

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 212

Concord, NH

Thursday, November 1, 2017

MEMBERS PRESENT:

Rep. Lynne Ober, Chair

Rep. Lucy Weber

Sen. John Reagan

Sen. Bob Giuda

Sen. Lou D'Allesandro

(The meeting convened at 11 o'clock a.m.)

1. Acceptance of the October 11, 2017 meeting minutes.

LYNNE OBER, State Representative, Hillsborough County, District #37 and Chair: That clock says it's two minutes of; but I think we're going to start reviewing the form. Can I have a motion to accept the minutes from October 1st?

****** JOHN REAGAN, State Senator, Senate District #17: So move.

ROBERT J. "BOB" GUIDA, State Senator, Senate District #02:
Second.

CHAIRWOMAN OBER: Any discussion? All in favor?

******* {MOTION ADOPTED}

2. Current status of ongoing performance audits.

CHAIRWOMAN OBER: Gentlemen, current status hasn't changed?

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Not really.

CHAIRWOMAN OBER: We are really here, aren't we, to look at the number three and number four.

JAY HENRY, Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Yes.

3. Discussion and approval of the proposed scope statement For the Department of Environmental Services, Air Resources Division performance audit.

CHAIRWOMAN OBER: So who wants to take number three and walk us through what we have, in case there are any questions.

MR. HENRY: Vilay, you want to come up? In case you have any questions. You have the proposed Scope Statement?

VICE-CHAIRWOMAN OBER: Hm-hum, we do, and we read it.

MR. HENRY: In charge of the audit here if you have any questions about the Scope Statement.

CHAIRWOMAN OBER: You guys have any questions? Any concerns?

****** SEN REAGAN: I move to accept the Scope Statement.

CHAIRWOMAN OBER: Is there a second?

LUCY WEBER, State Representative, Cheshire County, District #01: Second.

CHAIRWOMAN OBER: Representative Weber seconds. Any further discussion? All those in favor? We voted unanimously.

***** {MOTION ADOPTED}**

CHAIRWOMAN OBER: That was pretty easy. Nice job.

VILAY SKIDDS, Senior Audit Manager, Audit Division, Office of Legislative Budget: Yes.

CHAIRWOMAN OBER: I thought this looked really good. You did

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a good job on the Scope Statement. So thank you very much.

MS. SKIDDS: Thank you very much.

SEN. GUIDA: Standards to which we become accustomed.

CHAIRWOMAN OBER: Yes, the standard to which we've become accustomed.

4. Discussion of new audit topics.

CHAIRWOMAN OBER: All right. Topics. Can I ask you a question before we get started? And this came to me from a Representative. We typically do topics based on a look at X in this agency or Y in that agency. But what if we wanted to do a topic that crossed agencies? And I'll tell you what was asked of me was a look at the State's web sites and there are two concerns.

One, there's no consistency so constituents are struggling to get across.

Two: In 2012, we passed a bill saying that they can't be -- web sites can't be written on proprietary software that's only available from one agency. We don't know if that's been fixed. And then I've just recently gone through some lovely hours with no electricity again. So because this has been asked of me, I started looking at the web sites on my smart phone, and I realized there are no mobile apps that facilitate looking at web sites either for the State. Is that possible or is that just too wild? Because I'm not going to add it to the topics for consideration if you say, oh, please, you're killing us. Representative Weber.

REP. WEBER: I think one of the issues is that traditionally what they have done is compared what people are doing to what the statute requires to find. And it seems to me that what you're talking about is a more thorough programmatic check on what we're doing. And I think it's a worthy enterprise, but I'm

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not entirely sure that this is the place to do that.

CHAIRWOMAN OBER: I'm really talking about the look and feel how you get into it. Because you look at a business, IBM is one, whatever --

REP. WEBER: I agree with you 100% on that.

(Senator D'Allesandro enters the Committee Room.)

REP. WEBER: I'm not sure performance audit is the correct --

VICE-CHAIRWOMAN OBER: I'll tell you what, could you guys do a little research on that? We won't consider it this morning. It would be worthwhile, maybe talk to Commissioner Goulet, a couple other Commissioners who have charge of web sites. Because there is -- again, more and more of us are using smart phones to access. More and more people are concerned about this. I was helping a constituent this morning who couldn't find anything. I already have the topic in my head, but she couldn't find it. She called me and I was on the web site poking around trying to find the answer for it. Thank heavens I did before I had to come up here. But it is clear that there's a need. So if you could just kind of dig into that, see if that would be possible.

