

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 212

Concord, NH

Tuesday, June 19, 2018

MEMBERS PRESENT:

Rep. Lynne Ober, Chair

Rep. Richard Barry

Rep. Lucy Weber

Sen. Lou D'Allesandro

Sen. John Reagan

Sen. Jay Kahn

(The meeting convened at 11:30 a.m.)

1. Acceptance of the March 9, 2018 meeting minutes.

CHAIRWOMAN OBER: The time being 11:30, I will call the meeting of the Performance Audit Board to order. Does anybody have any changes to the minutes?

****** SEN. REAGAN: Move to approve.

CHAIRWOMAN OBER: Senator Reagan moves to approve. Is there a second?

REP. WEBER: Second.

CHAIRWOMAN OBER: Representative Weber seconds. Any discussion? All those in favor? Aye.

******* {MOTION ADOPTED}

2. Current status of ongoing performance audits
Department of Environmental Services, Wetlands
Permitting
Adult Parole Board
Police Standards and Training Council

CHAIRWOMAN OBER: Current status of ongoing performance audits, gentlemen?

STEVEN SMITH, Director of Audits, Office of Legislative Budget Assistant: Good morning, Madam Chair. We have -- for the record, Steve Smith, Director of Audits for the Office of Legislative Budget Assistant.

Since we last met with you, there were two -- two audits that were completed and presented to Fiscal. The Department of Information Technology, performance audit, and the Air Resource Division within the Department of Environmental Services. Those were completed, and we will give you a brief presentation on those in a moment.

We have three ongoing audits right at the moment. The Water Division at the Department of Environmental Services. We are active in the field as we speak, and we're hoping to complete that by the end of the year.

CHAIRWOMAN OBER: All right.

MR. SMITH: The two audits are just beginning, Adult Parole Board within the Department of Corrections and Police Standards and Training Council. We had interest meetings at the end of last month for both of those, and we're currently scoping out those topics, and we hope to have a Scope Statement ready as early as maybe the third

or fourth week of July if we can. Sorry about that.

The one audit that was also in our queue that we will be recommending that we suspend is the PUC audit. We'll talk about that in a moment. So there are no other topics in our queue at the moment.

CHAIRWOMAN OBER: Police Standards and Training?

MR. SMITH: Yep, I mentioned that we have had an interest meeting. So there are two audits that we should have Scope Statements coming before you.

CHAIRWOMAN OBER: I'm sorry, Steve. Any questions on this topic or his comments?

3. Discussion of preliminary findings on the Public Utilities Commission, electric company restructuring audit topic.

CHAIRWOMAN OBER: Could we move to three and hear about the PUC audit?

MR. SMITH: Yes, Jay and John Clinch will talk about that.

CHAIRWOMAN OBER: Good morning.

JAY HENRY, Performance Audit Supervisor, Office of Legislative Budget Assistant: For the record, my name is Jay Henry. I'm the Performance Audit Supervisor, and John Clinch is the Senior Audit Manager, and he is in charge of looking into the PUC audit. You should have received a one-page preliminary finding. If you want, he can give you a shortened version of that or sort of maybe the bottom line for us.

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CHAIRWOMAN OBER: I did. Did you guys? Or do you need that? Okay. No.

MR. HENRY: Just the bottom line?

CHAIRWOMAN OBER: Just the bottom line.

MR. HENRY: All right. Great.

CHAIRWOMAN OBER: We actually did our homework.

JOHN CLINCH, Senior Audit Manager, Office of Legislative Budget Assistant: All right. The bottom line is electric costs have increased primarily due to the low cost of natural gas, but we do not believe that we can determine how much RSA 374-F contributed to the price increase versus the low cost of natural gas.

We didn't think it was prudent to spend additional resources when we can tell you the status of the electric company restructuring today, and that is it's substantially complete. And for that reason we're asking you to terminate the audit.

CHAIRWOMAN OBER: Any questions? Do we have a motion to terminate?

** SEN. REAGAN: Move to terminate.

CHAIRWOMAN OBER: Senator Reagan moves to terminate. Is there a second?

REP. BARRY: I'll second.

CHAIRWOMAN OBER: Representative Barry seconds. Any

more discussion?

REP. WEBER: I just wonder if there's anybody in the audience who has any thoughts about it one way or the other.

CHAIRWOMAN OBER: Well, we're not posted for public hearings unfortunately. I didn't know. So.

REP. WEBER: Well, that's never stopped us in the past.

CHAIRWOMAN OBER: Okay. It's gonna stop us now.

REP. WEBER: Okay.

SEN. KAHN: I guess I -- you know, we've completed something over a 20-year period. It seems that the marketplace has diversified significantly, but I'm not sure of that. I guess I'm wondering what observations you have about the diversity of our fuel mix today versus what it was 22 years ago when we started down this path.

