

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE  
MINUTES

April 30, 2021

The Legislative Performance Audit and Oversight Committee met on Friday, April 30, 2021 at 11:00 AM via Zoom Webinar (Remote).

Members in attendance were as follows:

Rep. Lynne Ober, Chair  
Rep. Ken Weyler  
Rep. Keith Erf  
Rep. Mary Jane Wallner  
Rep. Lucy Weber  
Sen. John Reagan, Vice Chair  
Sen. Bob Giuda  
Sen. Erin Hennessey  
Sen. Lou D'Allesandro  
Sen. Jay Kahn

The meeting convened at 11:00 AM.

CHAIRMAN'S SCRIPT READ:

Representative Ober read the Chairman's Script at the start of the online meeting.

*"As Chair of the Legislative Performance Audit and Oversight Committee, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 Pandemic, and in accordance with House Rule 67 and the Governor's Emergency Order #12, pursuant to Executive Order 2020-04, this public body is authorized to meet electronically. This is a regular meeting of the Committee."*

*"Please note that there is no physical location for members of the public to observe and listen contemporaneously to this meeting. However, in accordance with the Emergency Order, I am confirming that all Members of the Committee and selected legislative staff have the ability to communicate contemporaneously during this meeting through the Zoom electronic meeting platform; and the public has access to contemporaneously listen, and, if necessary, participate in this meeting by the Zoom platform or by telephone."*

*"All necessary access information has been made available in the House and Senate Calendars, and through the electronic calendar on the General Court website. The notice for this meeting complies with House Rules and RSA 91-A. Anyone who has a problem with accessing the meeting should e-mail [nhlbao@leg.state.nh.us](mailto:nhlbao@leg.state.nh.us)."*

*"In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled. LBA staff are on the meeting assisting us. Please note that all votes taken during this meeting shall be done by roll call vote."*

ATTENDANCE ROLL CALL:

Requesting that Members acknowledge their presence, state their location and if others are present, Representative Ober called the Roll of voting members.

Representative Ober - Present/at home in Hudson, alone  
Representative Weber - Present/at second home in Concord, alone  
Representative Wallner - Present/at home in Concord, alone  
Representative Weyler - Present/at home in Kingston, alone in the room  
Senator Hennessey - Present/in office at State House, alone  
Senator Reagan - Present/in his office, alone  
Senator Giuda - Present/in office at State House, alone  
Senator D'Allesandro - Present/at home in Manchester, wife is in the house  
Senator Kahn - Present/at home in Keene, wife is in the house

ROLL CALL VOTE ON ACCEPTANCE OF THE MARCH 12, 2021 MEETING MINUTES:

On a motion by Senator Hennessey, seconded by Senator Giuda, that the minutes of the March 12, 2021 meeting be accepted.

A roll call was taken, and the results were as follows:

Senator Kahn - Yes  
Senator D'Allesandro - Yes  
Senator Giuda - Yes  
Senator Reagan - Yes  
Senator Hennessey - Yes  
Representative Weyler - Yes  
Representative Wallner - Yes  
Representative Weber - Yes  
Representative Ober - Yes  
(9-Yes; 0-No)

MOTION ADOPTED.

NEW AUDIT TOPICS FOR DISCUSSION

Representative Ober stated she sent out three audit topics to the Committee that morning. The topics were brought to her attention by listeners and the topics consisted of: Fixed-Wing Aircraft Program, Child Care Licensing, and Weatherization Program.

DISCUSS AUDIT TOPICS VOTED ON DURING MARCH 12, 2021 MEETING:

The Committee generally discussed and reviewed the mini scopes of each audit topic that were in the queue: 1) Mental Health Workforce Development; 2) Bureau of Elderly and Adult Services and Choices For Independence and 3) Retirement System Investments. Legislative Budget Assistant Performance Audit Supervisor, Jay Henry, stated the Bureau of Elderly and Adult Services and the Choices for Independence audit topics, previously discussed as separate topics, had been combined when written in the mini scope. After much discussion, it was agreed by the Committee that these three audit topics would be tabled.

The Committee also revisited the topic of Property Tax Exemption for Pollution Control Devices, and on a motion by Representative Weyler, seconded by Senator D'Allesandro, this audit be terminated.

A roll call was taken, and the results were as follows:

Representative Weyler - Yes  
Senator Giuda - Yes  
Senator D'Allesandro - Yes  
Senator Kahn - Yes  
Representative Weber - Yes  
Senator Hennessey - Yes  
Representative Wallner - Yes  
Representative Ober - Yes  
(8-Yes; 0-No)

MOTION ADOPTED.

