

Transcription of May 5, 2021 Public Works & Highways Committee Hearing on SB26

Specifically, the testimony of James Gerry of the NH Dept of Revenue Administration

<https://www.youtube.com/watch?v=27F0aNI66Fo>

James Gerry's testimony began at 5:03 into the recording

My name is James Gerry, thank you for entertaining me and allowing me to speak on this important legislation. As you know there are two parts to the legislation and the DRA takes no position on the first part of the legislation. The second part of the legislation is what we care about and that is because RSA 41:31-a states that financial audits play a fundamentally vital role in helping to preserve the integrity of the public finance functions by maintaining citizens confidence in their elected leaders. Properly performed audits provide independent assurance that financial information presented is reliable. Because of this NH law mandates that all municipalities with populations greater than 750 conduct an annual audit. Now over the last 20 years the Woodsville Fire District attempted to complete just 1 audit and that was in 2014 and that audit was not completed because officials in the district refused to provide the necessary documents over a dispute about confidentiality. Since 2014 the district elected numerous auditors and made statements both to the public and the DRA that they had audited financials but after we investigated the situation we realized the locally elected auditors never actually performed an audit and the audited financial statements they claimed to have were nothing more than unaudited financial statements. The first time we actually saw movement toward completing an audit was when SB414 was introduced last year. This bill which passed the house and senate imposed the same penalties that this bill does for not completing their audits in a timely fashion. As a result of the pressure put on the district in 2020, they engaged the firm Plozdik and Sanderson to do at least 5 years of audits. As of today, they have completed 3 years of audits. These audits have reveals numerous violations of state statues, these include violations of RSA 32 municipal budget law, RSA 33 municipal finance act, and additional violations of RSA 41. Some of the violations include taking out loans without first getting approval from the voters. Under NH law you are supposed to get 60 percent approval from the voters. They took out loans without getting any support from the electorate. Filing incomplete and misleading forms with the DRA that concealed these loans and making risky investments contrary to state law. The DRA is in the process of further investigating these violations. This includes co-mingling of funds. The audits also have detailed concerns not under the purview of the DRA, one such example which has been talked about, was the district falsely reporting to the NH retirement system over an 11 year period, about an employee they had miscategorized, in addition to the numerous violations of statutes the audit detailed the district had no meaningful internal controls in place that would minimize the risk of fraud or errors, in fact the audit states the following: *"Based upon the audit procedures and observations during the audit we noted the district has a lack of internal controls and direction regarding the accounting system and overall fiscal mismanagement."* We have significant concerns that without the passage of Senate Bill 26, the district will little incentive to complete the 2 years of remaining audits. We believe the potential penalties imposed by last years SB414, forced Woodsville Fire District's hand, and without that the 3 years of audits would not have been completed. Therefore, the DRA feels it is imperative that those penalties contained in SB26 be enacted if the legislation intends for the DRA to have a meaningful way to enforce compliance with RSA 41:31-a, and just on a final note, I am assuming I misheard a couple of speakers, because I believe they said there was absolutely no way there was any co-mingling of funds and the audit showed that, where of course, I am looking at page 46 of the 2016 audit under the non-compliance with State Statutes payment in lieu of

taxes from proprietary funds surpluses where they identified 3 transfers of \$15,000 each, made from accumulated fund balance of the water fund, electric fund, and sewer fund to the district general fund as “payments in lieu of taxes”. These transfers were made in contrary to the provisions of RSA 38:29 Water Funds and 149:10 Sewer Funds. What those RSAs do is prevent the co-mingling of funds, which their own auditors said they did. So, I must have misheard them when they said that was not going on. I will now open it up to any questions you may have.

Woodsville 2015, 2016, 2017 audits can be found on the Town of Haverhill Website [here](#).