

STATE OF NEW HAMPSHIRE
BIENNIAL REPORT
OF THE
LEGISLATIVE BUDGET ASSISTANT
CALENDAR YEARS 2017 AND 2018

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January 2019

To the Members of the House of Representatives Finance Committee, Senate Finance Committee, House of Representatives Ways and Means Committee, and Senate Ways and Means Committee:

I am pleased to present to you, in accordance with RSA 14:31, VI, a report of the results of post-audits, program result audits, and investigations conducted during calendar years 2017 and 2018 by the Audit Division of the Office of Legislative Budget Assistant (LBA).

Additionally, I offer a summary of the activities and responsibilities of the Budget and Audit Divisions during the biennium, and note changes that affect the technical reporting methods of the LBA.

Additional information about the LBA can be found at www.gencourt.state.nh.us/lba. The web site also makes available to the public, information about the state operating and capital budgets, the Fiscal Committee, the Performance Audit and Oversight Committee, the Long Range Capital Planning and Utilization Committee, and the Capital Budget Overview Committee. In addition, the site includes the full text of all issued audit reports, as well as general information regarding our mission and statutory authority.

THE BUDGET DIVISION

During the General Court's annual sessions and throughout the year, the LBA Budget Division provides technical staff assistance in the areas of finance, accounting, and budgeting to members of the Legislature and its committees. It also assists in preparing the operating and capital budgets and provides assistance to special study committees and commissions.

The Budget Division monitors bills that contain appropriations, bond authorizations, or have revenue and expenditure implications. Fiscal notes are written as needed. 594 fiscal notes were written during the 2017 session for introduced and redrafted bills and amendments; during the 2018 session, a total of 517 fiscal notes were written for introduced, redrafted, and amended bills.

The LBA staff provides support to the Fiscal Committee, the House Finance Committee, the Senate Finance Committee, the House Ways and Means Committee, the Senate Ways and Means

Committee, the House Public Works and Highways Committee, the Senate Capital Budget Committee, the Capital Budget Overview Committee, the Long Range Capital Planning and Utilization Committee, the Legislative Performance Audit and Oversight Committee, and other committees when requested.

The Budget Division is also responsible for writing fiscal impact statements for new, amended, and interim rules submitted under the Administrative Procedure Act (RSA 541-A). In 2017, there were 255 fiscal impact statements written for various rules; in 2018, the LBA issued 259 fiscal impact statements.

The Budget Division is actively involved in the National Conference of State Legislatures (NCSL) and the Eastern States Legislative Fiscal Officers Association (ESLFOA).

Revenue Projections

As required by statute, the Legislative Budget Assistant assists the committees responsible for estimating State revenues for the forthcoming biennium, and tracks for the responsible committees actual State revenues to see how they correspond with projections.

Responsibilities Of The Fiscal Committee

The Legislative Budget Assistant is appointed by the Fiscal Committee. The ten-person committee meets monthly to consider a variety of requests from State agencies. Among its duties are to accept and authorize the expenditure of federal and other funds in excess of \$100,000 that were not previously budgeted; to transfer funds from allocated units inter- and intra-agency; to authorize the expenditure of federal funds for personnel costs; to grant agencies approval to spend appropriations, when required to do so by law; and to transfer money from the Highway or Fish and Game surplus accounts. The Committee also reviews and approves all audits conducted by the LBA or under its aegis.

THE AUDIT DIVISION

The pace of change in the governmental accounting and auditing field over the past several years shows no sign of relenting. The national focus on audit quality in both the public and private sector has highlighted the need for auditors at all levels to better understand both the operating environments and the numerous and complex financial reporting and audit standards that apply in the governmental sector. The LBA provides regularly scheduled continuing professional education to its staff and, to the extent possible, invites employees of other agencies and departments to attend. The Audit Division is actively involved in the New England Intergovernmental Audit Forum and the National State Auditors Association.

Auditing Standards

The Audit Division conducts both financial and performance audits in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. These standards are known as both Generally Accepted Government Auditing Standards (GAGAS) and as the Yellow Book.

In accordance with these standards, the LBA has the following audit objectives:

- Attesting to the fair presentation, in all material respects, of agency financial statements.
- Determining whether the State's resources are properly safeguarded.
- Determining whether such resources are properly and prudently used.
- Determining an agency's compliance with legal and regulatory requirements.
- Evaluating management's economy and efficiency in its use of resources.
- Determining and evaluating a program's results, benefits, and accomplishments.
- Ensuring that all audit results are fully disclosed to the Legislature, the public, and State agencies.

All LBA audit results are intended to inform the Legislature and to assist the agency and program administrators by indicating areas where accounting and administrative controls, financial operations, risk assessments, program results, and efficiency and effectiveness can be improved.

All audits conducted by the LBA are in accordance with the applicable standards, which necessitates close monitoring of the current and proposed standards, including standards on auditor independence. The Audit Division has historically protected and maintained its independence both in appearance and in fact. We will continue to closely monitor all changes to standards to ensure audit work complies with industry standards.

Government Auditing Standards require that organizations conducting audits undergo an external quality control review, also known as a peer review, at least once every three years. The Audit Division underwent a peer review conducted under the direction of the National State Auditors Association in October 2017. This peer review resulted in a favorable opinion on the system of quality control in place at the LBA - Audit Division. The next peer review is anticipated in October 2020.

Accounting Standards

In endeavoring to remain current with generally accepted accounting principles, the LBA continually monitors the activities of the Governmental Accounting Standards Board (GASB). Changes in financial reporting standards take place regularly. Since its inception in 1984, GASB has issued 90 governmental accounting standards Statements and, as of December 2018, has many other projects in process.

Reports Issued

During 2017 and 2018, the Audit Division issued 21 audit reports. A complete list of these reports begins on page 1. The audits involve all components of State government and offer a total of 192 observations and recommendations for improving operations and strengthening internal managerial and accounting controls to ensure that funds are expended as intended and recorded properly. Of these, 27 suggested legislative action may be required.

In addition to the audit work conducted by the LBA staff, the Office also contracted with other accountants for audit work. A list of the contracted accountants and their reports can be found on page 48 Reports issued by the LBA or its contracted accountants can be accessed by visiting our web site at www.gencourt.state.nh.us/LBA/auditreports.aspx.

Funding Of Audits

The Audit Division is initially funded by appropriations from the General Fund. Agencies and programs which do not receive appropriations from the General Fund are billed at the conclusion of an audit. Fees are based on the time required by the individuals assigned to the engagement. Individual hourly rates vary according to the degree of responsibility involved and the experience and skill required. Costs for audits completed for federally funded programs are billed to the Audit Set Aside Account, to which all federal programs contribute annually, in accordance with the federally approved statewide central service cost allocation plan. The Audit Division collected \$1,023,378 and \$551,007 in revenue in State fiscal years 2017 and 2018, respectively.

The Office of Legislative Budget Assistant is grateful for the support it receives from the leadership and members of the General Court. I look forward to continuing this cordial and productive relationship in the coming years.



Michael W. Kane
Legislative Budget Assistant

LEGISLATIVE BUDGET ASSISTANTS

<u>Years of Service</u>	<u>Legislative Budget Assistant</u>
1947 – 1948	* Arthur E. Bean
1948 – 1969	* Remick J. Loughton
1969 – 1971	* Henry F. Goode, <i>Acting LBA</i>
1971 – 1984	* Henry F. Goode
1984 – 1996	Charles L. Connor
1997 – 2008	Michael L. Buckley
2008 – 2015	Jeffry A. Pattison
2015 – Present	Michael W. Kane
	* Deceased

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**SUMMARY OF AUDITS AND OTHER REPORTS COMPLETED AND
ISSUED BY THE OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

The Office of Legislative Budget Assistant completed and issued 21 reports from January 1, 2017 through December 31, 2018. A synopsis of each is included in this report at the referenced page number. These reports can be accessed at and printed from the Office web site at www.gencourt.state.nh.us/lba/auditreports.aspx.

FINANCIAL AUDIT REPORTS

AGENCY / AREA OF REVIEW	PERIOD AUDITED	PAGE
Agriculture, Markets, And Food Department Of	For The Nine Months Ended March 31, 2017	4
Fish and Game Fund Audited Financial Statements	For The Fiscal Year Ended June 30, 2018	6
Highway Fund Audited Financial Statements	For The Fiscal Year Ended June 30, 2016	7
Highway Fund Management Letter	For The Fiscal Year Ended June 30, 2016	8
Liquor Commission Comprehensive Annual Financial Report	For The Fiscal Year Ended June 30, 2016	9
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AGENCY / AREA OF REVIEW	PERIOD AUDITED	PAGE
Lottery Commission Comprehensive Annual Financial Report	For The Fiscal Year Ended June 30, 2018	17
State Procurement Card Program Internal Control Review October 2017	For The Six Months Ended December 31, 2016	18
Veterans' Home Members' Administration Account Internal Control Review October 2018	For The Nine Months Ended March 31, 2018	22

PERFORMANCE AUDIT REPORTS

AGENCY / AREA OF REVIEW	PERIOD AUDITED	PAGE
Community College System Of New Hampshire August 2017	For The Five Fiscal Years Ended June 30, 2017	26
Department Of Environmental Services, Air Resources Division May 2018	For The Two Fiscal Years Ended June 30, 2017	30
Department Of Information Technology, March 2018	For The Two Fiscal Years Ended June 30, 2017	34
Board Of Pharmacy, Controlled Drug Prescription Health And Safety Program December 2017	For The Five Fiscal Years Ended June 30, 2017	37
Office of Professional Licensure And Certification, Naturopathic Board Of Examiners April 2017	For The Two Fiscal Years Ended June 30, 2016	40
Office of Professional Licensure And Certification, Real Estate Commission September 2017	For The Three And A Half Fiscal Years Ended December 31, 2016	44

**SYNOPSSES OF REPORTS ISSUED BY THE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

JANUARY 1, 2017, THROUGH DECEMBER 31, 2018

A summary of each report issued by the Office of Legislative Budget Assistant from January 1, 2017 through December 31, 2018 is provided herein. Each summary describes what was found at the time of the audit. The summaries are presented alphabetically by agency under audit with respect to the type of audit conducted.

FINANCIAL AUDIT REPORTS

**State Of New Hampshire
Department Of Agriculture, Markets, And Food
Financial Audit Report
For The Nine Months Ended March 31, 2017**

We audited the financial statement of the Department of Agriculture, Markets, and Food (Department) for the nine months ended March 31, 2017, and issued our report thereon dated November 30, 2017. Our report on the financial statement was modified as the Statement of Revenues and Expenditures – General Fund does not purport to and does not constitute a complete financial presentation of the Department in the General Fund in conformity with accounting principles generally accepted in the United States of America.

The financial audit report presents information related to our audit in two sections: a management letter section and a financial section. The management letter section, prepared by the auditors, is a byproduct of the audit of the Department's financial statement. This section contains an auditor's report on internal control over financial reporting and on compliance and other matters, related audit findings as listed below, and a summary of the status of prior audit findings originally contained in the report of the audit of the Department for the six months ended December 31, 2008.

The financial section of this report, with the exception of the independent auditor's report on the Department's financial statement, was prepared by the financial management of the Department, with assistance from the Department of Administrative Services, Bureau of Financial Reporting. In addition to the auditor's report, the financial section of the report included the financial statement, notes to the financial statement, and other supplementary information.

During the nine months ended March 31, 2017, the Department's revenues were \$4.9 million and its expenditures were \$3.5 million.

Internal Control Comments

Significant Deficiencies

- Centralize Business Functions
- Establish Policies And Procedures For The Reconciliation Of Financial Activity
- Encourage Manufacturers To Improve Compliance With Product Registration Requirements
- Review The Apparent Causes For A Decrease In Licensing Revenues
- Strengthen Controls Over The Animal Population Control Program
- Review Responsibility For The Collection Of Animal Population Control And Veterinary Diagnostic Lab Fees
- Establish Policies And Procedures For Preparing And Supporting Draws Of Federal Grant Funds
- Secure Documentation Containing Personally Identifiable Information
- Conduct Annual Job Performance Evaluations For All Full-Time Classified Employees

- Review The Plans And Expectations For The Operation Of The Milk Producers Emergency Relief Fund Program
- Establish Policies And Procedures For The Operation Of The State's Building At The Big E
- Monitor And Remind Board Members Of Statement Of Financial Interests Filing Requirements
- Prepare And Submit A Current IT Plan

Compliance Comments

State Compliance

- Adopt Statutorily Required Rules
- Comply With Statutory Reporting Requirements

Federal Compliance

- Comply With SCBG Program Requirements
-

State Of New Hampshire
Fish And Game Fund
Audited Financial Statements
For The Fiscal Year Ended June 30, 2018

The New Hampshire Fish And Game Department was established in 1865, and is the oldest state agency. As the guardian of the state's fish, wildlife and marine resources, the New Hampshire Fish And Game Department works in partnership with the public to: Conserve, manage and protect these resources and their habitats; Inform and educate the public about these resources; and Provide the public with opportunities to use and appreciate these resources.