MR. SMITH: Sure. We'll also talk to the team that's doing the DoIT audit. There is a division within DoIT, Web Services.

CHAIRWOMAN OBER: There is Web Services in DoIT.

MR. SMITH: Whether that's something that we glean coming from there. But to answer your first part of the question in terms of multiple agencies, that is not -- that's not an issue. I mean, we have -- often we'll start at one and discover that another agency does feed information or does have a role in the program or the topic of the audit. So we would expand out and do that, so.

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CHAIRWOMAN OBER: Okay. I do have there's one legitimate topic to add to this and that would be a look at Foster Care in HHS as a possible topic. Does anybody else have -- and I'm going to make that number nine. So I'm going to call that HHS Foster Care. Does anybody else have any topics to add to our list?

SEN. REAGAN: Foster care is on four committees now.

VICE-CHAIRWOMAN OBER: Yeah, but none of them are auditing. So I'm just going to put it on there, because it's -- I've got a constituent hammering at me. And then when I put out -- I know Representative Weber was going to ask some of her people about topics. I put it out and I had six Representatives get back to me and say --

REP. WEBER: I haven't had a lot of feedback.

CHAIRWOMAN OBER: -- we're having calls about foster care. Oh, great. Okay. I'm not the only one. Representative Weber.

REP. WEBER: I just had a question about one which is on the list and that's Department of Cultural Resources. And I'm remembering the last time when Representative Vaillancourt proposed abolishing the Department of Cultural Resources. And I chaired one of the most interesting House hearings I've ever chaired in my life where 33 -- 33 other people who testified had been organized in such a way that each of them came and instead of testifying as they have in the past, art is wonderful, each of them came in and said exactly what the Department of Cultural Resources had done to enhance their lives, help them run a business, leverage grants, and other things. So I am not entirely sure why that one's on here, but I just put that forward.

CHAIRWOMAN OBER: My other concern with that one is that that agency no longer exists.

LOU D'ALLESANDRO, State Senator, Senate District #20: Right.

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CHAIRWOMAN OBER: And when the budget passed, DRED became two different agencies, one of them incorporating Cultural Resources with the death of Commissioner McLeod. So you've got Natural and Cultural Resources. I mean, they've barely been in existence since, what, July 1st? I mean, and let's face it, they weren't completely functional as an agency on July 1st because the budget had just passed.

REP. WEBER: Right.

CHAIRWOMAN OBER: I would be inclined not to include that one.

REP. WEBER: So would I. And I would make that as a motion if you need it.

CHAIRWOMAN OBER: Maybe we'll just get consensus. Do you guys feel the same?

SEN. D'ALLESANDRO: Yeah.

SEN. REAGAN: It's kind of early.

VICE-CHAIRWOMAN OBER: We'll just scratch that off. If it wants to come up later when we look at the new agency, fine.

MR. HENRY: I'll just mention that number 4 through 8, these are topics that have been on this list for many years. We came up with a bigger list years ago. I think there might have been 15 topics and over time the Committee has picked some of those topics. So these are just suggestions at one point and we've never come back to come up with a new list. Just so you know sort of where they came from and why they're there.

REP. WEBER: Thank you.

CHAIRWOMAN OBER: Senator Giuda.

SEN. GUIDA: I would advocate strongly for the Water

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Division of DES. I've got 19 lakes in my district. There are over 200 lakes in the state and this department out of all of DES has by far more complaints about delays, and if you will, arbitrary interpretation of rules. It is having a significant and severe impact on business and on the development of properties. And so I would ask that we put that at the top and do one. Again, if I'm out of line with respect to the process, please let me know.

REP. OBER: No. Absolutely not. In fact, I was going to suggest -- how many topics do you want?

MR. SMITH: Let's see. We can get at least three that would be great.

CHAIRWOMAN OBER: Three or four?

MR. SMITH: Yeah.

CHAIRWOMAN OBER: All right. Thirty seconds, put a star by the four you would want to go forward, and we'll see what we have, if we have agreement on them. Everybody got four?

SEN. REAGAN: Yeah.

CHAIRWOMAN OBER: How many people voted for number one? Show of hands. That would be -

SEN. D'ALLESANDRO: I voted, too.