MR. CLINCH: We had meetings with the Public Utility Commission staff. One of the things that they told us was that nuclear, coal, and oil, we're much less dependent on now, and that's primarily due to low-cost natural gas. So we've become more dependent on low-cost natural gas and away from nuclear, coal, and oil.

There was recently a Supreme Court case talking about the ability of gas suppliers to bring a pipeline into New Hampshire and whether that fit under this rubric of 374-F, and that was actually remanded and reversed back to the PUC for a determination. So we're primarily dependent on natural gas at this point even though the

supply keeps draining.

SEN. KAHN: Follow-up?

CHAIRWOMAN OBER: Follow-up.

SEN. KAHN: What percent, do you know, of the electric supply market is provided by renewable fuels?

MR. CLINCH: That I don't know.

THOMAS FRANZ: About 10, 12 percent overall in New England.

SEN. KAHN: Through all of New England? Thank you.

MR. FRANZ: It varies somewhat by season. Obviously the spring hydro is much higher, but as you move through the summer that drops off.

CHAIRWOMAN OBER: Senator Kahn uses geothermal in the summer to cool.

SEN. KAHN: Twelve percent. It would be nice if it were 25 percent.

CHAIRWOMAN OBER: They can go in your backyard.

SEN. KAHN: Thank you.

CHAIRWOMAN OBER: There you go.

SEN. KAHN: It's micro. Micro.

CHAIRWOMAN OBER: Representative Barry.

REP. BARRY: Madam Chair, I'm assuming that even though we're going to stop the audit that we'll get some details and analysis behind the numbers that say the only thing that has raised the price was the -- is reliance on natural gas.

CHAIRWOMAN OBER: I think I heard him say he really couldn't determine that, but that was his assumption. Did I misstate what you said?

MR. CLINCH: No, that's correct. We really didn't prepare any more analysis behind the statement of just what PUC told us.

CHAIRWOMAN OBER: The Governor just vetoed two energy bills yesterday.

REP. BARRY: He did something late.

CHAIRWOMAN OBER: I'm not sure if it was too late. I saw his announcement this morning. Two bills that hadn't come through Finance, so I couldn't remember off the top of my head what they said.

REP. BARRY: So the second part is usually with an audit we get some information with their suggestions for some follow-up with various things that are needed.

CHAIRWOMAN OBER: We would get that if we continue. We would not if we terminate.

(A cell phone is ringing.)

REP. WEBER: As I read -- oh.

CHAIRWOMAN OBER: Well, now I have to tell you. In Finance, if your cell phone goes off, you have to pay five bucks. And the person who collects that five bucks happens to be Representative Eaton, who will now pay the Finance secretary \$5 and help fund our coffee. Thank you for that contribution, Dan.

ATTORNEY EATON: Always a pleasure.

(Laughter.)

REP. BARRY: Madam Chair, in my committee it's \$5 for everybody that's here.

(Laughter.)

ATTORNEY EATON: That's one of the reasons I'm not on your committee.

(Laughter.)

CHAIRWOMAN OBER: Representative Weber, did you have your hand up for something serious?

REP. WEBER: I did actually. I was just gonna say in my reading of what we're presented with seemed to indicate that there was not a lot of point going forward with the recommendations.

CHAIRWOMAN OBER: As far as he could determine, yes.

MR. CLINCH: Yes.

REP. BARRY: In fairness, I do need to report that I was guilty in the ethics committee one day my cell phone went off.

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CHAIRWOMAN OBER: Well, they'll have to collect money from you outside of this meeting. We only collect money for the Finance group. All right. We have a motion on the floor to terminate. All those in favor, say aye.

*** {MOTION ADOPTED}

CHAIRWOMAN OBER: Gentlemen, we have terminated that.

MR. HENRY: Just wondering. Would the Chair like to send a letter to the Fiscal Committee?

CHAIRWOMAN OBER: Yes, if you would, send a letter to the Fiscal Committee.

MR. HENRY: Okay. We'll draft one up and have -- we'll draft the budget side maybe for you.

CHAIRWOMAN OBER: Thank you. Yeah.

MR. HENRY: All right.

4. Other business
Discuss need for new audit topics.

CHAIRWOMAN OBER: Under other business we do need new audit topics. I was emailed an audit topic from a House member that I passed on to Jay.

MR. HENRY: Yeah.

CHAIRWOMAN OBER: And did you have other suggested audit topics with you?

MR. HENRY: We don't have any with us today. We can have some ready for the next meeting, but it's really open. We'll need topics probably by the fall. I'm talking September, November, December time frame, and we'll need probably three right away, you know, for that time period.

CHAIRWOMAN OBER: The topic that came to me was to look at what's going over -- on over in education in the vo-tech area, and there have been some issues there that may or may not have been financial. This wouldn't be a financial audit, but if there are financial issues, then one has to wonder if they're meeting their performance goals.