The Fish And Game Fund financial statements consisted of the Balance Sheet as of June 30, 2018 and the related Statement of Revenues, Expenditures, and Changes in Fund Balance for the fiscal year then ended, and the related notes to the financial statements.

During fiscal year 2018, the Fish And Game Fund reported \$30 million of revenues, \$27 million of expenditures, and a \$1.7 million of other financing sources. The fund balance in the Fish And Game Fund on June 30, 2018 was \$10 million.

AUDIT RESULTS

The auditor's report on the Fish And Game Fund financial statements was unmodified.

A management letter dated December 21, 2018, a byproduct of the fiscal year 2018 financial audit of the Fish And Game Fund, was issued under a separate cover.

State Of New Hampshire
Highway Fund
Audited Financial Statements
For The Fiscal Year Ended June 30, 2016

The New Hampshire Highway Fund accounts for the revenues and expenditures used exclusively in the construction, reconstruction, and maintenance of the public highways within the State, including the supervision of traffic thereon and for the payment of the interest and principal of bonds issued for highway purposes.

The Highway Fund financial statements were compiled through a joint effort among the Department of Administrative Services, Division of Accounting; the Department of Transportation, Division of Finance; and the Department of Safety, Division of Administration. Responsibility for both the accuracy of the financial data and the completeness and fairness of the presentation in all material respects, including all disclosures, rests jointly with management of these three departments.

During fiscal year 2016, the Highway Fund reported \$484 million of revenues, \$506 million of expenditures, and a net \$7.8 million of other financing sources. The fund balance in the Highway Fund at June 30, 2016 was \$130 million.

AUDIT RESULTS

The auditor's report on the Highway Fund financial statements was unmodified.

A management letter dated January 27, 2017, a byproduct of the fiscal year 2016 financial audit of the Highway Fund, was issued under a separate cover.

State Of New Hampshire
Highway Fund
Management Letter
For The Fiscal Year Ended June 30, 2016

This management letter is a byproduct of the financial audit of the New Hampshire Highway Fund for the fiscal year ended June 30, 2016. This management letter contains our auditor's report on internal control over financial reporting and on compliance and other matters and related audit findings. The following is a list of the comments in the report.

Internal Control Comments

Material Weakness

- Strengthen Financial Reporting Protocols

Significant Deficiencies

- Fully Document The Implementation Of GASB Statement No. 54
- Establish Formal Risk Assessment Processes
- Establish Strong Password Protocols On All Information Systems

State Compliance Comments

- Comply With The Betterment Fund Allocation Provisions Of RSA 235:23-a
 - Adopt Required Administrative Rules
-

State Of New Hampshire
Liquor Commission
Comprehensive Annual Financial Report
For The Fiscal Year Ended June 30, 2016

The New Hampshire Liquor Commission regulates the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of wine, spirits, and malt or brewed beverages in New Hampshire. All sales of wine and spirits in New Hampshire, with the exception of wines sold by licensees of the Liquor Commission and direct shippers, are made through the wine and spirit stores operated by the Liquor Commission.

The Liquor Commission is responsible for the accounting and reporting of the Liquor Fund, an enterprise fund which receives revenues primarily from the sale of goods through the State liquor stores, fees from licensees, and fines and penalties from rule or law violations.

During fiscal year 2016, the Liquor Commission's operating revenues were \$666 million and its operating expenses were \$530 million. The Liquor Commission distributed \$153 million to the State's General Fund and \$3.15 million to the Alcohol Abuse Prevention and Treatment Fund (RSA 176:16, III) during fiscal year 2016.

AUDIT RESULTS

The auditor's report on the financial statements of the Liquor Commission was unmodified.

A management letter dated January 27, 2017, a byproduct of the fiscal year 2016 financial audit of the Liquor Commission, was issued under a separate cover.

**State Of New Hampshire
Liquor Commission
Management Letter
For The Fiscal Year Ended June 30, 2016**

This management letter is a byproduct of the financial audit of the New Hampshire Liquor Commission for the fiscal year ended June 30, 2016. This management letter contains our auditor's report on internal control over financial reporting and on compliance and other matters and related audit findings. The following is a list of the comments in the report.

Internal Control Comments

Material Weakness

- Strengthen Core Financial Accounting And Reporting Resources

Significant Deficiencies

- Receive And Act Upon The Best Available Advice In The Planning, Development, And Implementation Of New Information System
 - Enact Chip-Card Point Of Sales Devices As Soon As Practical To Minimize Losses
 - Establish Controls To Regularly Monitor And Reconcile The Cash Balances In The Liquor Fund
 - Review Annual Physical Inventory Process
 - Improve Control Over The Recording And Reporting Of Capital Assets
 - Resolve Issues Causing Difficulties In Processing Accounts Receivable
 - Expand Policies And Procedures And Consistently Perform Intended Refund Controls
 - Review And Expand Accounts Payable Policies And Procedures
 - Support And Perform Key Reconciliation Controls
 - Establish Policies And Procedures For The Routine Review Of The Accuracy Of Vendor Invoicing And Commission Payments
 - Develop And Provide An Electronic Beer Tax Filing System
 - Physical Access to IT Computer Room Should Be Periodically Reviewed
 - Continue Effort To Efficiently Document Store Lease Information
-

**State Of New Hampshire
Liquor Commission
Comprehensive Annual Financial Report
For The Fiscal Year Ended June 30, 2017**

The New Hampshire Liquor Commission regulates the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of wine, spirits, and malt or brewed beverages in New Hampshire. All sales of wine and spirits in New Hampshire, with the exception of wines sold by licensees of the Liquor Commission and direct shippers, are made through the wine and spirit stores operated by the Liquor Commission.

The Liquor Commission is responsible for the accounting and reporting of the Liquor Fund, an enterprise fund which receives revenues primarily from the sale of goods through the State liquor stores, fees from licensees, and fines and penalties from rule or law violations.

During fiscal year 2017, the Liquor Commission's operating revenues were \$685 million and its operating expenses were \$549 million. The Liquor Commission distributed \$150 million to the State's General Fund and \$3.3 million to the Alcohol Abuse Prevention and Treatment Fund (RSA 176:16, III) during fiscal year 2017.

AUDIT RESULTS

The auditor's report on the financial statements of the Liquor Commission was unmodified.

A management letter dated December 19, 2017, a byproduct of the fiscal year 2017 financial audit of the Liquor Commission, was issued under a separate cover.

**State Of New Hampshire
Liquor Commission
Management Letter
For The Fiscal Year Ended June 30, 2017**

This management letter is a byproduct of the financial audit of the New Hampshire Liquor Commission for the fiscal year ended June 30, 2017. This management letter contains our auditor's report on internal control over financial reporting and on compliance and other matters and related audit findings. The following is a list of the comments in the report.

Internal Control Comments

Material Weakness

- Strengthen Core Financial Accounting And Reporting Resources

Significant Deficiencies

- Review Availability Of Information Technology Project Cost Data
 - Resolve Budgetary Retained Earnings Balance
-
-

State Of New Hampshire
Liquor Commission
Comprehensive Annual Financial Report
For The Fiscal Year Ended June 30, 2018

The New Hampshire Liquor Commission regulates the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of wine, spirits, and malt or brewed beverages in New Hampshire. All sales of wine and spirits in New Hampshire, with the exception of wines sold by licensees of the Liquor Commission and direct shippers, are made through the wine and spirit stores operated by the Liquor Commission.

The Liquor Commission is responsible for the accounting and reporting of the Liquor Fund, an enterprise fund which receives revenues primarily from the sale of goods through the State liquor stores, fees from licensees, and fines and penalties from rule or law violations.

During fiscal year 2018, the Liquor Commission's operating revenues were \$692 million and its operating expenses were \$553 million. The Liquor Commission distributed \$149 million to the State's General Fund and \$6.8 million to the Alcohol Abuse Prevention and Treatment Fund (RSA 176:16, III) during fiscal year 2018.

AUDIT RESULTS

The auditor's report on the financial statements of the Liquor Commission was unmodified.

A management letter dated December 21, 2018, a byproduct of the fiscal year 2018 financial audit of the Liquor Commission, was issued under a separate cover.

**State Of New Hampshire
Lottery Commission
Management Letter
For The Fiscal Year Ended June 30, 2016**

This management letter is a byproduct of the financial audit of the New Hampshire Lottery Commission for the fiscal year ended June 30, 2016. This management letter contains our auditor's report on internal control over financial reporting and on compliance and other matters and related audit findings. The following is a list of the comments in the report.

Internal Control Comments

Significant Deficiencies

- Expand Scope Of Service Auditor's Report
- Lottery Funds On Deposit With Treasury Should Be Credited With Interest
- Improve Operation Of Controls To Ensure Ineligible Players Are Not Awarded Prizes
- Improve Due Care Over Game Draw Activities
- Review Employer/Employee Status Of Workers Performing Tri-State Duties
- Review Communication Controls
- Establish Controls Over Unclaimed Wager Revenue
- Implement Controls For Timely Submission Of Distributor Fees
- Perform Lucky 7 Game Controls
- Accrue Accounts Receivable As Appropriate

State Compliance Comment

- Adopt Administrative Rules As Required By Statute
-
-

**State Of New Hampshire
Lottery Commission
Comprehensive Annual Financial Report
For the Fiscal Year Ended June 30, 2017**

The New Hampshire Lottery Commission was established by the chapter laws of 1963 and became the first modern state-run lottery program. The Lottery's primary purpose has always been to raise revenue for the benefit of public education. The financial activities of the Lottery, as a department of the State of New Hampshire, are reported as an enterprise fund in the State's Comprehensive Annual Financial Report as well as in this separately issued report.

The Lottery operates both instant and on-line games for the purpose of funding state aid to education. As a member of three joint lottery ventures, the Tri-State Lotto Commission, the Multi-State Lottery Association, and Lucky for Life, the Lottery offers a variety of games, including the Megabucks, Powerball, Mega Millions, and Lucky for Life. Effective July 1, 2015, the operations and responsibilities of the former Racing and Charitable Gaming Commission were transferred to the Lottery Commission.

During fiscal year 2017, the Lottery's operating revenues were \$304 million and its operating expenses were \$228 million, which provided \$76 million for distribution to the State's Education Trust Fund.

AUDIT RESULTS

The auditor's report on the financial statements of the Lottery Commission was unmodified.

A management letter dated December 19, 2017, a byproduct of the fiscal year 2017 financial audit of the Lottery, was issued under a separate cover.

**State Of New Hampshire
Lottery Commission
Management Letter
For The Fiscal Year Ended June 30, 2017**

This management letter is a byproduct of the financial audit of the New Hampshire Lottery Commission for the fiscal year ended June 30, 2017. This management letter contains our auditor's report on internal control over financial reporting and on compliance and other matters and related audit findings. The following is a list of the comments in the report.

Internal Control Comments

Significant Deficiencies

- Monitor Performance Of Reconciliation Controls
 - Improve Game Draw Controls
 - Mitigate ICS System Risks
-
-

**State Of New Hampshire
Lottery Commission
Comprehensive Annual Financial Report
For the Fiscal Year Ended June 30, 2018**

The New Hampshire Lottery Commission was established by the chapter laws of 1963 and became the first modern state-run lottery program. The Lottery's primary purpose has always been to raise revenue for the benefit of public education. The financial activities of the Lottery, as a department of the State of New Hampshire, are reported as an enterprise fund in the State's Comprehensive Annual Financial Report as well as in this separately issued report.

The Lottery operates both instant and on-line games for the purpose of funding state aid to education. As a member of three joint lottery ventures, the Tri-State Lotto Commission, the Multi-State Lottery Association, and Lucky for Life, the Lottery offers a variety of games, including the Megabucks, Powerball, Lucky for Life, and Mega Millions. Effective July 1, 2015, the operations and responsibilities of the former Racing and Charitable Gaming Commission were transferred to the Lottery Commission.

During fiscal year 2018, the Lottery's operating revenues were \$338 million and its operating expenses were \$251 million, which provided \$87 million for distribution to the State's Education Trust Fund.

AUDIT RESULTS

The auditor's report on the financial statements of the Lottery Commission was unmodified.

A management letter dated December 19, 2018, a byproduct of the fiscal year 2018 financial audit of the Lottery, was issued under a separate cover.