CHAIRWOMAN OBER: -- four of us. How many people voted for number two, please, Police Training and Standards? Two of us. How many people for Department of Safety Sex Offender?

SEN. REAGAN: We did that.

CHAIRWOMAN OBER: We did that?

SEN. REAGAN: Or we did the program.

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MR. HENRY: We did the treatment, sexual offender treatment. I believe this is the Registry which would be once they're out in the community:

SEN. REAGAN: I never had a complaint.

CHAIRWOMAN OBER: Well, two of us voted for that. Department of Agriculture. One. Department of Corrections? Three. Waste Management Division? Public Utilities. That was my other one. Three -- four of us. Lucy, you on it?

REP. WEBER: Yes.

CHAIRWOMAN OBER: Five of us. Then I added HHS Foster Care. While there are committees I didn't vote for that, but I do think that should get on the list and stay there while we see what's going on. Anybody vote for the foster care?

All right. So we have the top ones would be -- top one would be number eight. The second top one would be number one, number five, and then we have two votes each for Police Training Standards and Department of Safety. Police Standards and Training is now in General Funds in the budget. And so their budget is now open to review, and they are being funded only by General Funds. So I think, and we've had this on there before, and I think it might make sense to add them as our fourth topic.

SEN. REAGAN: I agree.

CHAIRWOMAN OBER: All right. So --

SEN. D'ALLESANDRO: If I might, Madam Chair, that's where they should have been from the beginning.

CHAIRWOMAN OBER: I would agree with you.

SEN. D'ALLESANDRO: They should have been funded by General Funds. This penalty assessment deal, I was here when Arthur Kehas created that idea, probably the only one here when Arthur

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created the penalty assessment, because that was a way to get it because there wasn't any -- there was no support for a General Fund appropriation at that time. That thing was just getting under way. But now it's been around since the '70s and we know the value of Standards and Training across the board. And it should be a General Fund -- should be a General Fund situation, not stealing from them every time we had a budget deficit.

CHAIRWOMAN OBER: Right, I couldn't agree more.

SEN. D'ALLESANDRO: Right.

CHAIRWOMAN OBER: And that's what we've done. I think it's time for an audit.

SEN. D'ALLESANDRO: Thank you.

CHAIRWOMAN OBER: Senator Giuda spoke very strongly about making the Water Division, Department of Environmental Services, our top priority. Four people voted for that, whereas all five of us voted for the PUC. Would there be any objection in telling LBA to do number one first and then PUC second?

SEN. D'ALLESANDRO: That's fine.

REP. WEBER: As long as they're both there, I think whatever order makes sense to you guys in terms of your internal processes.

MR. HENRY: Right now -- I'll just mention right now you just approved the Scope Statement for the Department of Environmental Services. So we'll have a group of auditors in the building right now. We could have two going on.

CHAIRWOMAN OBER: Makes sense to kind of piggy-back. So we would like to ask you to make number one your top priority, number eight your second priority, number five your third priority, and then Police Standards and Training your second prior -- your last priority of the four audits that you've requested.

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MR. HENRY: Okay.

CHAIRWOMAN OBER: Are we good?

SEN. GUIDA: Thank you, Madam Chair.

CHAIRWOMAN OBER: You're welcome.

5. Other business.

CHAIRWOMAN OBER: The one other thing under Other Business before we adjourn, I know that people have to go.

MR. SMITH: Excuse me, do you need to vote on that first?

CHAIRWOMAN OBER: I think we have a consensus.

MR. SMITH: Okay.

SEN. D'ALLESANDRO: Do you want a vote?

CHAIRWOMAN OBER: No, not if we are in consensus. I think we'd all vote yes on that. So what we did was came to a friendly consensus.

REP. WEBER: Just say without objection.

CHAIRWOMAN OBER: Without objection that's how we have decided.

SEN. D'ALLESANDRO: Right.

MR. SMITH: We will draft a letter for your signature to the Chairman of Fiscal Committee for their approval.

CHAIRWOMAN OBER: Thank you. Last time and my other piece of business we talked about this Committee never receives the audits when they're completed. Would you like to have at the

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very end of our meeting a copy of the audit and not a full auditor report but have them go over a look at the recommendations? People who then had other meetings 'cause it was at the end could depart. This would be informational only. There would be no vote. The vote takes place in Fiscal or not, because that's -- you guys brought it up so I'm asking today. We need to decide.