And there have been some staffing issues over there as well, and that's all played out in the newspaper, so we've all read those reports. And that topic was emailed to me by a House member who was interested in having this audited, and it has been a number of years since they've been audited.

MR. HENRY: Right. I think there was a vocational rehabilitation agency --

CHAIRWOMAN OBER: Yeah.

MR. HENRY: I guess they're concerned that they're now under what they call an order of selection --

SEN. D'ALLESANDRO: Right.

MR. HENRY: -- which is if they don't have enough money to provide all those services to all the people who qualified, and they have different categories, then they

give the money to the most needy first.

And back when we did our performance audit back in 2001, I believe, they were not under an order of selection. They were able to provide services to everyone. I looked at our old report, and they said many states were under an order at that time, so.

CHAIRWOMAN OBER: Senator Kahn.

SEN. KAHN: Madam Chair, can you remind me and maybe Jay of the time line now? Our next meeting would be when?

CHAIRWOMAN OBER: It looks like maybe the third week in July when they have their Scope Statements ready. And, based on what we were told just a few minutes ago, they stated that.

MR. HENRY: That's when we would have two Scope Statements ready for your approval, and that would be a nice time to obtain some more topics.

SEN. KAHN: Would you like those in advance in writing?

CHAIRWOMAN OBER: Yeah, you can email them to me because it gives them a chance to look and see when the most recent audit was done and see where we are and also give us some feedback as to whether it's too broad, too narrow, too whatever because sometimes we pick topics that we modify as we go along. And I think Air Resources was an example. We started one place, and we chose to narrow it. Senator.

SEN. D'ALLESANDRO: Thank you, Madam Chairwoman. I

think the audit of DOE is the voc rehabs. There seems to be two things. There's a structural move that's being made over there to reorganize that area, and there's a financial move which will have an effect on clients to be served.

Now, the point is how do we get to this point, which I think is what the audit should reveal to us. What -- what went on over there that allowed this to happen? And this order of selection that is being -- I guess being introduced by the commissioner, they've had a series of meetings with outside entities that met with the commission to go over this and to go over the services that won't be provided. I find that to be a very disturbing situation. If you can't provide the services that were ongoing, I mean, what is going on over there?

And this restructuring that takes place at the same time, is that as a result of problems that were found -- financial problems that necessitated this order of selection and necessitated reorganization of the area?

I mean, that's something that certainly the Committee on Education in both the House and the Senate should have had some preknowledge of or at least, you know, be aware of this situation, so.

CHAIRWOMAN OBER: Yeah. I'm not even certain that all services were being provided. That's why I think it's good we look into the performance audit standards --

SEN. D'ALLESANDRO: Yeah.

CHAIRWOMAN OBER: -- because that will tell us what was going on and where we are.

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SEN. D'ALLESANDRO: Right.

CHAIRWOMAN OBER: And I know that the commissioner can speak to what he's trying to do and why --

SEN. D'ALLESANDRO: Right.

CHAIRWOMAN OBER: -- but I had some concern that we weren't meeting all of those standards. And I don't know about you --

SEN. D'ALLESANDRO: Yeah, I agree.

CHAIRWOMAN OBER: -- but just what was in the newspaper.

SEN. D'ALLESANDRO: Yeah, I've had conversations with people with regard to this situation, and they've been made aware of it, but the newspaper report says --

CHAIRWOMAN OBER: I know. I know they are, but I trust they will have enough not to be shortsighted. I thought this was worth bringing forward.

SEN. D'ALLESANDRO: Right. Exactly.

** REP. WEBER: I move it be added to the list.

CHAIRWOMAN OBER: Representative Weber moves that we add this topic to the list. Is there a second?

SEN. D'ALLESANDRO: Second.

CHAIRWOMAN OBER: Senator D'Allesandro seconds. Any

more discussion?

MR. HENRY: Is this the list that you actually want us to do it or --

CHAIRWOMAN OBER: Yes, the list that you actually -- we actually want you to --

MR. HENRY: Okay. Not just the list of potential topics?

CHAIRWOMAN OBER: No, we want you to do it.

MR. HENRY: Yeah.

CHAIRWOMAN OBER: And then we'll still look at potentials. I realize one is not enough.

MR. HENRY: Well, that's a good start.

CHAIRWOMAN OBER: It's a good start.

REP. WEBER: My thought was at least we'll let you get started, and if we need to, then tweak the scope for a larger or narrower focus. It will give us a start.

MR. HENRY: Yes. Sure.

CHAIRWOMAN OBER: Seeing no further discussion, all those in favor?

***** {MOTION ADOPTED}**

CHAIRWOMAN OBER: We're unanimous. Please add that to the list to get started. So if we have topics, if you want to ask your constituents or your fellow Reps or

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Senators, new audit topics, and then LBA will also suggest a few. You have some that you're thinking about usually.