State Of New Hampshire
Internal Control Review
State Procurement Card Program
October 2017

EXECUTIVE SUMMARY

The objective of this audit was to evaluate whether the Department of Administrative Services (Department or DAS) as the administrative agency, and State agencies, as user agencies, have designed, communicated, implemented, and operated suitable internal controls over the establishment and operation of a State-wide procurement card (P-Card) program intended to “streamline small purchase methods, minimize paperwork, eliminate the use of field purchase orders, and simplify the administrative effort associated with traditional and emergent purchase of supplies and commodities.”¹ Criteria used in the evaluation included State statutes and administrative rules, policies and procedures, including the Department’s *Procurement Card Users Manual*, *Manual of Procedures (MOP 1625)*, and *Internal Control Guide*, accepted State business practice, and State user-agency P-Card policies and procedures. The purpose of this audit was not to render an opinion on the State’s or any agency’s financial statements, internal control, or compliance.

Our audit was performed using auditing standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings.

SUMMARY OF RESULTS

We found the State’s controls over the operation of its P-Card program consisted of controls in place at the DAS, as the program administrator, and controls in place at the State agencies participating in the P-Card program, including DAS.

We found the design of DAS’ controls for managing the P-Card program to be insufficient to provide reasonable assurance that the specified internal control objectives would be achieved.

We also found some of the Department’s controls for the P-Card program did not consistently operate as designed during the audit period. The establishment, operation, and maintenance of DAS’ controls over the P-Card program appeared to be negatively affected by a key DAS program manager position not being filled. The vacancy in this key senior position at the inception of the P-Card program contributed to a control environment that did not demonstrate a strong control consciousness for the need to establish and maintain effective program controls over its and the participating agencies’ related processes.

¹ State of New Hampshire, Department of Administrative Services, *Procurement Card Users Manual*, revised effective 8/24/16, V.2.0.

We found agency policies and procedures were not in full compliance with P-Card program requirements at any of the 13 agencies tested. We found the design of the controls at the agencies participating in the P-Card program to be varied. For example, for eight and a portion of a ninth agency selected in the audit for process review, the design of controls required cardholders to get pre-purchase approvals for field purchase order level purchases, in accordance with the *DAS Manual of Procedures (MOP 1625)*. At four agencies selected for process review, no similar pre-purchase approval controls were in place. We found the operation of the agency controls was also mixed, with the operation of controls at some agencies, and parts of agencies, better than others.

Weaknesses in the design and operation of internal controls supporting the State's P-Card program put the State at increased risk: in attempting to meet its program objectives, the State has significantly increased its exposure to error, fraud, noncompliance, and other misuses of State resources.

While we found weaknesses in the design and operation of P-Card program controls, we did not identify evidence of fraud or significant misuse in the transactions tested. We did find instances of noncompliance with policies and procedures related to the audit objectives.

BACKGROUND

The State's P-Card program was initiated in July 2013 with the goal of providing "significant benefits for all state agencies, and will improve the efficiency and effectiveness of processing and monitoring low dollar expenses for the State of New Hampshire."² The P-Card program was originally piloted at a few agencies and then expanded to additional agencies. The dollar limit for the P-Card program was initially set at the State's field purchase order maximum of \$500 per procurement transaction. The limit for "field purchase order cards" was subsequently raised to \$1,000 per transaction. This limit was again raised with the issuance of "contract cards" for procurements on State contracts. While most contract cards have limits in the range of \$2,000 to \$5,000 per transaction and \$10,000 to \$25,000 per billing cycle, some contract cards currently issued to senior agency personnel have transaction limits of \$150,000 per transaction and billing cycle limits of \$700,000 to make payments on large procurement transactions such as heavy trucks. During the six months ended December 31, 2016, there were 22 agencies participating in the program and approximately 21,000 procurement transactions totaling \$9.4 million were processed through the State's P-Card bank account by 500 cardholders using 655 P-Cards (some cardholders have both a field purchase order card and a contract card).

The State of New Hampshire P-Card program is administered by the Department of Administrative Services, Division of Procurement and Support Services (Department). The Department has contracted with a credit-card provider bank to service the P-Card program, including providing a web-based program to allow agency management to review and approve transactions. Purchases with P-Card program credit cards may be made from statewide contracted vendors and from merchants who have no contractual relationship with the state. As currently operated, the P-Card program requires all credit card processor invoices to be paid monthly, with no balances carried forward to subsequent months. The program does provide a "rebate" to the State based on volume

² Department of Administrative Services' June 19, 2013 letter to Governor and Council accompanying the contract for credit card services.

of activity in the account. At December 31, 2016, the State had received approximately \$84,000 in rebates since the inception of the program in July 2013, with none of that amount having been expended or otherwise distributed.

As provided for in RSA 21-I:17-a, I, “The form and use of ...procurement cards shall be prescribed by rules adopted by the commissioner of administrative services ... or in the department’s manual of procedures.” The Department of Administrative Services *Manual of Procedures (MOP)* incorporates the *Procurement Card Users Manual* by reference and describes further requirements applicable to State agencies when utilizing P-Cards. The *Procurement Card Users Manual* requires each agency participating in the P-Card program to establish additional P-Card policies and procedures specific to their agency’s operations. In addition to requirements in the *MOP*, statutes applicable to particular agencies or to particular types of purchases, as well as Executive Branch ethics laws and policies, may pose additional requirements on an agency’s use of P-Cards.

Generally, State policy requires purchases made with P-Cards conform to all State purchasing requirements, including, to the extent applicable, the State’s purchasing rules (N.H. Admin. Rules Adm 600). The *Procurement Card Users Manual* does identify certain products that are prohibited from purchase with a State P-Card. Examples of prohibited purchases include: cash advances, fuel, travel, gift cards, weapons and firearms, alcohol and cigarettes, interagency purchases, entertainment, on-line auction purchases, and international purchases.

OBJECTIVES, SCOPE, AND METHODOLOGY

Audit Objectives

1. Assess the State’s (both the Department’s and the user agencies’) internal controls related to the P-Card program, including control environment, risk assessment, control activities, information and communication, and monitoring by assessing the Department’s and user agencies’ policies and procedures for the establishment and maintenance of an effective control system over the P-Card program.
2. Assess the adequacy of the design of internal controls over the P-card program at both the Department and at a sample of user agencies.
3. Assess establishment/implementation of internal controls as designed.
4. Assess the operation of the internal controls, including:
 - Functional compliance with written policies and procedures, laws, and rules related to the use of P-Cards.
 - Functional compliance with stated (but not necessarily documented) policies and procedures related to the use of P-Cards.
 - Adequacy of separation of duties and responsibilities for controls over the P-Card program.

Audit Scope

The scope of our audit included the internal controls over the operation of the State of New Hampshire's P-Card program, including centralized controls at the Department and controls at the user agencies.

The audit period was July 1, 2016 through December 31, 2016.

Audit Methodology

1. Interview Department of Administrative Services personnel.
2. Review Department documentation, including:
 - Contracts,
 - Program manuals,
 - Policies and procedures, and
 - Documentation of systems, applications, forms and instructions, and other relevant information.
3. Review laws, rules, regulations, and policies and procedures related to the P-Card program, including:
 - State statutes,
 - New Hampshire Administrative rules,
 - Department and general State policies and procedures,
 - Department and specific policies and procedures for the P-Card program, and
 - User agency general and specific policies and procedures for the P-Card program.
4. Observe processes.
5. Interview user agency personnel.
6. Review agency documentation and processes at a sample of 13 participating agencies, including:
 - Policies and procedures,
 - Documentation of systems, applications, forms and instructions, and other relevant information, and
 - Operating processes in place.
7. Review the design and operation of internal controls through tests of transactions, including:
 - Random samples of low-tier and high-tier transactions, and a
 - Judgmental sample of selected transactions.

FINDINGS AND RECOMMENDATIONS

- Strengthen Internal Controls
 - Improve Control Environment
 - Establish A Formal Risk Assessment Process
 - Strengthen Control Activities
 - Improve Information Sharing And Communication
 - Improve Monitoring Of P-Card Program Control Activities
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**State Of New Hampshire
Internal Control Review
New Hampshire Veterans' Home
Members' Administration Account
October 2018**

EXECUTIVE SUMMARY

State agency management is responsible for establishing and maintaining effective internal controls, including controls over financial reporting, and controls over compliance with the laws, administrative rules, regulations, contracts, and grant agreements applicable to the entity's activities. The Department of Administrative Services (DAS) has developed an *Internal Control Guide* to help State agency personnel understand the concepts of internal control. The *Internal Control Guide* explains the purpose of internal control and its five components: control environment, risk assessment, control activities, information and communication, and monitoring. In addition, DAS maintains a *Manual of Procedures*, approved by the Governor and Council, for use by all State agencies.

The objective of this audit was to evaluate whether the New Hampshire Veterans' Home (NHVH) has designed, communicated, implemented, and operated suitable internal controls over the Members' Administration Account (MAA). Criteria used in the evaluation included State statutes and administrative rules; policies and procedures, including DAS' *Manual of Procedures (MOP 1625)*, and *Internal Control Guide*; accepted State business practice; NHVH policies and procedures; and federal regulations related to veteran home management of resident monies. The purpose of this audit was not to render an opinion on the State's, NHVH's, or any agency's financial statements, internal control, or compliance.

Our audit was performed using auditing standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings.

SUMMARY OF RESULTS

During the nine months ended March 31, 2018, the NHVH's internal controls were ineffectually designed and operated to provide reasonable assurance the NHVH's control objectives for the operation of the MAA would be achieved. The NHVH's controls for the operation of the MAA, if documented, were largely informal process descriptions, often not evidenced as having been reviewed and approved by management or compiled into a manual or other accessible reference resource. The NHVH's management had not addressed significant comments related to the operation of the MAA contained in prior audit reports, meaningfully involved itself in control processes, or otherwise demonstrated a commitment to the establishment, operation, and maintenance of effective controls over the MAA. As a result, and as noted in the observations contained in this report, significant weaknesses exist in all of the generally accepted components

of internal controls including control environment, risk assessment, control activities, communication and information sharing, and monitoring such that the NHVH could not be certain that intended controls were in place, consistently operating, and relevant to the risks facing the NHVH's changing operation.

While we found weaknesses in the design and operation of the NHVH's controls over the operation of the MAA, as well as concerning errors in the NHVH's recording and reporting of financial transactions, we did not identify evidence of fraud or significant abuse in the transactions tested. However, the weaknesses we did find raise significant concerns as to whether the controls in place over the NHVH's MAA financial operations are sufficient to reasonably ensure that the controls would be effective in detecting and correcting a significant error, fraud, abuse, or instance of noncompliance were it to occur in the NHVH's operation of the MAA.

BACKGROUND

The MAA is a custodial fund maintained by the NHVH to provide residents with the option of an in-NHVH banking service that will receive, hold, and disburse money at the residents' direction. The NHVH pools resident balances in a checking account maintained at the NHVH and in an investment account with the State Treasury. Accountability for resident balances and financial activity is maintained in an accounting software application that the NHVH uses to periodically report account information to the residents or their guardians. Financial activity typically includes deposits of resident income (e.g. pensions, social security benefits); resident-directed payments for room and board and personal purchases of items such as clothing, periodicals, and special foods and beverages; and cash withdrawals by residents.

The MAA is reported as an agency fund in the State of New Hampshire's comprehensive annual financial report. The financial activity in the MAA is not recorded in, or subject to the controls in, the State's central accounting system, NHFirst.

During the nine months ended March 31, 2018, approximately \$3.9 million was deposited into, and \$3.8 million was paid from the MAA. At March 31, 2018, the MAA contained over 260 resident accounts, as well as two administrative accounts, and the balance was \$1.2 million, with individual resident balances ranging from \$0 to \$75,795.

The appendix to this report summarized certain data related to the NHVH's operation of the MAA during the nine months ended March 31, 2018.

OBJECTIVES, SCOPE, AND METHODOLOGY

Audit Objectives

1. Assess the NHVH's internal controls related to the MAA, including control environment, risk assessment, control activities, information and communication, and monitoring by assessing the NHVH's policies and procedures for the establishment and maintenance of an effective control system over the MAA.

2. Assess the adequacy of the design of internal controls over the MAA.
3. Assess establishment/implementation of internal controls as designed.
4. Assess the operation of the internal controls, including:
 - Functional compliance with written policies and procedures, laws, and rules related to the MAA.
 - Functional compliance with stated (but not necessarily documented) policies and procedures related to the MAA.
 - Adequacy of separation of duties and responsibilities for controls for the MAA.

Audit Scope

The scope of our audit included the NHVH's internal controls over the MAA, including the NHVH's internal controls over the receipt, holding, and disbursement of amounts in the MAA.

The audit period was July 1, 2017 through March 31, 2018.