SEN. REAGAN: We get copies of the audit.

CHAIRWOMAN OBER: I know we do, and I read them but --

SEN. GIUDA: Me, too.

CHAIRWOMAN OBER: So we good?

SEN. GUIDA: I think I'm good.

SEN. REAGAN: I put legislation in.

SEN. D'ALLESANDRO: You know, if I might, Madam. You know what we never get back when we refer them to the Committee? You know when we take the audit and we do it at Fiscal, and then we refer to the Committee in the House, we never get the report back from them as to what happened.

CHAIRWOMAN OBER: I think the majority of the Committee Chairmen just don't have enough time and I believe Representative Weber spoke to that fairly eloquently.

REP. WEBER: It certainly was an issue of simply not having enough minutes available that people could come and look at them. It would vary very much from Committee to Committee.

SEN. D'ALLESANDRO: But we have 400 members of the House. Each of those committees have 20 people on them. It would seem to me that somebody on that Committee could react to the audit. I mean, they don't send them to the committees in the Senate.

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REP. WEBER: I will just say that when I chaired ED&A we met morning to afternoon three days a week and -- and pulling people in on Mondays and Fridays is not a big -- it's not real good. So it just -- it literally was that because we had so many subcommittees dealing with so many different things, and that's a function of how that Committee works. But that's the Committee that gets all of the stuff that doesn't go anywhere else.

SEN. D'ALLESANDRO: Right.

REP. WEBER: And I felt very badly that we weren't getting to it; but I also didn't see how I could possibly organize it to happen.

SEN. D'ALLESANDRO: I understand what you're saying. But -- but, indeed, if you don't get that feedback back from that Committee that's something that's lost in the shuffle.

SEN. GUIDA: Arguably, if I may, this function is the single most important function that we do is this is how we monitor the performance of our government.

REP. WEBER: Well, I think that what we're saying says to me that maybe having that brief discussion when the audits are done in this Committee might be a very worthwhile thing to do.

SEN. D'ALLESANDRO: I agree with that. I think that's true.

REP. WEBER: Because if people can't stay, people can't stay. But I'm aware of the fact that I'm under the gun today but I'm not usually.

SEN. REAGAN: There is no process. There's no follow-up process --

CHAIRWOMAN OBER: There's no follow-up process.

SEN. REAGAN: -- to and through legislation.

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REP. WEBER: It's a matter of somebody picking up the ball and running with it either in the Senate or in the House.

CHAIRWOMAN OBER: So would you like to try for the coming few months to have that set of changes --

REP. WEBER: We'll try it and see how it works.

CHAIRWOMAN OBER: -- see how it works. We'll do it at the end. It's informational only. No votes. If you have to leave or you want to leave, fine. Is that acceptable?

SEN. D'ALLESANDRO: It is to me.

SEN. GUIDA: Because the importance of the feedback, which Senator D'Allesandro referred, might it be something the House would consider to have a designated person on each Committee as the audit review person so at least there's somebody that has the responsibility? I don't know.

SEN. REAGAN: It fall on anybody, it fall on us.

CHAIRWOMAN OBER: It would fall on the chairman.

REP. WEBER: It's something that could be taken up with the Speaker of the House if the Speakership of the House were not currently in flux, but until we know where we're going with that.

CHAIRWOMAN OBER: Really, that should be the Chairman and, you know, a deputy on the Committee. I would think it would always fall on the Chairman and then that Chairman perhaps should have a deputy.

SEN. REAGAN: We have no process where we refer the recommendations to the committee -- to their respective committees.

CHAIRWOMAN OBER: No, we don't.

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SEN. REAGAN: So kind of like I didn't know about it.

CHAIRWOMAN OBER: So that's legislation that would follow. Fiscal approves it. They refer it to Committee X.

SEN. GUIDA: Does that need to be legislated?

CHAIRWOMAN OBER: Probably, because the rest of it is in legislation.

REP. WEBER: I thought that's already in legislation. I think that's already there.

CHAIRWOMAN OBER: All right. Jay.

SEN. D'ALLESANDRO: We have been doing it forever.

CHAIRWOMAN WEBER: Can you find out for us and maybe just e-mail us, we don't have to have a meeting, e-mail us what's in legislation about who does what once the performance audit is complete. How about that?