MR. HENRY: We can create a list like we did last time. That is just something to look at, and it's usually issues we haven't looked at before. It's really up to you -- to the Board -- to the Committee to decide.

CHAIRWOMAN OBER: Okay. We'll try to meet the third week in July. Fiscal is meeting on July 20th. If we met before that week, we could submit a late item and have them actually look at these because Fiscal will not meet in August.

MR. HENRY: We won't need them until -- the topics until November or December.

CHAIRWOMAN OBER: Okay. All right. I won't have to worry about them not meeting then.

MR. HENRY: And I had circled for a week for us would be the fourth week of July starting the 23rd would be better for us.

CHAIRWOMAN OBER: Okay.

MR. HENRY: If you wanted it the third week --

CHAIRWOMAN OBER: No. That's okay with me. I just knew when Fiscal was meeting.

REP. WEBER: I have real limited availability that week, but if we can set it now, I can --

CHAIRWOMAN OBER: Well, let's see if we can set a time now.

REP. WEBER: Monday, Tuesday, or Thursday?

SEN. KAHN: I'm not available Thursday.

CHAIRWOMAN OBER: Okay. So now we're down to Monday or Tuesday the week of July 23rd. Going once. Going twice.

SEN. KAHN: And just one other option to determine. JLCAR is convening us, I believe, on July 17th.

CHAIRWOMAN OBER: Yep, but that's before this.

SEN. KAHN: So can we schedule it later?

CHAIRWOMAN OBER: But that's the wrong week.

REP. BARRY: I'm all set.

CHAIRWOMAN OBER: John, Monday or Tuesday?

SEN. KAHN: The 23rd would be my preference.

CHAIRWOMAN OBER: Lou? Monday?

SEN. D'ALLESANDRO: That's fine.

CHAIRWOMAN OBER: How about Monday at 11:30 right here?

MR. HENRY: Yeah.

CHAIRWOMAN OBER: Is that actually the 23rd or the

24th?

MR. HENRY: Monday is the 23rd.

CHAIRWOMAN OBER: Monday, the 23rd, 11:30, same room.

5. Presentations of our Department of Information Technology and Air Resources Division audits.

CHAIRWOMAN OBER: All right. We're down to the IT audit and the Air Source Division audit. I will tell you the IT audit was unique in that the agency agreed with every finding. There weren't many, but they agreed with them.

We already had a bill in progress to solve one of the things, but we elected to let them reorganize. I sit on the DoIT Oversight Committee, as does Representative Eaton, and they gave us a look -- did we meet with them last week, Dan?

REP. EATON: Yeah.

CHAIRWOMAN OBER: They've taken all those items. They're talking to their constituents and their staff, and they had set performance measures for how to meet every item that they've got going in that audit.

So I don't know what other agencies do, but this -- these guys looked at it as an opportunity to do better and to work with their partners in State Government better, and they have made strides already.

SEN. D'ALLESANDRO: Good.

CHAIRWOMAN OBER: So I figure you guys don't hear that because you weren't there.

MR. HENRY: Right.

CHAIRWOMAN OBER: We were there. Okay. So what would you like to tell us about these two audits?

MR. HENRY: We are in charge of the Department of Information Technology audit. We'll give this about a five-minute presentation, and we'll just summarize it.

MR. CLINCH: Good morning, Madam Chair, Members of the Committee. My name is John Clinch. I'm a Senior Audit Manager of the Office of Legislative Budget Assistant. I was the auditor in charge, as Jay said, of the performance audit for the Department of Information Technology.

The objective of our audit was to determine whether the department efficiently and effectively managed and coordinated technology resources for the State in fiscal years 2016 and 2017. The executive summary is found on page one.

We found the department received high marks for its technical support for the state agency clients. It struggled with internal deficiencies that led to lower-paying services like project management, billing, and application development.

We evaluated the department's processing using the 12-step attributes of the maturity model which we determined were essential to the department's organizational success and concluded the department's score in the beginning stages of maturity.

Our recommendation summary starts on page three. Our report had 24 observations of recommendations. The department concurred with 23 and concurred in part with one recommendation. We may note observations five and 22 require legislative action, and, as Representative Ober said, HB 1622 was passed and signed this session.

The first section, Service Delivery, begins on page 13. The maturity model I just mentioned is shown on Figure 2. The graphic shows progression from left to right not implemented to fully optimize.

The department's processes fell into the perform capability dimension, which is the second box to your left, which indicated the department is partially cheating its service outcomes.

The 12 observations in this section recommended improving technology planning, creating formal service level agreements, eliminating duplicate internal information systems, adopting portfolio management practices, and improving project management, evaluating the department's organizational structure, improving human resources distribution and workloads, evaluating existing help desk software, developing a process to identify state-developed software and require storage and source code management system, ensuring uniform website and compatibility with multiple devices, and improving performance measures by formally measuring customer satisfaction for all major department services.