Audit Methodology

1. Interview NHVH personnel.
2. Review control documentation, including the NHVH's:
 - Policies and procedures, and
 - Documentation of systems, applications, forms and instructions, and other relevant information.
3. Review laws, rules, regulations, and policies and procedures related to the MAA, including:
 - State statutes,
 - Federal law and regulation,
 - New Hampshire Administrative rules,
 - State-wide policies and procedures, and
 - NHVH-based general and specific policies and procedures for the MAA.
4. Observe processes.
5. Review the design and operation of internal controls through review of evidence of the application of controls including random and judgmental samples of:
 - MAA transactions,
 - Financial reporting, and
 - Other control activities.

FINDINGS AND RECOMMENDATIONS

- Policies And Procedures Should Be Established To Support Significant Accounting And Financial Reporting Activities
- Establish Formal Risk Assessment Process And Control
- Improve Communication And Information Sharing Controls
- Review Adequacy Of Current Financial Accounting And Reporting System
- Eliminate Current Segregation Of Duties Weakness

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- Establish Controls For Accurately Invoicing Residents For Room And Board
 - Establish Policies And Procedures For Updating Resident Financial Affidavits
 - Review Existing Process And Controls For Posting Deposits To Residents' MAA Accounts
 - Ensure All MAA Disbursements Are Properly Authorized By Residents
 - Establish Policies And Procedures Related To Disbursements From The MAA Accounts Of Deceased Residents
 - Establish Check Signing Controls For MAA Disbursements
 - Mitigate Risks Posed By Use Of Adjustment Account
 - Establish Policies And Procedures For The Periodic Reconciliation Of The MAA
 - Establish Policies And Procedures For Posting Interest Earnings Equitably And Timely
 - Establish Policies And Procedures For Clearing Old Outstanding Checks
 - Establish Policies And Procedures For Maintaining Checking Account At Targeted Balance
 - Adopt Required Administrative Rules
 - Coordinate The Financial Reporting Of The MAA To DAS
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PERFORMANCE AUDIT REPORTS

State Of New Hampshire
Community College System Of New Hampshire
Issued In August 2017
Audit Period: The Five Fiscal Years Ended June 30, 2017

In August 2016, the Fiscal Committee approved a joint Legislative Performance Audit And Oversight Committee recommendation to conduct a performance audit of the Community College System of New Hampshire (CCSNH). We held an entrance conference with CCSNH in August 2016 and obtained legislative approval for the scope of this audit in November 2016.

Our audit was designed to answer the following question:

How efficient and effective was CCSNH during State fiscal years (SFY) 2012 through 2016?

To answer this question we determined the following:

- Were CCSNH administrative operations efficient and effective?
- Was CCSNH financial management efficient and effective?
- Was the System Banner Revitalization (SBR) project planned and executed efficiently and effectively?
- Did CCSNH efficiently and effectively utilize the Community Colleges of New Hampshire Foundation (Foundation)?

BACKGROUND

RSA 188-F:1 established the Community College System Of New Hampshire (CCSNH) to provide a well-coordinated system of public community colleges, offering as a primary mission, technical programs to prepare students for technical careers as well as general, professional, and transfer programs; and certificate and short term training programs. The mission of CCSNH “is to provide residents with affordable, accessible education and training that aligns with the needs of New Hampshire’s businesses and communities, delivered through an innovative, efficient, and collaborative system of colleges.” The CCSNH Board of Trustees (Board) had established strategic goals to increase enrollment, improve finances and processes, focus on high-demand and science and technology careers, be a pathway from high schools to four-year institutions, use technology to transfer credits and share courses between colleges, and improve employee engagement.

Established by the Legislature as a body politic and corporate in 2007, CCSNH was overseen by the Board. Effective 2011, all functions, powers, and duties of the former Department of Regional Community-Technical Colleges were transferred to the Board. CCSNH had seven campuses: White Mountains Community College (WMCC) in Berlin, River Valley Community College (RVCC) in Claremont, New Hampshire Technical Institute-Concord’s Community College (NHTI), Lakes Region Community College (LRCC) in Laconia, Manchester Community College

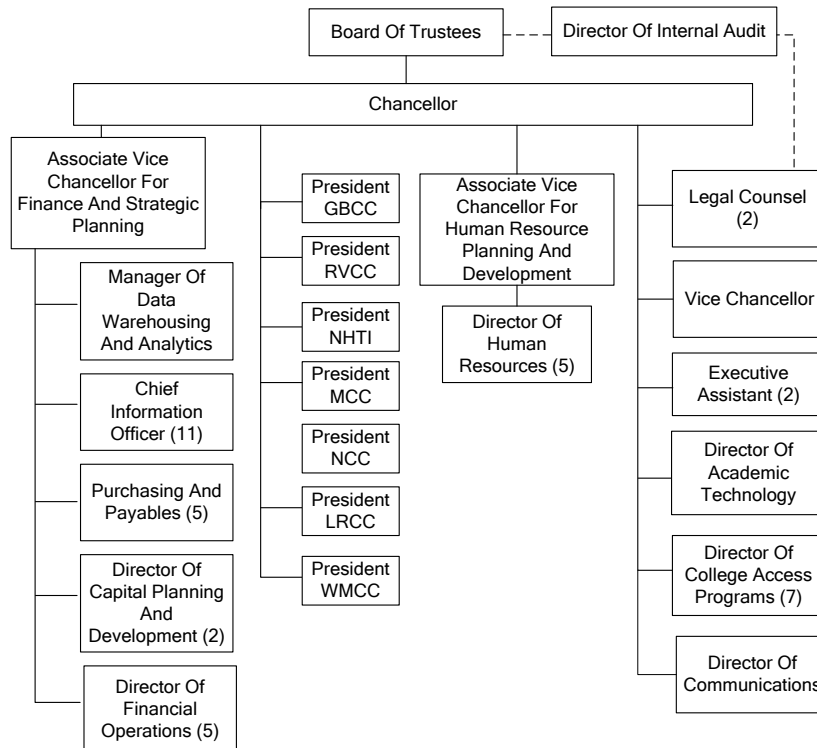
(MCC), Nashua Community College (NCC), and Great Bay Community College (GBCC) in Portsmouth.

Organization And Staffing

Each campus was overseen by a President who was nominated by the Chancellor and approved by the Board. CCSNH’s overall organization is shown in Figure 1. Since 2011, the Chancellor’s Office had become the central administrative hub for CCSNH, providing general administration and typical business-type supports. This includes information technology (IT), finance, human resources, legal counsel, and risk management. The Chancellor acted as the chief executive for CCSNH and was assisted by a Vice Chancellor (position currently vacant), an Associate Vice Chancellor for Human Resource Planning and Development, and an Associate Vice Chancellor for Finance and Strategic Planning. As of June 2017, the Chancellor’s Office consisted of 47 staff, excluding the seven college Presidents who reported directly to the Chancellor. CCSNH reported 701 full-time and 1,543 part-time employees in October 2016 to the federal Integrated Postsecondary Education Data System (IPEDS).

Figure 1

CCSNH Organization As Of June 2017



Note: The Vice Chancellor position was vacant and CCSNH had no plans to fill it as of May 2017.
Source: LBA analysis of CCSNH organization charts.

The seven colleges making up the CCSNH were operated somewhat independently by each of their respective Presidents and follow varied organizational configurations. Each President was

typically assisted by a Vice President of Student Affairs and a Vice President of Academic Affairs, with an additional business office, human resources, and IT personnel reporting directly to the President. Some campuses also had public relations, marketing, maintenance, institutional research, or corporate affairs personnel reporting directly to the President. For the 2016-2017 academic year, CCSNH reported offering 130 associate degree programs and 150 certificates through at least one of the seven colleges.

Enrollment

According to IPEDS data using standardized reporting methodologies, enrollment at the seven colleges totaled 9,285 full-time equivalent (FTE) students in the 2014-2015 academic year. The National Center for Education Statistics defines FTE student as single value providing a meaningful combination of full-time and part-time students. The largest community college was NHTI with 2,809 FTE students (30 percent of total students), while the smallest community college was WMCC with 518 FTE students (6 percent of total students). However, MCC and GBCC increased enrollment 13.6 percent and 7.4 percent, respectively, during the audit period, while the other colleges saw net declines in enrollment as the economy improved.

EXECUTIVE SUMMARY

We identified several areas in need of improvement for the CCNH, including administration, financial operations, information technology management, and the relationship between CCSNH and the Community Colleges of New Hampshire Foundation (Foundation). CCSNH was statutorily separated from the direct control of the State and its rules in 2011. This change gave CCSNH more flexibility to manage its operations, but also left a considerable void in its control environment which we found was not adequately restored. For instance, CCSNH lacked policies and procedures that could strengthen its control environment and we also found instances where CCSNH management circumvented or did not follow other controls. These findings hindered the CCSNH from having a well-coordinated system as required by statute. We believe the recommendations made in this report will help the Board and the Chancellor improve CCSNH's management practices.

We found the authority and responsibilities between the Chancellor's Office and the colleges were ambiguous, which ultimately stemmed from an unclear role of the Chancellor's Office. CCSNH was overseen by the Board, and administered by the Chancellor's Office and seven college Presidents. According to statute, the Board governed CCSNH and provides "policy-making and operational authority," the Chancellor was the chief executive officer of the organization, and each President was the chief academic and administrative officer of their respective college. We found CCSNH lacked comprehensive policies and procedures in key business areas such as finance, budgeting, capital planning, procurement, data management, fleet management, and information technology project planning. Lack of policies and procedures often resulted in colleges completing the same task in different ways, potentially leading to inefficiency. We also identified instances of bartering, conflicts of interest, and questionable spending, which illustrated how insufficient controls can negatively impact the organization.

CCSNH did not have policies for how to allocate State funding, valued at \$40.1 million in SFY 2016. As a result, we found no justification why one school received about \$8,200 of State funding per FTE student during SFY 2015, while another school received about \$2,800 per FTE student during the same time period.

Lack of policies and procedures also negatively impacted CCSNH's System Banner Revitalization (SBR) software development project. In an effort to centralize database operations, the Chancellor—at the request of the Board—embarked on the \$2.9 million project. Based on conversations with members of CCSNH management and the absence of planning documents, we found the SBR project was inadequately planned and had so far resulted in inefficient operations, ineffective reporting, and additional workloads on CCSNH staff. We found the purposes of the project were misconceived, and as a result CCSNH had yet to achieve the goals of SBR. CCSNH management could have mitigated or avoided these issues by the use of appropriate information technology project planning and development techniques.

We found the relationship between the Board and the Foundation needed improvement. Though the Foundation was created in 2000, the Board and Foundation did not establish any agreement to govern interactions between the two organizations until February 2017. Moreover, the Board and the Foundation had different ideas about what role the Foundation would play, leading to conflict between the two entities. In July 2016, the Board terminated an investment agreement with the Foundation and subsequently removed nearly 80 percent of the funds under investment with the Foundation. Consequently, the Foundation had to resort to hiring a mediator to facilitate a productive discussion over whether the Foundation should continue to exist after the funds were transferred. In its current state, the Foundation may lack the appropriate degree of independence because of the operational control possessed by CCSNH.

State Of New Hampshire
Department Of Environmental Services
Air Resources Division
Issued In May 2018
Audit Period: The Two Fiscal Years Ended June 30, 2017

In December 2015, the Fiscal Committee approved a joint Legislative Performance Audit and Oversight Committee (LPAOC) recommendation to conduct a performance audit of the New Hampshire Department of Environmental Services (NHDES), Air Resources Division (ARD). Our audit was designed to answer the following question:

Did the ARD operate efficiently and effectively in State fiscal years (SFY) 2016 and 2017?

Specifically, we focused on the following areas:

- the process for approving construction and operating permits;
- compliance inspections and stack testing; and
- enforcement referrals.

BACKGROUND

In 1987, the Legislature created NHDES by consolidating and restructuring four formerly separate agencies: the Office of Waste Management, the Water Supply and Pollution Control Commission, the Water Resources Board, and the Air Resources Agency. RSA 21-O:10 established the ARD to assume all responsibilities previously overseen by the Air Resources Agency. Specifically, the ARD's mission included "achieving and maintaining air quality in New Hampshire that is protective of public health and our natural environment."

Federal Clean Air Regulation

In 1990, Congress passed the *Clean Air Act Amendments* (CAA Amendments) authorizing the EPA to establish a national operating permit program and improve enforcement to ensure better compliance. The law required the EPA to establish standards for stationary sources that emit, or have the potential to emit, certain amounts of regulated pollutants including carbon monoxide, lead, ground-level ozone, particulate matter, nitrogen dioxide, and sulfur dioxide. Title V of the CAA Amendments required states to develop and implement a program to issue a permit outlining all requirements a source must comply with before it could operate. It also required the source to file periodic reports showing compliance, and required states establish fees to cover all reasonable program costs. Additionally, the CAA Amendments allowed the EPA to classify nonattainment areas where air quality did not meet federal air quality standards, and established a process to impose sanctions on states failing to meet them. The EPA was allowed to delegate to the states the authority to implement the permit and enforcement programs on its behalf, and routinely audited states, including New Hampshire, to ensure programs were compliant with federal requirements. The CAA Amendments also included provisions for states to address mobile sources of pollution.

