long-term, the Department of Liquor and Lottery could realize several efficiencies relative to the existing Department of Liquor Control and the State Lottery. While potential future savings from attrition and the reduced size of the Board of Liquor and Lottery relative to the current Liquor Control Board and Lottery Commission are the most obvious, a number of organizational efficiencies may prove to be at least as significant, if not more so.

The combined Department of Liquor and Lottery would have more resources available in terms of training, money, and time than either of the existing entities. Both the Department of Liquor Control and the Lottery are relatively small in terms of their staffing numbers. A combination would create an opportunity for cross-training that could result in improved customer service and greater potential to provide backup across the Department when employees are away on vacation or out of work due to illness. Moreover, a combined Department would provide employees with access to a wider variety of technical platforms and greater opportunities for career growth or variety of work within the Department.

The combined Department of Liquor and Lottery would bring together the two state entities that operate as a business. Under a single Commissioner, the combination would likely result in better representation of the two entities in the Governor's cabinet and the General Assembly, as well as improved long-term accountability and responsibility. Moreover, the combination might also serve to provide enough critical mass to support investment in a new facility that will provide a solid foundation for continued long-term growth. Finally, the combination of the two could create a structure that could potentially regulate the distribution and sale of other controlled substances that may become legal in Vermont in the future.

The Task Force also identified a few concerns related to potential long-term efficiencies, including the potential for a decrease in positions through attrition as the two entities become more fully integrated following the merger. Further, the Task Force expressed concern about the potential for decreased familiarity with fellow workers from the combination of the two units as well as the potential for challenges from differences in organizational cultures.

The Commissioner of Human Resources indicated to the Task Force that this merger is relatively simple in comparison to other mergers of State entities that have occurred in the past. However, given the separate offices and warehouses of the two entities, the merger will likely initially be only an administrative merger. To fully accomplish the goal of merging the two, a commitment to a new facility that can house both Liquor Control and Lottery will be necessary.

B. THE COMBINATION OF THE LIQUOR CONTROL BOARD AND THE LOTTERY COMMISSION

*Effect of a Merger on the Bodies' Role, Functions, and Composition:*

The draft legislation proposed by the Task Force would combine the five-member Liquor Control Board and the five-member Lottery Commission into a single five-member Board of

Liquor and Lottery. This means that only half of the current members of the Liquor Control Board and the Lottery Commission would be able to continue serving on the merger Board of Liquor and Lottery. The new Board of Liquor and Lottery would retain the roles and functions of the Liquor Control Board and the Lottery Commission.

*Limitations and Barriers to Combining the Liquor Control Board and the Lottery Commission:*

A significant barrier to any merger of the Liquor Control Board and the Lottery Commission will be the increased workload experienced by the volunteers serving on the Board of Liquor and Lottery. At present, the Liquor Control Board meets once per month for a full day. A significant portion of each Board meeting is occupied with enforcement proceedings related to alcohol and tobacco licensees. The Lottery Commission also meets once per month, but its meetings last only about two hours. The Lottery Commission does not conduct enforcement proceedings.

The increased workload of the combined Board of Liquor and Lottery could make it more difficult to find volunteers willing to serve on the Board. Members of both the Liquor Control Board and the Lottery Commission already dedicate a significant amount of time outside of the monthly meetings to their duties. Moreover, the members receive the same per diem amount for each meeting, regardless of the length of the meeting or the amount of preparation required.

The workload of the combined Board of Liquor and Lottery could be reduced through the use of a hearing officer for enforcement proceedings related to alcohol and tobacco licensees. The use of a hearing officer by the Liquor Control Board is already authorized by 7 V.S.A. § 211, which means that no legislative changes would be necessary to address this issue.

A second potential barrier to a successful merger of the Liquor Control Board and the Lottery Commission is the possibility that that combined Board of Liquor and Lottery could neglect one entity or the other. This could be address by holding separate meetings or setting aside equal time at each meeting to address business related to Liquor Control and the Lottery.

C. SHOULD THE BOARD OF LIQUOR AND LOTTERY BE A FULL-TIME, PROFESSIONAL BOARD?

An alternative to simply merging the Liquor Control Board and the Lottery Commission would be to create a full-time, professional Board of Liquor and Lottery similar to the Public Service Board or the Green Mountain Care Board. One advantage of creating a professional Board would be that the members could dedicate their full time and attention to the success of the combined Department. In addition, a professional Board comprised of subject matter experts could better support the business and would be well positioned to handle the addition of possible future responsibilities related to regulating the sale of other controlled substances.

Nevertheless, Vermont has a long tradition of employing citizen boards and both the Liquor Control Board and the Lottery Commission have successfully functioned as citizen boards. Moreover, the creation of a full-time, professional Board of Liquor and Lottery would be a significant departure from the current model of a citizen board overseeing a department whose day-to-day operations are under the direction and control of an appointed commissioner or director.

At the present time, the Task Force does not believe that it is necessary to make the Board of Liquor and Lottery a full-time, professional Board. However, there may be a need to revisit this question at some point in the future if the Board's workload increases due to the growth of

the Department of Liquor and Lottery or if it is given the responsibility for regulating another controlled substance.