The next section is on the financial operations.

REP. BARRY: Madam Chair?

CHAIRWOMAN OBER: Representative Barry.

REP. BARRY: If I may, you said that they should eliminate or remove duplicate internal communication systems.

MR. CLINCH: Yes, they had some duplicate IT systems.

REP. BARRY: Within IT itself?

MR. CLINCH: Within the Department of Information Technology, correct. For example, they had two systems that did source code backup. Um -- I can't remember the names. One was called Harvest. The other was State something. Um -- but they had two different tools for that. They have two different tools for project management, if you will, so we're saying consolidate those into one tool. From two to one.

REP. BARRY: Thank you.

CHAIRWOMAN OBER: So that we're already underway but not completed.

MR. CLINCH: In the financial operations section we recommended simplifying the cost allocation methodologies to improve transparency and equity and improving billing process, ensuring customer agency funding methods are formalized and kept current, ensuring cost allocation practices are periodically reviewed and revised, and analyzing duplicate financial software and examining the business processes.

Figure 3 on page 55 shows how the requisition process uses two different IT systems leading to delays

in the execution of IT purchases. On the right side of Figure 3 it shows the requisition process for the New HampshireFirst, which is a state system of records for IT purchases.

And on the left side is the additional processes undertaken by the department to request, review, approve, and process requisitions using internal software -- internal evaluating -- I'm sorry -- using internal software in addition to steps taken to New HampshireFirst process. We recommend evaluating and improving the computing process.

Our last section is on administration. The next two -- the last four observations. We recommend the department update its Continuity of Operations Plan, clarify through the Legislature the department's ability to establish administrative rules that are binding on state agencies, develop policies and procedures to ensure the IT Council complies with statutory requirements, and resolve all prior finding audits -- all prior audit findings timely.

In the appendices, you find that the tabs -- the sections of the report include our methodology, the department's response to our audit, and the results of three surveys that we conducted, and the status of prior audit findings.

In conclusion, we found evidence that state agencies are satisfied with the department services, but we also identified several areas where the department could improve efficiencies and effectiveness of its services and operations. This concludes our remarks. If you have any questions.

CHAIRWOMAN OBER: The department is working on making all those things happen. Senator.

SEN. D'ALLESANDRO: Thank you. Thank you, Madam Chair. Initially what we heard through the budget process was that agencies found that it was more expensive to go with the uniform IT situation than it was when they had their own separate providers. Has that diminished to some extent?

MR. CLINCH: I think there's a perception of the state agencies that they are not considering a lot of the core services as delivered as part of that cost that they're paying.

Yeah, they're paying for Internet access, for example, all the security behind access, all the help desk support. So when they're purchasing a computer it costs more than what they can get on the outside if you go into Best Buy, et cetera.

SEN. D'ALLESANDRO: But somehow -- if I might?

CHAIRWOMAN OBER: Sure.

SEN. D'ALLESANDRO: But somehow that perception has to be mitigated because if that perception continues to exist, you don't seem to get any dollar value, and I think that's -- that's what we heard initially. From what -- from what -- I gather from what you just said, that -- that has been subsided to some extent based on --

MR. HENRY: On the survey.

SEN. D'ALLESANDRO: Based on the survey and what

you've given us. My other question is duplication of the efforts. You should always have backup --

MR. CLINCH: Um-hum.

SEN. D'ALLESANDRO: -- with this system. And this system is so large that if you don't have backup, you don't have an alternate. If this thing ever goes down, you know, it's problematic. I don't know if we have a lot of source code, if we buy it when we buy -- you know, buy different software, but, I mean, all of that stuff has got to be maintained, and there's got to be some kind of a solid backup system. This is a big operation. Does that allow for that or are you saying that this is overdone?

MR. CLINCH: I'd agree with you that there needs to be backup done, and there's some duplication of effort there. But what we found was that there's two separate and independent systems.

So for any given application some people put it into Harvest when they're developing the application, and some people put the source code into the other application, so there's no -- there's no one standard way of doing it. And I think it diminishes their ability to keep track of what's been backed up and what hasn't been.

SEN. D'ALLESANDRO: Okay. So they're relevant parallel systems.

MR. CLINCH: Correct.

CHAIRWOMAN OBER: But, you know, that's not IT.

SEN. D'ALLESANDRO: Excuse me?

CHAIRWOMAN OBER: That's not IT. If you're taking back to -- gees. How many years has it been since LBA lost 30 years worth of records because they weren't backed up? Because Scott Ruff wasn't running backups.

DoIT doesn't do anything on the House side and doesn't make sure that the House records are being backed up. They've never been tasked with that, and we have our own IT staff.

SEN. D'ALLESANDRO: Okay. Fine.