Air Resources Division Programs And Staffing

The ARD administered the requirements of the CAA and the CAA Amendments in New Hampshire through various programs in its three bureaus: Permitting and Environmental Health, Technical Services, and Compliance. In addition to staff in the three bureaus, personnel in the Director's Office were responsible for scientific analysis, strategic planning, and ensuring State plans conformed to EPA requirements. The ARD had 56 filled staff positions and an additional 14 positions vacant at the end of the audit period. The 11 member Air Resources Council provided guidance to the ARD by offering input from various interest groups, reviewing proposed administrative rules, and hearing appeals of ARD decisions and orders.

ARD Revenues And Expenditures

The ARD relied on a combination of federal grants, permitting and emissions fees, and other income to sustain its operations. The ARD's largest source of federal funds, CAA grants awarded by the EPA, accounted for approximately 28 and 24 percent of ARD revenues in SFYs 2016 and 2017, respectively. Permitting and emissions fees, both Title V and State sources combined, were deposited into a non-lapsing fund and accounted for at least 50 percent of revenue in both fiscal years. The remaining revenues were from a combination of small grants awarded by various federal agencies, and other sources of revenue. Expenditures remained relatively flat, with the ARD spending approximately \$7.3 and \$7.5 million in SFYs 2016 and 2017, respectively. The biggest source was personnel, which accounted for almost 80 percent of the ARD's annual expenditures.

Title V and State Operating Permits

Prior to adding a new, or modifying an existing, pollution source, a facility was first required to obtain a construction permit allowing it to construct and commence operations. Once operational, the facility obtained either a State or Title V operating permit, depending on its classification. Facilities annually emitting, or with the potential to emit, ten tons or more of any one hazardous air pollutant (HAP), 25 tons or more of any combination of HAPs, 50 tons or more of volatile organic compounds, or 100 tons or more of any criteria pollutant were required to obtain a Title V operating permit. Facilities operating certain devices, as specified in administrative rules, emitting below these thresholds were required to obtain a State operating permit. Operating permits were valid for up to five years. At the end of SFY 2017, the ARD regulated almost 650 stationary sources of pollution through its permitting program, 34 of which were Title V sources. New facilities, and those adding new equipment or modifying existing equipment, applied for a temporary permit, also known as a construction permit. Temporary permits were valid for 18 months from the date of issuance and could be renewed as many times as necessary. During the two-year audit period, the ARD received 176 permit applications.

Air Monitoring Program

In 1990, the EPA required states to meet NAAQS. States not meeting particular NAAQS were required to develop an implementation plan to meet the standard by a specific date or face sanctions. New Hampshire had been monitoring ambient air quality since 1962, when the first air

monitoring station was built in Berlin, and expanded as part of CAA implementation. During the audit period, the State's monitoring network collected air quality data at 12 locations: Concord, Pembroke, Nashua, Londonderry, Portsmouth, Rye, Lebanon, Laconia, Keene, the summit of Mount Monadnock in Peterborough, and both the summit and base of Mount Washington. These stations collected meteorological data, as well as information on ozone and other pollutants such as nitrogen oxide, sulfur dioxide, carbon monoxide, and small particle pollution found in New Hampshire's ambient air. The EPA routinely audited the air monitoring program and routinely found the program did not have any major issues, and any minor issues identified were immediately resolved by the ARD.

Compliance Programs

The Compliance Bureau oversaw programs to ensure entities were in compliance with their permit, as well as federal and State air pollution regulations and laws. The Bureau conducted on-site inspections; responded to air quality complaints; monitored compliance stack-testing, oversaw asbestos management and licensing; and conducted enforcement. It also maintained the State's emissions inventory.

Environmental Health Programs

The Environmental Health Section worked to promote and maintain environmental health for all NHDES divisions. Staff conducted health risk assessments for environmental contaminants and educated the public about health effects of environmental contaminants. The section also administered the Air Toxics Program, which was created to help protect public health and preserve the environment by controlling almost 190 EPA-established hazardous air pollutants likely to be emitted by businesses in the State. The program also established ambient air limits for approximately 700 other regulated toxic air pollutants required by State law, and required businesses to demonstrate they did not exceed established limits. Compliance Inspectors were responsible for checking to ensure businesses could demonstrate compliance with these limits through on-site inspections.

Technical And Mobile Source Programs

The Planning and Mobile Sources Section oversaw the ARD's energy efficiency, climate change, and mobile source efforts. Personnel worked with regional planning commissions to influence public transportation systems, promote energy efficiency initiatives, promote alternative vehicle technology, and collaborate with coastal communities on infrastructure planning to better prepare for climate change.

EXECUTIVE SUMMARY

During the audit period, the ARD oversaw over 600 permitted sources of pollution and approximately 1,200 additional businesses not requiring an operating permit, but still subjected to regulated hazardous air pollutants requirements. We found the ARD was generally efficient and effective in carrying out its overall mission to protect New Hampshire's air quality and ensure the State complied with federal CAA requirements. EPA officials praised the quality of ARD's work

and staff professionalism, reporting it was an excellent partner in implementing CAA programs. Periodic EPA evaluations also showed high levels of compliance with federal requirements. At least 80 percent of permitted facilities we surveyed expressed general satisfaction with the staff professionalism, with 96 percent reporting staff provided them with timely assistance and feedback. Contractors performing compliance stack testing also expressed satisfaction with communication during the testing process.

While the ARD's experienced and knowledgeable staff was an asset, it was also its biggest risk, as heavy reliance on this staff made it acutely vulnerable to potential turnover. On average, staff had 18 years of experience, and over half of the ARD's current staff will be eligible for retirement in the next five years. Seventy percent will be eligible in the next ten years. Consequently, to safeguard continuity of its operations at the level of performance to which its stakeholders are accustomed, the ARD must ensure adequate succession planning and knowledge transfer to its existing staff.

However, we found workforce planning was lacking, and some current practices did not fully align with written policies, procedures, and rules. Additionally, some practices were not consistently documented, potentially hampering future staff training. During the audit period, the ARD's 23 percent vacancy rate also hindered its ability to process permits timely, handle enforcement referrals timely, and conduct inspections at the frequency recommended. For the entire two-year audit period, six of the 16 positions dedicated to these three activities were vacant. The combination of persistent vacancies, an aging workforce, a lack of succession plans, and gaps within current policies and procedures posed significant risk the ARD could lose critical knowledge and skills, potentially hindering its ability to efficiently and effectively achieve its goals and objectives.

While we found the ARD was generally effective and efficient, more robust workforce planning, reviewing some internal practices, and aligning these practices with written guidance could ensure it continues to operate in this manner.

State Of New Hampshire
Department Of Information Technology
Issued In March 2018
Audit Period: The Two Fiscal Years Ended June 30, 2017

In November 2015, the Fiscal Committee of the General Court adopted a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Department of Information Technology (DoIT). The entrance conference with DoIT was held in June 2017 and the oversight committee approved the scope of the audit in October 2017.

Our audit was designed to answer the following question:

Whether DoIT efficiently and effectively managed and coordinated technology resources in State fiscal years (SFY) 2016 and 2017?

To answer this question, we evaluated DoIT’s customer service and internal operations. Although cybersecurity ranked high in our assessment of risk, it was not evaluated as part of this audit.

BACKGROUND

DoIT was created as a State agency under RSA 21-R in September 2008. According to statute, DoIT was “responsible for managing and coordinating all technology resources in the executive branch of government, developing and implementing strategies to enhance state services, and creating statewide efficiencies through the use of information and other technologies.” Prior to September 2008, DoIT was known as the Office of Information Technology (OIT) and was part of the Office of the Governor from 2003 until 2008. Before 2003, State information technology (IT) resources were primarily decentralized and received limited oversight by the Department of Administrative Services’ Division of Information Technology Management. As of October 2017, DoIT served 37 Executive Branch agencies.

DoIT’s mission was to support the strategic business objectives of State agencies, create and sustain a secure and reliable IT environment, and ensure careful and responsible management of the State’s information technology resources.

Organizational Structure And Staffing

DoIT had several organizational components. The Commissioner of DoIT, also known as the State’s Chief Information Officer (CIO), was the head of the agency. RSA 21-R:5 established four divisions: Agency Software, Operations, Technical Support Services, and Web Support. Other DoIT functions were carried out by additional offices: the Bureau of Finance and Administration, Human Resources, Governance and Strategic Planning, and the IT Security Group. There was also a Deputy Commissioner and a Chief Information Security Officer who reported directly to the CIO; though as of September 2017, both positions were vacant.

Fiscal Operations

DoIT expenditures increased from approximately \$62 million to \$69 million during the audit period. DoIT was primarily funded by State agencies receiving services based on a comprehensive cost allocation plan. DoIT expenditures were allocated to agencies based on direct costs and shared costs. The direct cost portion consisted of line items budgeted at the request of the agency or salaries and benefits for positions assigned to the agency, such as embedded DoIT personnel. The shared cost portion was based on shared services and shared DoIT operating costs, which included costs associated with DoIT senior management. The methodologies used to allocate shared costs included personal computer counts, server usage statistics, and office space, among other areas. Approximately 40 percent of DoIT's expenditures represented direct charges and approximately 60 percent represented shared charges.

In addition to operating expenditures, DoIT expended over \$5 million on capital projects during the audit period. The largest capital project implemented during the audit period was the expansion of the virtual server environment which allows many virtual servers to operate on one physical server, and cost over \$2 million.

EXECUTIVE SUMMARY

While DoIT provided satisfactory information technology (IT) services to State agencies in SFYs 2016 and 2017, it struggled with internal issues arising from a lack of certain managerial controls, inefficient service delivery, and inefficient financial practices. Using an abbreviated maturity model, we found DoIT scored at the initial stages of development characterized by performing tasks rather than managing them. Recent management efforts to create a strategic plan, increase collaboration with customer agencies through reconvening the IT Council, and seeking legislative assistance with restructuring the organization were all encouraging signs of DoIT's positive trajectory in terms of maturity. However, despite requirements in statute to create statewide efficiencies, DoIT's internal processes were characterized by fragmented and duplicative systems, insufficient policies and procedures, overly complex financial operations, and a focus on outputs rather than outcomes. Meanwhile, from a customer perspective, the department received high marks for technical support services on our survey of customer agencies. In contrast, opinion regarding project management, financial management and transparency, and application development were lower.

DoIT exhibited characteristics which suggested the organization had grown organically to address challenges in its operating environment without sufficient managerial control, internal collaboration, or planning. The Information Technology Infrastructure Library, a compilation of IT industry standards we used to evaluate DoIT, warns against such practices. More robust management characterized by service level requirements which have been negotiated with customers and fulfilled by staff using effective policies, procedures, and performance management, could help avoid such circumstances.

DoIT's financial operations remained relatively unchanged since its creation, despite changing customer and operational needs. We found financial systems, which duplicated the functionality of the State's accounting and budgeting software, were potentially unnecessary. Overly complex

cost allocation methods, though designed by DoIT to provide precise cost information, were inefficient and created confusion among customer agencies, making it difficult for agencies to understand what services they were billed for. We also found DoIT inconsistently complied with procurement and requisition policies, used inefficient procurement processes, and lacked clearly defined contract management roles.

**State Of New Hampshire
Board Of Pharmacy
Controlled Drug Prescription Health And Safety Program
Issued In December 2017
Audit Period: The Five Fiscal Years Ended June 30, 2017**

In calendar year (CY) 2012, the Legislature established the Controlled Drug Prescription Health and Safety Program, commonly called the Prescription Drug Monitoring Program (PDMP), within the Pharmacy Board (Board). State law required we “conduct a performance audit of the program on or before December 31, 2017 for the use of the speaker of the house of representatives, the president of the senate, and the governor, in evaluating the effectiveness of the program... including but not limited to changes in the number and type of drug-related deaths, the number of instances of drug abuse, and the number of instances of overprescribing.”

The audit was designed to answer the following question:

How effective was the PDMP through State fiscal year (SFY) 2017?

EXECUTIVE SUMMARY

The PDMP was established in June 2012 to help address the abuse, misuse, and diversion of controlled drugs. We found the PDMP remained at an initial stage of maturity through SFY 2017, due to inadequate planning and implementation. The Board, the agency responsible for the PDMP, lacked a strategy to guide the PDMP from implementation, through full and complete operationalization, to achieving optimization. The Controlled Drug Prescription Health and Safety Program Advisory Council (Council) was intended to assist the Board with implementing and operating the PDMP. However, the Council never developed the core criteria necessary for programmatic effect to be realized, including criteria for reviewing PDMP data, reporting matters for further investigation, and notifying practitioners of concerns. Furthermore, the Council did not collect data on user satisfaction, impact on prescribing patterns, impact of referrals, or other relevant measures of PDMP outcomes and impact.