#### D. POSITIVE AND NEGATIVE IMPACTS OF CREATING THE DEPARTMENT OF LIQUOR AND LOTTERY

The potential positive and negative impacts of creating the Department of Liquor and Lottery that the Task Force identified are set forth in the above discussion of the various issues related to the merger.

### **VI. Plan for Creating the Department of Liquor and Lottery**

The merger should occur in four separate stages as set forth below:

1. A preparation phase in which the Commissioner of Liquor Control works closely with the Director of the Lottery, the Commissioner of Human Resources, and the Secretary of Administration to lay the groundwork necessary to ensure that the Department of Liquor and Lottery will be able to begin functioning as a single entity on day one of the merger. During the preparation phase, the Governor would also select members of the Liquor Control Board and the Lottery Commission that would comprise the new Board of Liquor and Lottery. The Task Force's draft legislation expressly provides for this preparation phase.
2. The legal merger of the Department of Liquor Control and the Liquor Control Board with the Lottery and the Lottery Commission. During the second phase, the statutory duties and authority of the existing entities would transfer to the new Department of Liquor and Lottery and the Board of Liquor and Lottery. This is accomplished through the Task Force's draft legislation.
3. Merger of the administrative, regulatory, and executive functions of Liquor Control and Lottery. During this phase, the administrative, regulatory, and executive functions of Liquor Control and Lottery would be gradually merged through the integration of duties, cross-training, and the reallocation of responsibilities to address the needs of the merged Department. The Department of Liquor and Lottery could utilize Vermont Certified Public Manager (VCPM) consulting teams during this phase to identify structural changes and maximize efficiencies. While the specific details of actions to be taken during this phase are best left to the Commissioner and the management team of the new Department, the Task Force has provided for annual progress reports from the Commissioner in its draft legislation. In addition, during this third phase, the feasibility and siting analysis for a new facility to house the Department of Liquor and Lottery should be conducted.
4. Physical merger of Liquor Control and Lottery. The final phase of the merger is the construction of a new facility capable of accommodating the offices and warehouses of the Department of Liquor and Lottery. Providing a single facility is particularly crucial for achieving long-term efficiencies in relation to the warehousing and distribution of alcoholic beverages and lottery products. In addition, it will help to fully integrate the Liquor Control and Lottery staffs and allow for the development of a more cohesive organizational culture.

**VII. Additional Policy Recommendations****Report of the Department of Liquor and Lottery Task Force**

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*Matthew Krauss, Chair*

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*Representative Tom Stevens, Vice Chair*

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*Senator Allison Clarkson*

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*Brittney Wilson, Secretary of Civil and Military  
Affairs*

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*Sabina Haskell, Chair, Lottery Commission*

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*Martin Manahan, Chair, Liquor Control Board*

## Appendix 1: 2017 Acts and Resolves No. 83, §§ 166 and 167

### Sec. 166. FINDINGS AND PURPOSE

#### (a) The General Assembly finds:

(1) The Department of Liquor Control and the State Lottery serve similar roles in Vermont's government by generating significant revenue for the State through the sales of a controlled product.

(2) The Department of Liquor Control is responsible for enforcing Vermont's laws related to alcoholic beverages and tobacco.

(3) The Department is overseen by the Liquor Control Board, which also grants alcohol and tobacco licenses, serves as a quasi-judicial body to adjudicate violations by licensees, and adopts rules necessary to implement the alcoholic beverage and tobacco laws. The Liquor Control Board is composed of five members that are appointed by the Governor for staggered five-year terms. Each member receives per diem compensation for attendance at meetings.

(4) The Lottery Commission oversees and manages the Vermont Lottery and adopts rules necessary to operate it. It is composed of five members that are appointed by the Governor for three-year terms. Each member receives per diem compensation for attendance at meetings.

(5) The respective responsibilities and duties of the Liquor Control Board and Lottery Commission place significant demands on their part-time, volunteer members.

(6) The similarities between the roles and functions of the Department of Liquor Control and the Liquor Control Board, and the State Lottery and the Lottery Commission create the opportunity for the two entities to merge and collaborate in carrying out their respective functions and missions.

#### (b) Accordingly, it is the intent of the General Assembly to:

(1) create a combined Department of Liquor and Lottery that will be a successor to and continuation of the Department of Liquor Control and the State Lottery; and

(2) create a Board of Liquor and Lottery that shall be the successor to and a continuation of the Liquor Control Board and the Lottery Commission.

### Sec. 167. DEPARTMENT OF LIQUOR AND LOTTERY; TASK FORCE; REPORT

(a) Creation. There is created the Department of Liquor and Lottery Task Force to develop a plan and draft legislation necessary to merge the Department of Liquor Control and the State Lottery into the Department of Liquor and Lottery.

#### (b) Membership. The Task Force shall be composed of the following six members:

(1) one current member of the House of Representatives who shall be appointed by the Speaker of the House;

(2) one current member of the Senate who shall be appointed by the Committee on Committees;

(3) the Chair of the Liquor Control Board or designee;

(4) the Chair of the Lottery Commission or designee; and

(5) two members appointed by the Governor.