CHAIRWOMAN OBER: Senator Kahn.

SEN. KAHN: Thank you, Madam Chair. I wanted to ask --

CHAIRWOMAN OBER: Bye, John.

SEN. KAHN: -- about the HHS consolidation into DoIT.

CHAIRWOMAN OBER: That was taken out of the budget.

SEN. KAHN: Yes.

CHAIRWOMAN OBER: So there's no bill for that.

SEN. KAHN: And it hasn't been heard?

CHAIRWOMAN OBER: There is no bill to make that happen. It got taken out of the budget.

SEN. KAHN: Did you find instances of overlaps between the operating systems?

CHAIRWOMAN OBER: We didn't ask him to look at HHS. Remember, they only looked at DoIT. HHS is stand-alone.

SEN. KAHN: Well, I know. So you're saying that if I am under the impression that some -- there was an attempt to consolidate and -- save some money and consolidate some of those resources, that hasn't happened.

CHAIRWOMAN OBER: Commissioner Goulet wanted to look into that and make that happen. Commissioner Meyers pushed back. It has not happened. It needs a bill. There's your task for the fall.

SEN. KAHN: Some collaboration with the Commissioners. Thank you.

CHAIRWOMAN OBER: Next audit.

MR. HENRY: All right. Coming to the table is Vilay Skidds. She will be in charge on the Air Division audit.

MS. SKIDDS, Audit Supervisor, Office of Legislative Budget Assistant: Good morning, Madam Chair, Members of the Committee. Afternoon, lady. My name is Vilay Skidds, and I'll be presenting the Air Resources Division performance audit report. The purpose of our audit is to determine whether the division operated efficiently and effectively during fiscal years 2016 and 2017.

Since 1998, the Air Resources Division has been responsible for administering the requirements of the federal Clean Air Act in New Hampshire. These requirements include monitoring New Hampshire's air

quality as well as overseeing permitting, inspection, compliance testing, and enforcement activities at over 600 facilities holding air permits and over 1,200 other businesses not required to hold an air permit but still subjected to clean air standards.

We found the division was generally efficient and effective in carrying out its mission to protect New Hampshire's air quality. EPA officials overseen by the division reported high levels of satisfaction with the division's work and the professionalism of the staff.

While the division's experienced and knowledgeable staff was a great asset in performing its duties, it was also its biggest risk. Staff had on average 18 years of experience. In five years, over half of those working for the division will be eligible for retirement. Additionally, the division's 23 percent vacancy rate impacted its ability to perform some inspections timely.

This report contains 10 observations and recommendations, and the division concurred with all 10, and none of the recommendations require legislative action. Our first observation addresses succession planning and work force development.

We found half the division staff will be eligible for retirement in the next five years, and 70 percent will be eligible in the next 10 years. Many occupy key positions within the division. Despite this, we found gaps in written policies, procedures, and outdated guidance. The rest of the division could lose critical knowledge and skills as the staff retires.

Our next two observations address the permitting

process. Over 70 percent of the permit applications we reviewed were not processed according to the division's informal goals. Most were renewal applications.

Factors such as staffing levels, the timing of when renewal applications were required to be submitted, and the length of assigning applications to staff may have contributed to this untimely processing.

Additionally, we found requiring the same amount of time for public comments regardless of the application sites may have unnecessarily prolonged the permitting process as only three percent of the applications we reviewed actually received comments from the public.

Our next three observations discuss the inspection process. We found some facilities were not inspected according to this schedule, some going over 15 years between inspections. Some permitted equipment is also not in operation during the inspection with some going at least two inspection cycles without being seen in operation. This hindered the division's ability to determine compliance with some standards. Additionally, we did not find a process to ensure issues that did not warrant a referral to the enforcement section were actually corrected.

Our next three observations address stack testing. The division requires a staff member be present at all stack testing in New Hampshire despite minimal evidence that this is necessary for all stack tests.

We also found that not all testing procedures aligned with requirements in the administrative rule, and the need for a follow-up after a test was not always consistently done.

Our last observation is of the enforcement process. We found staffing needs contributed to some delays in closing out enforcement issues. Almost half of the cases we reviewed were not assigned to enforcement staff until three months after they'd been referred, with some going six months before being assigned. Additionally, we found delays in closing out some cases where the facilities had always come back into compliance with their requirements.

The rest of our report contains two other issues and concerns, one addressing dissemination of enforcement information and reviewing fees paid by mobile sources of pollution. This concludes our presentation. I'm happy to take any questions if you have them.

CHAIRWOMAN OBER: Questions?

REP. BARRY: I do, Madam Chair. I'm not sure of the scope of this or not. Given that's the largest single-point source of air contamination and that the funding for their operation is dependent upon -- mainly dependent upon that source, were there any indications given as to how they could reorganize and handle that lack of funding?