Neither body examined expected PDMP outcomes and effectiveness measures framed in State law for validity or practicality. Had relevant research and data been reviewed, the Board would likely have found: 1) expected outcomes and effectiveness measures in State law were inconsistently demonstrated by empirical research to be valid expectations of the PDMP and 2) complex measurement systems were required to quantify specific PDMP effects. Subsequently, the Board could have pursued legislative changes to focus the PDMP on viable outcomes using practical measures. Thereupon, the Board could have built systems to measure outputs and performance at the process level and aggregated performance into an overall programmatic effect. Through SFY 2017, we found no empirically-demonstrated PDMP outcomes or effects.

The systems and subsystems necessary for effective operations were either mis-oriented, poorly structured, or altogether absent, and significant management controls were not implemented. The PDMP was implemented without relevant data collection, reporting mechanisms and cycles, or formats necessary to effectively communicate PDMP operation and performance internally and externally. Basic definitions, criteria, and thresholds could have facilitated performance measurement but were not developed. Basic program intent was compromised by the lack of

criteria and quantified thresholds, which were instrumental to understanding PDMP effectiveness in identifying cases of potential abuse, misuse, or violation of professional standards.

PDMP-related functions included registration, waivers, extensions, uploading, querying, criteria and thresholds indicating potential issues and related reporting, staffing, inspections, investigations, sanctions and discipline, education and training, and complaints. Each constituted relevant management data streams the Board could have utilized to systematically understand and refine PDMP operations. None were consistently tracked, nor was progress made towards achieving outcomes envisioned in State law. Through SFY 2017, the correct number of practitioners required to register with the PDMP was not established. Responsibility for disciplining noncompliance was distributed to individual regulatory boards, and there were no indications Board staff, the Council, or the Board attempted to measure compliance or systematically work with regulatory boards to enforce requirements holistically.

PDMP data was incomplete and of unknown quality, the extent of which were never established. A system to control and improve the quality of data was never created, even though erroneous and incomplete data could nullify the PDMP's potential value and prevent accurate measurement of some outputs and outcomes. Furthermore, the large volume of PDMP data essentially went unanalyzed and had not been systematically used to create knowledge of PDMP outcomes and effectiveness. Alone, unanalyzed PDMP data could not demonstrate any outcome or effect. However, the Board relied primarily on inconsistent and irregular reporting of raw output data and anecdotal information on outcomes, which were often based on arbitrary federal thresholds. The Board never translated any of this data into outcomes or effectiveness-related expectations of the PDMP articulated in State law. Without appropriate context or analysis, the Board's reports left consumers to infer the data demonstrated something relevant to the PDMP, when other factors likely had some effect on observed changes in outputs. To actually develop an analysis of the PDMP's effect, Board staff would likely need additional analytical capabilities, as well as to obtain and analyze output and outcome data from several State and law enforcement agencies in combination with raw PDMP data and anecdotal survey information.

The roles and responsibilities of PDMP stakeholders, especially those related to enforcement, were ill-defined, and few efforts were made to provide clarity. Integration across regulatory boards overseeing practitioners subject to PDMP registration and utilization requirements was inadequate, bordering on nonexistent. The value and utility of the PDMP was undermined by the lack of a functioning system of controls to ensure the efforts of all regulatory boards with PDMP responsibilities were integrated to achieve outcomes. The Board also did not formally clarify confusion surrounding when and how law enforcement officials could access or receive PDMP information, formally clarify who met and did not meet the definition of law enforcement, or reconcile the prohibition on direct law enforcement access to the PDMP database with the level of access necessary to achieve certain outcomes. These inadequacies contributed to limited enforcement of PDMP requirements through SFY 2017, which inhibited the achievement of statutorily-intended outcomes related to controlled drug abuse, misuse, diversion, and prescribing practices.

The Board did not include PDMP compliance in its inspection practices or consistently use PDMP data to target enforcement activities. The Board lacked systematic management control in numerous administrative areas, failing to establish a clear organizational structure, establish a

records management program, or resolve prior audit findings. Some prior audit findings remained unresolved for more than nine years, and 19 of the 20 prior findings we reviewed remained unaddressed. Noncompliance with the *Financial Interest* law, the *Administrative Procedure Act*, and the Right-to-Know law was substantial, jeopardizing accountability, rendering certain Board actions and every Council action subject to legal challenge, and subjecting PDMP registrants to requirements without statutory or regulatory basis.

Importantly, the implementation and operation of the PDMP was also reportedly inhibited by staffing turnover, organizational turbulence, frequent changes in underpinning laws, and funding constraints. Addressing these limitations as well as rationalizing outcomes the PDMP could reasonably be expected to achieve within the statutory and regulatory framework, developing a coherent strategy and multi-year plan to structure PDMP development, exercising oversight, and ensuring plan execution could facilitate PDMP maturation and optimization. Eventually, PDMP effects might be quantifiable and outcomes realized.

State Of New Hampshire
Office Of Professional Licensure And Certification
Naturopathic Board Of Examiners
Issued In April 2017
Audit Period: The Two Fiscal Years Ended June 30, 2016

In May 2016, the Fiscal Committee of the General Court adopted a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Naturopathic Board of Examiners (Board). We held an entrance conference with the Board's chair and management and administrative staff from the Office of Professional Licensure and Certification (OPLC) in August 2016.

Our audit was designed to answer the following question:

How effective was the Board at regulating the naturopath profession during State fiscal years 2015 and 2016?

BACKGROUND

Naturopathy was differentiated from allopathic or conventional medicine, being considered an alternative medical system. The modern practice of naturopathy originated in Europe during the 1800s. The core philosophy of naturopathy was to utilize the healing power of nature. Six principles encompassed naturopathic medicine and were the foundation of naturopathy:

- facilitate the natural self-healing processes of the body;
- treat the underlying causes of an illness rather than suppressing or eliminating symptoms;
- avoid harming the patient by minimizing risk of side effects and the use of invasive procedures, and avoiding the harmful suppression of symptoms;
- educate the patient and encourage self-responsibility for health;
- treat the whole patient by considering physical, mental, emotional, genetic, environmental, social, and spiritual factors; and
- assess factors causing disease and use intervention techniques to prevent illness.

A naturopath's role was to support the body's natural ability to restore health using the least invasive approach. The naturopath's methods included both traditional and modern therapies.

Naturopathy In New Hampshire

As of September 2016, New Hampshire was one of 17 states allowing and regulating naturopathy. Three states banned the practice of naturopathic medicine and the remainder did not regulate naturopathy. A well-designed and executed regulatory program can increase the likelihood the State adequately protects its citizens without unduly restricting participation in the regulated practice. The Naturopathic Board of Examiners (Board) was established by the *Naturopathic Health Care Practice Act (Practice Act)* (RSA 328-E) in 1994 to license and regulate naturopaths to protect the public's health, safety, and welfare by ensuring practitioners met minimum

professional and competency standards. The Board's powers included authority to license and relicense practitioners, review educational credentials, promulgate rules to regulate the profession, receive and adjudicate complaints against licensed naturopaths, subpoena witnesses, administer oaths, and compel production of papers and records. Consistent with the *Practice Act*, naturopaths had the same authority and responsibility as other medical practitioners regarding public health laws, reportable diseases and conditions, communicable disease control and prevention, recording of vital statistics, health and physical examinations, and local boards of health.

Scope Of Practice

Each state regulating naturopathy reportedly defined the scope of practice differently. In New Hampshire, statute defined naturopathy as “the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases...[using] education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes.” Modes of practice could be divided into two general areas: therapies and medicines.

Therapies

Permissible preventive and therapeutic treatments included the natural therapies of dietary therapy, exercise therapy, counseling, hypnotherapy, biofeedback, naturopathic physical medicine, and the use of therapeutic devices. Naturopathic physical medicine was defined as the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic non-ionizing radiation, and the physical modalities of electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, therapeutic exercise, and naturopathic manipulative therapy. Naturopathic manipulative therapy was defined as the manually-administered mechanical treatment of body structures or tissues, in accordance with naturopathic principles, to restore normal physiological function by normalizing and balancing the body's musculoskeletal system. Naturopaths were allowed to prescribe nonprescription therapeutic devices and use noninvasive diagnostic procedures commonly used by other medical practitioners in general practice. For diagnostic purposes, naturopaths were allowed to use physical and orifical examinations, X-rays, electrocardiograms, ultrasound, phlebotomy, clinical laboratory tests and examinations, and physiological function tests. The practice of surgery and emergency medicine was prohibited, and naturopaths were not authorized to practice or claim to practice medicine, surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy, or any other system or method of treatment not authorized under the *Practice Act*.

EXECUTIVE SUMMARY

During the audit period, the Board lacked adequate management controls to ensure the practice of naturopathy was consistently regulated. The Board did not:

- adequately define the naturopathic scope of practice or control the prescribing, preparing, and dispensing of drugs by naturopaths;
- ensure naturopaths who were subject to registration in the State's Prescription Drug Monitoring Program (PDMP) were enrolled;
- adequately control the formulary underpinning the prescribing practices of naturopaths; or

-
- consistently administer licensing, relicensing, continuing education (CE), and other functions.

Administratively attached to the Department of Health and Human Services (DHHS) through State fiscal year (SFY) 2015 and supported by one part-time licensing clerk, the part-time Board was functionally a stand-alone agency and had a broad array of responsibilities which it had difficulty meeting. We also found a gap in the regulation of naturopaths prescribing, preparing, and dispensing drugs between the Board and other entities with regulatory responsibility over controlled substances and drugs generally, including the Pharmacy Board and the DHHS.

The Board did not ensure initial license applicants consistently achieved the standards established in statute and rule. The Board lacked adequate controls over license renewals, and related OPLC practices and procedures were inconsistent with Board rules, with some effectively nullifying rule-based requirements. Consequently, the Board: 1) was inconsistent in acting timely on renewals and providing notice of pending license expiration, 2) inconsistently provided notice it received renewal applications, 3) inconsistently took action on applications, 4) inadequately controlled license lapses and inactive licensees, and 5) did not ensure its records were consistent. Additionally, based on OPLC advice intended to implement a repealed statute, the Board issued licenses valid for a period substantially less than the statutorily-required two-year period. Management of CE requirements was inadequate, and the Board implemented a faulty CE cycle and inconsistently enforced educational and documentation standards. The CE system was unnecessarily confusing, cumbersome, and inefficient. The Board did not ensure: 1) applicants met educational standards, 2) new and renewal specialty certificate applicants provided complete applications and submitted required documents, and 3) timely responses to applicants. Renewal applicants nonetheless received license and certification renewal. Finally, the Board lacked adequate policies, procedures, and rules to administer complaints, investigations, and enforcement activities.

The Council on Doctors of Naturopathic Medicine Formulary (Council), created to develop the drug formulary from which naturopaths could prescribe, operated wholly outside the State statutory construct for a public body. Council operations were informal, lacking rules and adequate and proper documentation of procedures and decisions. The Board lacked adequate controls to ensure Board and Council members consistently and timely filed statements of financial interest, members were eligible to serve, and Board and Council meetings had a quorum of eligible members. The Council's five members did not submit any statements of financial interest and Board members submitted only 31.6 percent of the required statements during the audit period. Noncompliant Board and Council members were ineligible to serve, yet the Board conducted 11 of its 12 meetings, and the Council conducted its only meeting, without a quorum of eligible members. Although the Board held several public meetings with recorded minutes, these minutes were insufficiently detailed, and Board business was also performed outside public meetings. The Council conducted public business in private. Inconsistent compliance with these statutory obligations compromised transparency and accountability, and potentially compromised Board and Council decisions.

The Board also lacked an ethics policy to help ensure ethical standards were met and deviations from those standards were rectified. Board rules were expired for substantial parts of the audit

period, were enforced while expired and without corresponding statutory authority, and lacked substantive content. The Board and Council did not comply with several aspects of State law regulating the management of public records, and we found noncompliance with several other statutes.

The OPLC, created mid-audit period to promote efficiency and economy in Board business processing, recordkeeping, and other administrative and clerical operations, was insufficiently mature to effectively address many of its Board responsibilities. Migrating Board administration to the OPLC was still in process during the audit period. Procedures and practices were in flux. Managerial staff was also reported to have undergone substantial change. Board noncompliance with statutory, regulatory, and general management control standards within this context may to some degree be attributable to insufficient administrative support and organizational turbulence.