IDENTIFY AND ROLL CALL VOTE ON NEW AUDIT TOPICS:

The Committee discussed and agreed to move forward with the Child Care Licensing audit.

On a motion by Senator Giuda, seconded by Senator Hennessey, the Child Care Licensing audit be accepted.

A roll call was taken, and the results were as follows:

Senator Giuda - Yes  
Senator Kahn - Yes  
Senator Hennessey - Yes  
Representative Weber - Yes  
Representative Weyler - Yes  
Representative Wallner - Yes  
Representative Ober - Yes  
(7-Yes; 0-No)

MOTION ADOPTED.

OTHER BUSINESS:

Mr. Henry notified the Committee of the need for new audit topics. The Committee discussed and seeks additional information from the LBA on two potential audit topics, weatherization program and fixed-wing aircraft program. It was agreed by the Committee members that their preference was to review a mini scope of each audit topic, provided by the LBA, for consideration at the next meeting.

DATE OF NEXT MEETING AND ADJOURNMENT:

Next meeting will be at the call of the Chair.

Senator Giuda adjourned the meeting at 12:15 PM.

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Rep. Lynne Ober, Chair

**STATE OF NEW HAMPSHIRE  
OFFICE OF LEGISLATIVE BUDGET ASSISTANT - AUDIT DIVISION**

**PROPOSED SCOPE STATEMENT  
PERFORMANCE AUDIT OF CHILD CARE LICENSING UNIT**

In May 2021, the Fiscal Committee approved a Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Child Care Licensing Unit (CCLU), administered by the Department of Health and Human Services (DHHS). We held an entrance conference with the DHHS during the same month.

**Background**

The CCLU, located within the DHHS' Bureau of Licensing and Certification, works to ensure children attending child care programs in New Hampshire are cared for in a safe and healthy environment; and they are provided with care, supervision and developmentally appropriate activities to meet their physical and emotional needs. To support these goals, CCLU staff approve and issue licenses to childcare programs; conduct on-site evaluations, monitoring, and investigations to ensure compliance with laws and rules; initiate disciplinary action, when necessary; and provide consultation and technical assistance to help new and existing programs understand licensing regulations. As of June 2021, the CCLU had 19 full-time and one part-time staff, comprising of 11 Licensing Coordinators, six support staff, two supervisors, and a unit chief.

**Child Care Licensing**

According to CCLU data, in June 2021, there were 767 licensed facilities providing 45,770 childcare slots statewide. This is a decrease from 801 licensed facilities providing 46,224 slots in July 2020. Providers offered child care programs in either a home- or center-based setting serving infants to school-aged children. Restrictions on the numbers and ages of children served in these programs differ depending on the type of program.

***Licensing Process***

Most child care facilities must be licensed before they can begin operating. New applicants are required to submit an application to the CCLU, including fire, health, and zoning approvals from the town where the program will be located. Applicants also need to submit forms authorizing criminal background checks for all staff who will be working at the program or who reside in the home if a home-based program. The CCLU must review the application and notify the applicant of any errors or missing documents within 30 days of receipt.

Once the CCLU receives a complete application packet, it has 60 days to approve or deny the application. The CCLU Licensing Coordinator assigned to the area where the program is located schedules an initial licensing visit to evaluate whether the facility is in compliance with all licensing rules. If the program complies with all requirements, the program will be issued a six-month permit, during which time the CCLU will make an unannounced visit to ensure the program continues to be compliant. If the program remains in compliance, the CCLU will issue a license for the remainder of the licensing period. The CCLU will not issue a license to any program that is not in compliance with rules the CCLU categorizes as "critical rules." Non-compliance with these rules would have a high likelihood of jeopardizing the health, safety, or wellbeing of children in care. Therefore, if the CCLU finds a violation of a critical rule, it will issue a Statement of Findings and the applicant must correct the violation before a license can be issued.

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Licenses are valid for three years from the date the permit is issued, unless the CCLU revokes or suspends it, or the licensee voluntarily surrenders the license. Licenses are not transferable and must be surrendered if the program changes ownership. A facility must submit its application for license renewal at least three months before it expires. If a renewal application is timely submitted, the existing license does not expire until the CCLU acts on the application. As part of the relicensing process, CCLU staff also must conduct a monitoring visit to ensure the program is following all applicable rules. If the department is satisfied that the program complies with the minimum standards, it shall renew the license.