MS. SKIDDS: Well, what's been happening is they have a certain amount of money that they have to collect to keep operations funded. So what happens is as that source of pollution decreases, the fees, the per ton rate has had to go up. So in one area here we do actually have a chart that shows that decrease in pollution -- per ton pollution rate and then the rates going up.

REP. BARRY: No, no. I understand that, but doesn't that lead us to the point of diminishing returns? We're going to be spending the same amount of money to look at considerably fewer point sources or fewer potentials.

MS. SKIDDS: The -- um -- I think there's an argument to be made that there aren't fewer -- um -- requirements that need to be looked at even with that one particular source being -- shutting down.

There are a lot of businesses that don't hold an air permit so they're not paying anything for the emission rate, and they're not paying for any of the services, but the staff still needs to go out and make sure that they're still in compliance with the air toxin program.

So those are entities, small entities like spray booths, car detailing shops, and stuff like that that do emit certain toxins into the air. They don't hold a permit because they're too small, so they're not paying any of those rates, and some of those resources are actually being diverted to those areas that have to a point not been looked at as much as the division had wanted to.

CHAIRWOMAN OBER: Jay, is that something that can be looked at in the fall? A job for you, too. Look at that. We're all getting jobs. Senator D'Allesandro, is your hand up?

SEN. D'ALLESANDRO: Yes, it is. Thank you. I think audit after audit we hear about succession planning. We also at the same time hear that the work force is extended and that the number of retirements coming up are going to deplete the force.

Now, if both of those situations are in play, I mean, we could be back here in five years if the agency might not be able to do its job. So, as a Legislature and legislators, we certainly have a responsibility to make sure that they're funded properly so that they can plan for the amount of people they'll lose because I've heard this too often.

CHAIRWOMAN OBER: So, Senator, let me remind you that state law requires DAS to do the work force planning, and DAS has not been funded ever to do that. So you're gonna hear this in every agency because we're not funding it in the agency that has been tasked.

And, again, perhaps it is that we need to change that state law and put it -- spread that out or perhaps it is that we need to actually fund it if we want something to be done. And I'm not sure the answer to that, but that I think is one reason you hear that in so many of the audits is because we haven't funded it.

SEN. D'ALLESANDRO: Well, I think if we keep hearing it, we ought to wake up --

CHAIRWOMAN OBER: Yeah, I do, too.

SEN. D'ALLESANDRO: -- and fund it because it's becoming pervasive, and I've heard it for nearly the last 40 years around here, so it's something that really has to be done now.

I just love to -- when we're talking about the work force and the percentage of the work force that's thinking about leaving, thinking about retiring and those that are in a situation where they could retire, those numbers are pretty staggering, and if we don't do

something, we're our own worst enemies.

CHAIRWOMAN OBER: Yeah, I would agree with you. I know for a fact that DAS has asked for staffing for at least the past three bienniums and not gotten anything in the budget.

MR. HENRY: I'll just mention we did a performance audit on succession planning back in 2008, so that was something, you know, this Committee had asked us to do back then, so.

CHAIRWOMAN OBER: Um-hum.

REP. WEBER: I got a call-in question, and I guess maybe that's for all of us in the next budget cycle, but my call-in question was I think you said 23 percent vacancy rate.

MS. SKIDDS: At the time.

REP. WEBER: At the time that you did the audit. Did you get a sense that that was because there are not people available or did you get a sense as to why that was?

MS. SKIDDS: I think there were some concerns that they couldn't attract qualified people because some of their even entry level positions require an engineering degree, and those are not -- those jobs are not competitive with the private sector, so we've got people coming out of school who have engineering degrees, like I said, that may not be able to work for the State.

REP. WEBER: I get that.

MS. SKIDDS: So what they've been doing is they do have interns that they do bring in from UNH, so some of those interns -- um -- I think they've been able to keep -- I think it's two -- at least one, maybe two that we've been able to keep on as they were interns kind of finishing up their degree, and the division was able to see how they worked, and in turn the interns enjoyed the job. So they are putting in some features to try to attract those people, but from what we've heard we have requirements that may not fit.

CHAIRWOMAN OBER: Thank you.

REP. WEBER: Thank you very much.

CHAIRWOMAN OBER: Thank you for your report.

REP. BARRY: Senator, perhaps an audit suggestion would be the 2008 succession plan audit. We can put that on the agenda for the next.

CHAIRWOMAN OBER: Could you, Jay, put that on the list of possible topics for next time?

MR. HENRY: Yes.

CHAIRWOMAN OBER: We'd appreciate that.