(c) Powers and duties. The Task Force shall develop a plan and legislation necessary to merge the Department of Liquor Control and the State Lottery and create a new Department of Liquor and Lottery on or before July 1, 2018. In particular, the Task Force shall carry out the following duties:

(1) identify and examine efficiencies that can be realized through the combination of the Department of Liquor Control's and the State Lottery's administrative, licensing, regulatory, and educational functions, as well as in the marketing, warehousing, distribution, sales, and control of alcoholic beverages and lottery products;

(2) identify and examine long-term efficiencies that can be realized by merging the Department of Liquor Control with the State Lottery;

(3) examine the current role, functions, and composition of the Liquor Control Board and the Lottery Commission, and determine:

(A) how each body's role, functions, or composition will be affected by their combination; and

(B) the limitations or barriers to combining the two bodies and how those limitations or barriers can be addressed;

(4) examine whether the Board of Liquor and Lottery should be a full-time, professional board;

(5) identify and examine the positive and negative impacts of creating the Department of Liquor and Lottery with respect to the State's ability to control the distribution of alcoholic beverages, tobacco products, and lottery products without diminishing the Department of Liquor Control's and State Lottery's respective contributions to the General Fund and the Education Fund; and

(6) develop a plan and draft legislation necessary to accomplish on or before July 1, 2018 the merger of the Department of Liquor Control and the Liquor Control Board with the State Lottery and the Lottery Commission in order to create the Department of Liquor and Lottery and the Board of Liquor and Lottery. The draft legislation shall include provisions that would:

(A) On July 1, 2018:

(i) Combine the Department of Liquor Control and the State Lottery to create a Department of Liquor and Lottery, which shall include a Division of Liquor Control to administer and carry out the laws relating to alcohol and tobacco set forth in Title 7 and a Division of Lottery to administer and carry out the laws relating to the State Lottery set forth in 31 V.S.A. chapter 14.

(ii) Combine the Liquor Control Board and the Lottery Commission to create a Board of Liquor and Lottery.

(B) Provide that:

(i) The Board of Liquor and Lottery shall be the successor to and a continuation of the Liquor Control Board and the Lottery Commission.

(ii) The rules of the Liquor Control Board and the Lottery Commission in effect on July 1, 2018 shall become the rules of either the Board of Liquor and Lottery or the Department of Liquor and Lottery until they are amended or repealed.

(iii)(I) The Department of Liquor and Lottery shall be a successor to and a continuation of the Department of Liquor Control and the State Lottery.

(II) All positions and appropriations of the Department of Liquor Control and the State Lottery shall be transferred to the Department of Liquor and Lottery.

(iv)(I) The Commissioner of Liquor Control shall become the Commissioner of Liquor and Lottery, and shall direct and supervise the Department of Liquor and Lottery subject to the direction of the Board of Liquor and Lottery.

(II) The Commissioner of Liquor and Lottery shall assume the powers, duties, rights, and responsibilities of the Commissioner of Liquor Control and the Director of the State Lottery.



(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before January 15, 2018, the Task Force shall submit a written report to the Governor, the House Committees on General, Housing and Military Affairs and on Government Operations, and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations with its findings and a plan and draft legislation necessary to create on or before July 1, 2018 the Department of Liquor and Lottery and the Board of Liquor and Lottery. The Task Force's report may take the form of draft legislation.

(f) Meetings.

(1) The members from the House and the Senate shall call the first meeting of the Task Force to occur on or before September 1, 2017.

(2) The Task Force shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Task Force shall cease to exist on January 15, 2018.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than six meetings.

(2) Other members of the Task Force who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than six meetings.

## Appendix 2: Witness List

- Abby Shepard, Tax Policy Analyst, Department of Taxes
- Aimee Pope, Classification Manager, Department of Human Resources
- Beth Fastiggi, Commissioner, Department of Human Resources
- Damien Leonard, Legislative Counsel, Office of Legislative Council
- Ed Flanagan, Member, Vermont Lottery Commission
- Erin Sigrist, Vermont Retail and Grocers Association
- Gary Kessler, Deputy Commissioner, Department of Liquor Control
- Greg Mineo, Director, Maine Bureau of Alcoholic Beverages and Lottery Operations
- Jeff Anderson, Director of the Idaho Liquor Division and the Idaho Lottery
- Jeff Cavender, Director of Sales, Vermont Lottery
- Julian Sbardella, Member, Liquor Control Board
- Mary Cassani, Business Manager, Vermont Lottery
- Mike Ferrant, Director of Security, Vermont Lottery
- Molly Paulger, Classification Director, Department of Human Resources
- Patrick Delaney, Commissioner, Department of Liquor Control
- Sandra Vitzthum, Project Manager II, Department of Buildings & General Services
- Theresa Barrows, Marketing Director, Department of Liquor Control
- Tom Waldman, General Counsel, Department of Human Resources

### Staff for the Task Force

- Damien Leonard, Legislative Counsel
- David Hall, Legislative Counsel
- Peggy Delaney, Task Force Assistant

**Appendix 3: Draft Legislation**

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