***Licensing Exemptions***

Statute allows some exemptions to licensing requirements. Exempt providers are not licensed or regulated by the CCLU; however, providers may choose to obtain a license. If a program is caring for a child receiving child care support through the state, they are required to have a criminal record and DCYF registry check. License-exempt programs include private homes providing care for up to 3 children not related to the provider; after-school or summer recreation programs run by a municipality; programs operated by a school system; and child care offered in conjunction with religious services or those operated at a shopping center, ski area, bowling alley, or other similar operation where parents are readily available. Programs offering athletic, crafts, music, or dance instruction and some recreation programs are also exempt from licensing requirements.

**Monitoring Child Care Facilities**

Federal law requires states conduct a pre-licensing visit for licensed programs. State and federal laws require CCLU personnel to visit licensed child care facilities to assess compliance with licensing rules at least annually. Licensing Coordinators conduct all monitoring visits unannounced, except in conjunction with licensing and relicensing. During monitoring visits, Licensing Coordinators review the program's records to ensure the program has parental authorizations, and immunization and other records for all children enrolled in the program; staff training and certifications are current; child-to-staff ratios are met; and to ensure all applicable rules, including safety and sanitation standards, are met.

Rules require the CCLU to issue a Statement of Findings after each licensing and monitoring visit, regardless of whether a violation is found. If the Licensing Coordinator finds a violation of a critical rule, the program must correct it immediately, if it can be, and develop a Corrective Action Plan to ensure future compliance. However, if the violation requires a more complex correction, for example work that may require the program to hire a contractor, the CCLU will require the program to outline their proposal and timeline, as well as the actions that will be taken until the violation can be corrected, in a Corrective Action Plan, which must be approved by the CCLU. Programs must correct violations of non-critical rules within 30 days from the date of the Statement of Findings, unless the CCLU approves an extension. The program may be required to submit proof the work was completed and Licensing Coordinators generally follow up at the next monitoring visit. Licensees who disagree with the findings of a monitoring visit may request informal dispute resolution through the CCLU within 14 days of receiving the Statement of

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Findings. The CCLU can issue sanctions if violations remain uncorrected and rules outline specific sanctions for non-compliance.

The CCLU is also required to investigate complaints alleging potential violations of its licensing laws and rules. The CCLU can investigate a complaint that alleges injury or physical, verbal, or emotional abuse, or constitutes a potential danger of physical injury to children regardless of when it occurred. In State fiscal year (SFY) 2021, the CCLU responded to approximately 150 complaints.

**Funding**

The federal government helps low-income working families access affordable, high-quality child care through the Child Care and Development Fund (CCDF). Funding is available to families in New Hampshire through the State scholarship program, administered by the DHHS Bureau of Child Development and Head Start Collaboration.

The CCLU receives a portion of CCDF funds to support its licensing and monitoring functions. State general funds are used to satisfy the matching requirements of the grant. The CCLU also receives funds from Medicaid and the Social Security Block Grant, and the CCLU generates agency income from fines and by issuing employment eligibility cards to child care workers. Table 1 shows CCLU revenues and expenditures from SFY 2018 to 2021.

**Table 1**

**CCLU Revenue And Expenditures,  
SFYs 2018 Through 2020**

	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Revenue</b>			
Federal Grants	1,040,705	1,144,780	1,086,855
Agency Income	25,130	117,250	116,845
General Funds	513,501	475,323	483,820
<b>Total Revenue</b>	<b>1,579,336</b>	<b>1,737,353</b>	<b>1,687,520</b>
<b>Expenditures</b>			
Personnel And Benefits	1,489,444	1,639,738	1,611,587
Transfers To Other Agencies	29,400	39,735	31,590
Travel	45,446	44,972.68	28,061
Current Expenses	11,131	10,948.22	11,675
Other	3,916	1,958	4,607
<b>Total Expenditures</b>	<b>1,579,337</b>	<b>1,737,352</b>	<b>1,687,520</b>

Note: SFY 2021 financial data are not yet finalized.

Source: LBA analysis of CCLU Statements of Appropriation.

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PROPOSED SCOPE STATEMENT  
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**Audit Scope**

This performance audit will focus on the following question: *Was the Child Care Licensing Unit's licensing process efficient and effective during State fiscal years 2018 to 2021?* Specifically, we will evaluate the efficiency and effectiveness of CCLU's process for:

- processing applications for new licenses and license renewals, and
- conducting monitoring visits.

To address these objectives, we plan to:

- review relevant State and federal laws; CCLU administrative rules; and CCLU policies, procedures, and guidance;
- interview CCLU and DHHS personnel, and contact external stakeholders;
- review audits, evaluations, and guidance from other states and national organizations;
- review and analyze CCLU files and data;
- review similar practices in peer states;
- review CCLU internal controls over the licensing process; and
- compare CCLU practices to relevant guidelines and accepted practices.