SEN. KAHN: And in support of that, Madam Chair, one of the observations here is the delay in follow-ups of compliance funding. And so there's a cost to the State, right? Here in this, in the lack of succession planning, the lack of our ability to fill existing vacancies is that we've got statutes and compliance requirements on the books that -- that -- and I think trying to give us -- you know, it's one thing to know we've got a

succession problem, but I don't know that the public necessarily responds to well, things are tough all over, but when there are externalities, costs to all of us who experience because of the gaps and vacancies, then I think there's more of a mandate on us to respond responsibly.

CHAIRWOMAN OBER: You also have to keep in mind that this happened at a time when the commissioner had left. There was an acting commissioner that was audited, and although a new commissioner came on it takes a while to gen up.

So we had some factors, and we often have that, but when you lose the person at the top sometimes there's kind of a hiatus. Let's wait and see what's going on with the new person. You don't know internally what they were doing at that time. But this was done in that time frame.

MS. SKIDDS: The audit period was 2016 -- 2016 and 2017.

CHAIRWOMAN OBER: Representative Weber.

REP. WEBER: I just need a clarification about the succession planning audit that we just added to our list of topics to think about.

CHAIRWOMAN OBER: Well, that will be a topic for the next meeting because we will discuss topics at the next meeting. So I don't think we're ready to clarify those at this point in time.

REP. WEBER: Could I just finish my concern about

it?

CHAIRWOMAN OBER: You can -- if you have a question, please ask it, but it's not really a topic on the table at the moment. I want to get those topics together. I want these guys to have a chance to get for us information and come up with some ideas. They need to look at what was done. They know it's being completed. That's online. We get full topics back.

REP. WEBER: No, I get that. I'm wondering why we are even thinking about auditing succession planning again when we have apparently already got the knowledge that it is tasked through DAS, and they are not funded to do it; therefore, they are not doing it.

CHAIRWOMAN OBER: They're not.

REP. WEBER: So why an audit is the question that pops immediately to my mind.

CHAIRWOMAN OBER: Well, that's why I said that's a discussion we'll have when we get those topics because I'm gonna have some of those same questions, but --

REP. WEBER: I was trying to short circuit some work for somebody, but that's fine.

SEN. D'ALLESANDRO: Well, I think reviewing the audit is probably very acceptable, and that's --

CHAIRWOMAN OBER: Jay, can you email all of us that audit?

MR. HENRY: Yeah.

SEN. D'ALLESANDRO: -- what was requested and what we have, and maybe we can put that into action for the next. So I agree with you totally. You don't have to redo it. We've heard it enough so that it's there.

REP. WEBER: Yeah, that was my point.

SEN. D'ALLESANDRO: Yeah, I got it. I got it.

REP. WEBER: Thank you.

REP. BARRY: I do have a question, Madam Chair.

CHAIRWOMAN OBER: Yep.

REP. BARRY: You mentioned that part of the problem was that the requirements for the job include an engineering degree, but the candidates outside could make more money outside doing that, so one of two things is happening. Either the job is not getting done or they're outsourcing it. Is there any indication there that they had outsourced?

MS. SKIDDS: We didn't find any indication that they were outsourcing it. What was happening was that the workload was being spread out a little bit more among everyone who was there. And most of the people that have been there for a very long time, the concern there is once those people leave where -- where are you? That leads to problems.

REP. WEBER: And it's taking them longer to do the work.

MS. SKIDDS: Yes.

REP. BARRY: So the follow-up would be -- if I may? Has it been looked at as to whether the job required an engineering degree?

CHAIRWOMAN OBER: Well, that's the question I wrote to myself to ask Bob Scott, but they can't answer that. But now that we have a new commissioner, that's something that should be looked at.

MS. SKIDDS: They are actually looking at some of those requirements. When we were speaking to them about that issue and that concern, they were talking about looking at some of those requirements could be -- um -- you know, instead of two years experience could be possibly just one year experience or somebody who has other types of experience that qualifies for this position, so they are looking at those.

CHAIRWOMAN OBER: I think you and I need to talk about that.

6. Date of next meeting and adjournment.

CHAIRWOMAN OBER: Okay. We've picked July 23rd at 11:30 for our next meeting. We will have a list of topics. We will have two Scope Statements, and I don't know what else at that time. Thank you very much. Is there a motion to adjourn?

** SEN. D'ALLESANDRO: So moved.

SEN. KAHN: Second.

CHAIRWOMAN OBER: Okay. We are done. Thank you all for coming.

(The meeting adjourned at 12:17 p.m.)

C E R T I F I C A T E

I, Debra L. Mekula, a Licensed Court Reporter and Justice of the Peace of the State of New Hampshire, do hereby certify that the foregoing, to the best of my knowledge, skill and ability, is a true and accurate transcript of my stenographic notes of the Legislative Performance Audit and Oversight Committee Meeting taken at the place and under the circumstances present on the date hereinbefore set forth.

Debra L. Mekula

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 Licensed Court Reporter
 Registered Merit Reporter
 N.H. LCR No. 26 (RSA 310-A)



LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

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