State Of New Hampshire
Office Of Professional Licensure And Certification
Real Estate Commission
Issued In September 2017
Audit Period: The Three And A Half Fiscal Years Ended December 31, 2016

In May 2016, the Fiscal Committee approved a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Real Estate Commission (NHREC). We held an entrance conference with NHREC and the Office of Professional Licensure and Certification (OPLC) in late December 2016 and obtained legislative approval for the scope of this audit in March 2017. Our performance audit was designed to answer the following question:

Did the New Hampshire Real Estate Commission operate efficiently and effectively between July 1, 2013 and December 31, 2016?

Specifically, we focused on determining whether the NHREC:

- efficiently and effectively processed licenses, complaints, examination registrations, and continuing education accreditations;
- maintained adequate controls over its administrative operations; and
- efficiently and effectively regulated the real estate industry in New Hampshire.

BACKGROUND

NHREC Membership And Staffing

NHREC was comprised of five volunteer Commissioners appointed by the Governor and Council to five-year terms. Members included two licensed real estate brokers, one licensed real estate salesperson, one attorney, and one public member, who had the authority to set fees, issue licenses, hold hearings, issue orders and subpoenas, and initiate rulemaking. To assist with administering real estate laws, prior to State fiscal year (SFY) 2016, NHREC had the power to appoint an executive director to oversee NHREC staff, which consisted of an administrative assistant, investigator, licensing coordinator, account technician, counter clerk, and a vacant program assistant position. At that time, NHREC was administratively attached to the office of the Secretary of State.

In November 2015, NHREC was consolidated into the newly created OPLC Division of Technical Professions (Technical Division) and NHREC staff were placed under the supervision of the OPLC Executive Director. As part of the consolidation, all administrative, clerical, and business processing functions of NHREC were transferred to OPLC. The OPLC Executive Director also became responsible for all duties previously assigned to NHREC's Executive Director including: issuing and denying licenses, conducting hearings on license denials, hiring staff, recordkeeping, and maintaining a consumer education program. In addition to the duties of the NHREC's Executive Director, State law also assigned OPLC responsibility for performing administrative, clerical, and business processing functions; supervising, coordinating, and assisting with rulemaking; retaining the official record of applicants and licensees; and maintaining confidentiality of NHREC information.

Real Estate Agent Licensing

State law prohibits anyone from acting as a real estate broker or salesperson without a license. Licensed real estate brokers can list, negotiate, sell, purchase, rent, or lease real estate on behalf of themselves or another person. Licensed salespersons can perform the same functions, but must work under the supervision of a licensed broker. Candidates applying for an original real estate salesperson license must be at least 18 years old, pass a two-part licensing exam, complete 40 hours of pre-licensing study, demonstrate no record of unprofessional conduct, and comply with a criminal record check. Applicants for a broker license must comply with the above conditions but are required to complete 60 hours of pre-licensing study. Additionally, broker applicants must show evidence of at least six separate real estate transactions for which they were compensated; obtain a surety bond if applying for a managing or principle broker license; and have been employed full-time by a licensed broker for at least one year, worked at least 2,000 hours as a licensed real estate salesperson, or show equivalent experience.

Licenses expire two years from the date of issue. To renew a license, licensees must certify they have completed at least 15 hours of continuing education. Licensees who want to preserve their license but do not engage in real estate activities may request their license be placed in inactive status. Licensees with inactive licenses are still required to renew the license every two years; however, they do not need to fulfill all of the continuing education requirements, maintain a place of business, or maintain a surety bond, if a broker. Inactive licensees can petition to have their license placed back in active status by complying with the requirements for active licensees. As of January 2017 NHREC had over 12,300 active and inactive licensees.

Continuing Education Accreditation

Continuing education instructors were required to have their course accredited by NHREC prior to offering them. To approve a course, NHREC assessed the content to ensure it enhanced licensees' knowledge, skills, and competence. Courses must directly relate to real estate practice in New Hampshire and must be designed to keep licensees abreast of changing laws, rules, and practices affecting the interest of their clients or customers.

Complaints Against Licensees

State law allows NHREC to investigate the actions of anyone engaging in the activities of, or acting as, a real estate agent and impose sanctions, if appropriate. State law required NHREC to investigate any complaints received. There was one investigator responsible for any complaints filed against the NHREC's over 12,300 licensees.

EXECUTIVE SUMMARY

For part of the audit period, the NHREC was a separate organizational entity with its own Executive Director and staff. However, in 2015, it was consolidated into the newly-created OPLC, transferring responsibilities of its Executive Director to the OPLC Director. The consolidation was considerably turbulent, creating an acrimonious relationship between the two entities from the

start. One month after consolidation, a bill was introduced to remove NHREC from OPLC, which was unsuccessful. Despite this tense environment, we found varying degrees of efficiency and effectiveness within NHREC operations even though it functioned with few documented policies and procedures, especially for critical functions.

Licensing was performed efficiently with over 90 percent of applications being approved within two weeks of receipt. Licenses taking longer to process were mostly due to a delay in receiving the applicant's criminal background check or applicants with criminal convictions requiring additional scrutiny by Commissioners who met monthly. Nevertheless, licensing functions were not properly supervised as one staff member assumed responsibility for granting most licenses without supervisory review. Additionally, Commissioners expressed preference for broker applicants to first obtain New Hampshire real estate sales experience before being granted a broker license, yet at least eight out-of-state brokers with no prior New Hampshire sales experience were granted licenses without any evidence of Commissioner review.

Despite weak supervisory controls over licensing, we found the process to be generally effective. Consumers filed few complaints against licensees and the majority, after investigation, were determined not to be a violation of State law or rule, indicating an effectively regulated industry where licensees maintained the minimum standards for licensure and public confidence. In fact, we found the number of complaints filed in relation to the number of licensees regulated was very small. During SFY 2016, only 43 complaints were filed against the over 12,000 licensees, resulting in complaints filed against approximately one-third of one percent of licensees.

Complaints took approximately six months to resolve, with over 80 percent of complaints resolved within one year of receipt. While most complaints were handled efficiently, we found some lingered for several months without any activity during various phases. While we found some were stalled during the investigation phase, the most concerning were complaints in which Commissioners had determined a violation occurred, but no disciplinary action had been initiated against the licensee. We also found several factors, including State law, may have prevented the complaint process from being more efficient. Laws outlined a specific process for resolving complaints including requiring all complaints be investigated regardless of jurisdiction or merit. Additionally, Commissioners provided little guidance regarding the scope of an investigation, or when an investigation should expand. As a result, additional concerns discovered were included in the investigation regardless of whether it was pertinent to the original complaint, potentially contributing to delays during the investigation phase. Disciplinary action against licensees found in violation of laws and rules appeared to deter future non-compliance, as few licensees received multiple complaints resulting in a violation.

NHREC could benefit from reviewing its fees, especially examination fees which in SFY 2016 collected over 200 percent of the program's operating costs. NHREC was required to set fees sufficient to recover 125 percent of its direct operating costs. It was also required to set examination fees to cover the direct cost of the examination program separate from its other operating expenses. OPLC was required to establish a cost allocation methodology to equitably allocate costs to all regulatory entities under its purview. However, at the end of the audit period, this process was only in the preliminary stages. During the audit period, OPLC did not provide any information on revenues collected or corresponding expenses. Additionally, OPLC's

allocation methodology comingled NHREC's general operating expenses with examination expenses, preventing a separate analysis of these two types of fees. Consequently, for at least one and a half years, NHREC did not have any financial information from OPLC to set its fees accordingly and ensure it was fulfilling its statutory and fiduciary responsibility.

Consolidation, which occurred in the middle of the audit period, was intended to promote efficiency in business processing, record-keeping, and other administrative functions. However, the process faced challenges from its inception. While we found concerns with some NHREC and OPLC administrative practices, the ability to timely rectify these issues may have been attributable to organizational turbulence and tension experienced within the first few months of consolidation. Consolidation provided NHREC benefits through increased access to previously unavailable expertise, increased tracking of administrative rules and complaint activities, and much needed documentation of policies and procedures. After the audit period, OPLC management started reviewing NHREC practices and instituted new procedures, including a more robust complaint tracking system and reporting financial information to Commissioners. As the relationship matures and roles and responsibilities of each party are solidified, NHREC and its licensees could benefit further from consolidation.

**REPORTS OF CERTIFIED PUBLIC ACCOUNTANTS
UNDER CONTRACT TO THE LEGISLATIVE BUDGET ASSISTANT**

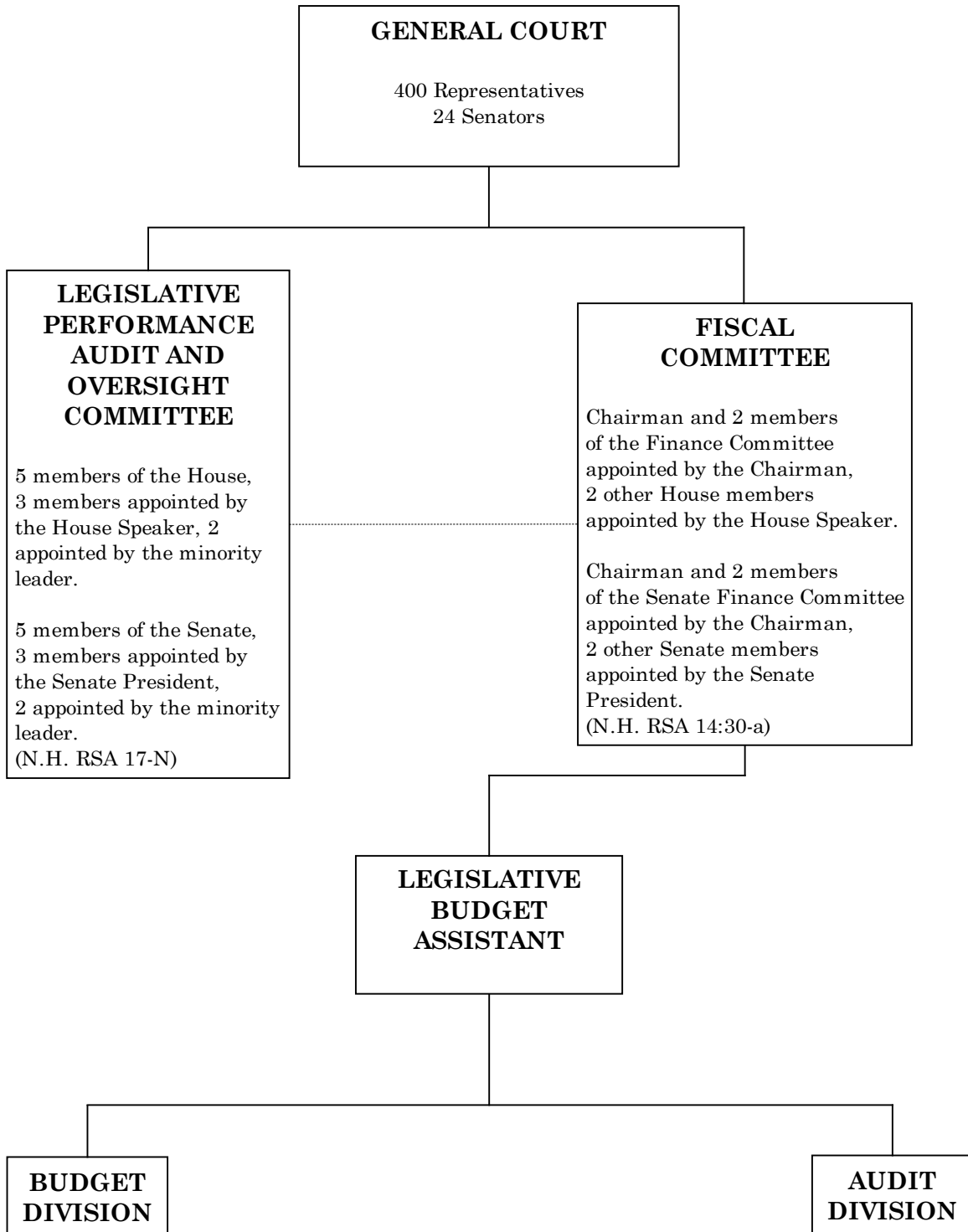
AUDITOR: KPMG, LLP

DESCRIPTION	FISCAL YEAR ENDED
State Of New Hampshire Comprehensive Annual Financial Report	June 30, 2016
State Of New Hampshire Management Letter	June 30, 2016
State Of New Hampshire Comprehensive Annual Financial Report	June 30, 2017
State Of New Hampshire Management Letter	June 30, 2017
State of New Hampshire Comprehensive Annual Financial Report	June 30, 2018
State of New Hampshire Department of Education Total, Supportable And Unsupportable Payroll Costs For Title I Part A, Title II, Title III And School Improvement Grant Federal Programs	June 30, 2014-2016
State Of New Hampshire Single Audit Of Federal Financial Assistance Programs	June 30, 2016
State Of New Hampshire Single Audit Of Federal Financial Assistance Programs	June 30, 2017
State Of New Hampshire Department Of Transportation Turnpike System Annual Financial Report	June 30, 2017
State Of New Hampshire Department Of Transportation Turnpike System Annual Financial Report	June 30, 2018
New Hampshire Turnpike System Internal Control Letter	June 30, 2017
New Hampshire Turnpike System Internal Control Letter	June 30, 2018

AUDITOR: Pricewaterhouse Coopers, LLP

DESCRIPTION	FISCAL YEAR ENDED
The Fidelity Advisor 529 Plan Annual Report	September 30, 2017
The Fidelity Advisor 529 Plan Annual Report	September 30, 2018
The UNIQUE College Investing Plan Annual Report	September 30, 2017
The UNIQUE College Investing Plan Annual Report	September 30, 2018

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT
ORGANIZATION CHART**



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**OVERSIGHT COMMITTEES
2017 AND 2018 MEMBERS**

FISCAL COMMITTEE

The Fiscal Committee was created by the General Court in 1965 to consult with, assist, advise and supervise the work of the Legislative Budget Assistant. It may, at its discretion, investigate and consider any matter relative to the appropriations, expenditures, finances, revenues or any of the fiscal matters of the State. The committee also considers recommendations proposed to it by the Legislative Performance Audit and Oversight Committee.