MR. HENRY: I know the practice has been the Chair of the Fiscal Committee will sign letters and they will send out copies of the reports to certain House sub -- House Committees depending on the subject matter.

SEN. D'ALLESANDRO: That's right.

MR. HENRY: I don't know if that's in law or if that's just been the practice.

REP. WEBER: I thought it was in law.

MR. HENRY: It's a long-standing practice.

REP. WEBER: I haven't looked at it for a very long time.

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CHAIRWOMAN OBER: We will leave it to you to do that research and just e-mail it out. We do not have to have a meeting to discuss that. Then at least we'll know. And we'll try with the next completed audit we will put it after Other Business so that people who have commitments, 'cause we are all busy, can depart, informational only. We'll quickly go over the recommendations. We don't want the full presentation that goes to Fiscal. Just here's what we've found fast. Here's recommendation one, two, three, four, five. Bing!

MR. HENRY: Sort of like the last one doing with Fiscal where it's about five minutes at most.

CHAIRWOMAN OBER: Yeah, five minutes at most. Representative Weber.

REP. WEBER: House Rule 35 (g) states there shall be the Committee on Executive Departments and Administration to consider matters pertaining to the general administration of State laws and changes therein; matters of policy pertaining to the executive departments; matters relating to New Hampshire Retirement System; matters pertaining to the administration of professional licensing, review of performance audits and other matters that may be referred. And my recollection is that the practice was that if it was Health and Human Services or Education, it went to one of the committees that was attached to the executive departments. I know that ED&A was drowning in them when I took over.

CHAIRWOMAN OBER: And I would think something like this Sex Offender Registry and the Adult Parole Board --

REP. WEBER: Would need to go to Criminal Justice.

CHAIRWOMAN OBER: Yeah, or Judiciary.

SEN. REAGAN: Judiciary.

MR. SMITH: Yes, that's what we do. ED&A gets all reports,

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both House and Senate, and then depending upon the subject matter, for example, if it's Health and Human Services, then the subcommittees, both the Senate and the House related to Health and Human Services would get a copy of it.

REP. WEBER: But it sounds like perhaps we ought to have more discussion internally about how the House deals with that and that doesn't have to be legislation. It could be simply a directive by the Speaker that they're going to be dealt with.

CHAIRWOMAN OBER: It would be nice if we had something in legislation that required the agencies to follow-up and not just Executive Order from the Governor. Because when people change, directives change but we can discuss that. Any other business?

MR. HENRY: Just ask one question about the presentations.

CHAIRWOMAN OBER: Absolutely.

MR. HENRY: Do you want to invite the auditee to be here, too, or just want our --

VICE-CHAIRWOMAN OBER: No, no. We don't want the full Fiscal presentation. No. Just your work, that's all.

MR. HENRY: Okay.

CHAIRWOMAN OBER: We are not going to --

SEN. GUIDA: Executive summary on.

CHAIRWOMAN OBER: Right. We don't need to audit the auditor. We're looking at very short edit, very short summary.

MR. SMITH: Just one item we mentioned at the Fiscal meeting but for October we did successfully have a peer review. That's when we as auditors get audited by our peers. We had a team of --

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VICE-CHAIRWOMAN OBER: It was excellent.

MR. SMITH: -- folks come in from other states and spent a week with us looking at our quality control procedures, policies, and looking at our work papers of some recently completed audits and we got a clean pass bill of health report that --

CHAIRWOMAN OBER: Congratulations.

REP. WEBER: Congratulations.

MR. SMITH: Want to acknowledge Jay and the Managers on the performance side for the good work that they do, because that's largely a reflection of the detail work that they do.

SEN. REAGAN: Get a certificate or something?

MR. SMITH: Yes.

MR. HENRY: Get a letter.

CHAIRWOMAN OBER: We thought you'd make him one.

SEN. D'ALLESANDRO: We can do that. We can do that. That's easy.

6. Date of next meeting and adjournment.

**** SEN. GUIDA: Move to adjourn.**

CHAIRWOMAN OBER: Yeah, without objection, we'll adjourn to the call of the Chair 'cause we don't really right now have anything. But when you guys have scope statements you'll let us know.

MR. SMITH: Yep.

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CHAIRWOMAN OBER: All in favor of adjournment? Thank you for coming. Lucy, you're done. Bob, you're done.

(The meeting adjourned without objection at 11:23 a.m.)

CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

Cecelia A. Trask

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