We will consider the unprecedented effects of dealing with the COVID-19 pandemic on child care licensees and the CCLU during the audit period when measuring program performance. We anticipate completing this audit and presenting the final report to the Fiscal Committee by the end of the year.



## STATE POLICE FIXED-WING AIRCRAFT

The Special Enforcement Unit (SEU) of the Department of Safety, Division of State Police was created in 1980 to provide air support to all public safety operations in New Hampshire and respond to requests for service from federal, state, county, and local law enforcement or public safety agencies. The SEU's primary mission is to monitor traffic and enforce motor vehicle laws with the goal of making highways safer. This is accomplished through the use of a fixed-wing aircraft and cruisers working together to identify and stop violators.

The unit consists of the following two manned aircraft: a Cessna 182T Skylane and a Bell 407 helicopter. The SEU also has two unmanned aerial systems (i.e., drones). The fixed-wing Cessna 182T is a 2008 4-seater with a single 230 horsepower engine. It is based at the Concord Municipal Airport.



Source: NH DOS Website

During enforcement initiatives, the SEU locates speeding vehicles and other vehicles operating aggressively. These aircraft initiatives are routinely scheduled across the state on the main thoroughfares during commuter traffic periods, holiday peak travel times, and other areas deemed potentially hazardous. Enforcement during the spring of 2021 appeared to focus on the I-95 and I-93 corridors. Additionally, the SEU provides assistance in the area of criminal surveillance, searches for missing and wanted individuals, and aerial photography.

According to the latest publicly available data for State fiscal year (SFY) 2019, the fixed-wing aircraft flew 129 traffic enforcement missions throughout the state, equating to approximately 429.2 hours of flight time resulting in 4,802 reported events. Out of the total, 48 were for speeding offenses over 100 MPH and 547 were for speeding offenses over 90 MPH. The SEU also charged 19 individuals with operating after suspension, 49 individuals with reckless operation, and seven individuals with driving while intoxicated. According to the budget for SFY 2021 (adopted), the Aircraft Traffic Surveillance activity was funded for a total of \$409,094 by the Highway (23 percent), Turnpike (28 percent), and General Funds (49 percent); however, that does not include personnel costs.

A performance audit could look at the efficiency and effectiveness of using fixed-wing aircraft in traffic interdiction and whether the level of interdiction is proportionate to costs.

**OFFICE OF STRATEGIC INITIATIVES  
WEATHERIZATION ASSISTANCE PROGRAM**

The Office of Strategic Initiatives (OSI) operates the Weatherization Assistance Program (WAP) with grants from the US Department of Energy. The OSI subcontracts with New Hampshire's Community Action Agencies, which are responsible for operating and delivering weatherization services at the local level. Application to the WAP is made to local Community Action Agencies. The overall goal of the WAP is to serve low-income households most vulnerable to high-energy costs and who do not have the means of making cost-effective energy conservation improvements to their homes. The program reduces heating and cooling costs for low-income families, particularly for the elderly, people with disabilities, and children, by improving the energy efficiency of their homes while ensuring their health and safety.

The OSI, whenever possible, collaborates with the electric and natural gas utilities' energy efficiency programs to enhance the weatherization services provided to low-income households in New Hampshire. According to the OSI's State fiscal year 2021 budget, the WAP planned to serve 250 clients at a cost of \$1.667 million.

Eligibility and benefits for the WAP are determined by gross household income (total income including tips, interest/dividends, pensions, and all wages or salaries before deductions), number of household members, and vulnerability to heating costs. The maximum gross household income by number of people in the household is currently established at 200 percent of the Federal Poverty Guideline for the WAP. Homeowners and renters, including renters whose heat is included in their rent, are eligible. Once an applicant is determined income eligible, the application is placed on a waiting list. An energy auditor will contact the applicant to schedule a time to perform a comprehensive home energy audit. The audit includes diagnostic testing, performed by an OSI or Building Performance Institute certified energy auditor, and will help determine if the building qualifies for weatherization. If the building is determined to be qualified, the energy auditor will then develop an energy audit report that will identify all cost-effective energy saving improvements. From this list, qualified improvements will be installed based on order of highest savings. Typical high priority measures include: attic air sealing, installing attic insulation, installing wall insulation (where none exists), and air sealing and/or insulation of basements and crawl spaces.

A performance audit could look at the efficiency and effectiveness of the WAP, whether goals are achieved, oversight of the program, or customer satisfaction.