The Fiscal Committee consists of five members of the House of Representatives (the chairman of the Finance Committee and two other members of the committee, appointed by the chairman; and two other Representatives appointed by the Speaker of the House) and five members of the Senate (the chairman of the Finance Committee and two other members of that committee, appointed by the chairman; and two other Senators appointed by the Senate president). The chairman of the House Finance Committee is the chairman of the Fiscal Committee. [RSA 14:30-a]

HOUSE MEMBERS	SENATE MEMBERS
Representative Neal Kurk, Chair	Senator Lou D'Allesandro
Representative Daniel Eaton	Senator Gary Daniels
Representative Lynne Ober	Senator Chuck Morse
Representative Mary Jane Wallner	Senator John Reagan
Representative Kenneth Weyler	Senator Andy Sanborn
Representative Frank Byron, Alternate	
Representative Cindy Rosenwald, Alternate	
Representative Karen Umberger, Alternate	Alternate(s) appointed as needed

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

This committee was created by the 1987 General Court to consider the need to review state departments, boards, institutions, commissions and agencies and to make recommendations to the Fiscal Committee for such reviews.

The Legislative Performance Audit and Oversight Committee consists of five members of the House of Representatives, three appointed by the Speaker of the House and two appointed by the House minority leader; and five Senators, three appointed by the President of the Senate and two appointed by the Senate minority leaders. [RSA 17-N]

HOUSE MEMBERS	SENATE MEMBERS
Representative Lynne Ober, Chair	Senator Lou D'Allesandro
Representative Richard Barry	Senator Bob Giuda
Representative Raymond Gagnon	Senator Daniel Innis
Representative Laurie Sanborn	Senator Jay Kahn
Representative Lucy Weber	Senator John Reagan
Representative Karen Umberger, Alternate	Alternate(s) appointed as needed

Statutory Authority

RSA 14:31 Office of Legislative Budget Assistant; General Duties.

- I. The office of the legislative budget assistant shall consist of 2 divisions, the audit division and the budget division.
- II. The legislative budget assistant shall be responsible for the proper execution by the audit division and the budget division of their respective functions, as detailed in RSA 14:31, III, RSA 14:31-a, and RSA 14:31-b.
- III. Both the audit division and the budget division shall conduct such investigations, analyses, or research into the financial activities and condition or the financial management procedures, or any specific area thereof, of any department, board, institution, commission, agency, political subdivision, or entity authorized to expend state funds for the information of the legislature, as the fiscal committee shall specifically direct. The authority of the legislative budget assistant to investigate, analyze, or research non-state agencies shall be limited to 5 entities in a 5-year period. In making any such investigation, analysis, or research, the legislative budget assistant, and any assistants appointed pursuant to RSA 14:34 and under the direction of the legislative budget assistant, shall have the power to examine whatever accounts or records of, or property or things of value held by, said department, board, institution, commission, agency, political subdivision, or entity authorized to expend state funds the fiscal committee shall deem useful to said investigation, analysis, or research.
 - III-a. No department, board, institution, commission, agency, or political subdivision shall assert the attorney-client privilege in response to a request for information or examination of operations, accounts, or records by the legislative budget assistant. The attorney-client privilege shall not be deemed waived by any department, board, institution, commission, agency, or political subdivision that provides attorney-client privileged materials to the legislative budget assistant pursuant to this section. Attorney-client communications obtained from any regulated entities shall not be disclosed to the legislative budget assistant.
- IV. All state departments, boards, institutions, commissions, agencies, and political subdivisions, and other entities authorized to expend state funds, shall be required to furnish to the legislative budget assistant any information, including confidential information, he or she may request in the course of carrying out the duties as prescribed by this section, RSA 14:31-a, and RSA 14:31-b, including online access to such information in the state's integrated, multi-module, information technology system, and any related subsystems, except that access to records, files, returns, or information deemed confidential information maintained by the department of revenue administration shall be controlled solely by the provisions of RSA 21-J:14. If the legislative budget assistant requires access to confidential or privileged information, the state entity shall furnish the information. In such situations, the legislative budget assistant shall be subject to the same restrictions and penalties regarding disclosure of the information as the original custodian of the information. The work product of the legislative budget assistant shall also be confidential to the extent required to preserve confidentiality required by law. Disclosure of confidential information to the legislative budget assistant shall be only for the purpose of, and to the

extent necessary for, conducting audits as are required or permitted by law. The legislative budget assistant shall notify the head of any state department, board, institution, commission, agency, or political subdivision, or other entity authorized to expend state funds, before requiring the state entity to furnish any confidential or privileged information which was obtained by the entity through an exchange of information agreement with another state or the federal government. This paragraph shall not be construed to authorize disclosure to any member of the legislature or to any expert consultants, including certified public accountants and data processing experts, hired by the legislative budget assistant to assist him or her in the carrying out of the duties, except such summaries and results which do not disclose any identity required by law to be confidential or privileged, including the attorney-client privilege. If any entity objects to providing confidential or privileged information under the provisions of this paragraph, the state entity may apply to the fiscal committee of the general court for disapproval of the request.

- V. The commissioner of administrative services shall deliver to the legislative budget assistant the official financial information under the control of the commissioner as required by this section in a form unaltered from that which is finally reported in the state's integrated, multi-module, information technology system, including any related subsystems. The approval of the governor, the speaker of the house of representatives, and the senate president shall be required for delivery of any other information, other than the official financial information required by this section. The right of access to information under this section shall not arise until after each transaction or event subject to RSA 91-A has taken place. Such information shall be provided to the legislative budget assistant in a mutually agreeable and compatible format at the end of each business day. The legislative budget assistant shall be subject to the provisions of RSA 21-I:13-a, II. This paragraph shall not be construed as granting the legislative budget assistant access to any information or any information system relative to the internal functions of the office of the governor or any executive agency, department, board, commission, or institution.
- VI. In addition to any other reports required by statute or by the fiscal committee to be submitted by the legislative budget assistant, he shall submit to the members of the finance and ways and means committees a report of the results of post-audits, program result audits, and investigations he or she has conducted since the date of his or her last such report. The fiscal committee shall determine which policy committees of both houses of the general court, in addition to those listed in this paragraph, shall receive reports pursuant to this paragraph. The report required by this paragraph shall be submitted not later than January 25 of each regular legislative session.

Source. 1953, 10:1, par. 34. RSA 14:31. 1969, 281:2. 1977, 217:1; 436:3. 1979, 179:2; 434:70. 1982, 42:179. 1983, 454:10. 1985, 399:29. 1987, 391:4, I, eff. Aug. 24, 1987; 416:8, eff. July 1, 1987. 2000, 239:11, eff. June 6, 2000; 239:12, eff. Dec. 31, 2001. 2006, 79:1, eff. July 1, 2007. 2011, 173:1, eff. Aug. 13, 2011. 2015, 185:2; 276:180, eff. July 1, 2015; 276:270, eff. Jan. 1, 2016.

RSA 14:31-a Audit Division.

- I The audit division shall:
- (a) Conduct post-audits of the accounts and records of any state department, board, institution, commission, agency, or political subdivision, or other entity authorized to expend state funds. The authority of the legislative budget assistant to conduct post-audits on non-state agencies shall be limited to 5 entities in a 5-year period. The legislative budget assistant may cooperate with federal officials and agencies in conducting said post-audits.
 - (b) Audit the accounts of the state treasurer at least once each fiscal year. The findings and report of a certified accountant, designated by the legislative budget assistant, may be accepted as fulfilling the requirements of this subparagraph.
 - (c) Submit a detailed report of every audit conducted pursuant to this section to the fiscal committee for its approval. After approval by the committee, a copy of the report shall be given to the governor; the speaker of the house of representatives; the president of the senate; the commissioner of the department of administrative services; and the executive officer of the department, board, institution, commission, agency, political subdivision, or entity authorized to expend state funds concerned. The executive officer shall have the right to submit a written statement explaining or rebutting the findings of the report to the fiscal committee.
 - (d) Conduct such program result audits of any department, board, institution, commission, agency, political subdivision, or entity authorized to expend state funds as the fiscal committee shall specifically direct. Program result audits shall include, but not be limited to, examinations and any determinations based upon the examinations as to whether the results contemplated by the legislature, or other authorizing body, have been and are being achieved by the department, board, institution, commission, agency, political subdivision, or entity authorized to expend state funds concerned, and whether such objectives could be obtained more effectively through other means. This paragraph shall not apply to constitutional officers in the execution of their constitutional duties. The fiscal committee may direct the legislative budget assistant to expand the scope of any program result audit to include such policy analysis as the fiscal committee may, in its discretion, designate. Such committee shall, at least once every 10 years, consider the necessity of the review, pursuant to this paragraph, of each department, board, institution, commission, agency, political subdivision, and entity authorized to expend state funds.
 - (e) Conduct audits of the compliance of state agencies with statewide information technology standards and procedures.
 - (f) [Repealed.]
- II. The detailed reports of every audit conducted pursuant to this section shall become a public record upon approval by the fiscal committee. Audit work papers and notes are not public records. However, those materials necessary to support the compilations in the final audit report may be made available by majority vote of the fiscal committee after a public hearing

showing proper cause. For the purposes of this section, work papers shall include, but are not limited to, all preliminary drafts and notes used in preparing the audit report.

Source. 1973, 376:62. 1987, 416:9. 1991, 346:4, eff. July 1, 1991. 1998, 222:5, eff. June 22, 1998. 2001, 289:1, eff. July 17, 2001. 2003, 319:41, I, eff. July 1, 2003. 2006, 79:2, eff. July 1, 2007.

RSA 14:31-b Budget Division.

- I. The budget division shall:
 - (a) Provide technical staff assistance in the areas of finance, accounting and budgeting to the appropriations, finance, ways and means, and capital budget overview committees and such other committees, including joint committees, of the general court as the fiscal committee may from time to time designate, upon the request of any of such committees or the fiscal committee.
 - (b) Prepare fiscal notes and amendments to fiscal notes as required by RSA 14:44-47.
 - (c) Prepare fiscal impact statements as defined in RSA 541-A:1, VII.
 - (d) Conduct orientation programs and prepare and distribute summary materials regarding the budget and budget process to the full membership of the house and senate.
- II. The legislative budget assistant shall attend all hearings on state budgets as provided for in RSA 9:7.

Source. 1987, 416:10. 1994, 412:2, eff. Aug. 9, 1994. 1998, 222:6, eff. June 22, 1998.

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT
STAFF AS OF DECEMBER 31, 2018**

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DEPUTY LEGISLATIVE BUDGET ASSISTANT	Christopher M. Shea, MPA, CIA

BUDGET DIVISION

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COURT REPORTER	Cecelia A. Trask, CSCR, RMR, CRR
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AUDIT DIVISION

DIRECTOR OF AUDITS	Stephen C. Smith, CPA, MS
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AUDIT SUPERVISORS	William H. Mitchell, CPA, MBA Jay S. Henry, MPA, CIA, CGFM	AUDITORS	Jonah C. Fjeldsted, MPA Nicole K. Gaffen, MPP Andrea Kabala, MA Paige Lorenz, MPA John A. Lyons Mark Manganiello, MPA Burmaa Nergui, CPA, MS Collin W. Quinn, CPA, MS Roberto R. Reyna, MPA, CGAP Kurt Straube, MS Nicholas A. Titus, MS Thomas Ward
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AUDIT MANAGER	Kimberly R. Bisson, CPA, MSA	ADMINISTRATIVE ASSISTANT	Denise Doyon