

**LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT  
COMMITTEE**

Legislative Office Building, Room 212  
Concord, NH  
Monday, February 3, 2014

**MEMBERS PRESENT:**

Rep. Lucy Weber, Chair  
Rep. Carol McGuire  
Rep. Raymond Gagnon  
Sen. Sylvia Larsen  
Sen. John Reagan  
Rep. Mary Jane Wallner

(The meeting convened at 4:03 p.m.)

**2. Current status of ongoing and pending  
performance audits.**

CHAIRWOMAN WEBER: Why don't I call this meeting of the Performance Audit and Oversight Committee to order, and I will recognize the folks from the Legislative Budget Office for status updates, and we'll start with the status updates and hope somebody comes in before we finish the status updates.

RICHARD MAHONEY, Director, Audit Division,  
Office of Legislative Budget Assistant: Thank you,  
Madam Chairman.

CHAIRWOMAN WEBER: Mr. Mahoney is here.

MR. MAHONEY: Yes. Good afternoon to you and the Members of the Committee. For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant. And I have a very brief status update for our ongoing pending audits. I just want to make the Committee aware that we did issue our Community Development Finance Authority audit at the January Fiscal Committee meeting. And we intend to present our Veterans Home budget process audit report to the Fiscal Committee at its February 14th meeting.

We have two audits in process at the moment. The first is at the Department of Resources and Economic Development over economic development programs. We held an entrance conference with Commissioner Rose and members of his staff on November 13th. Field work is currently in process there. And today's agenda includes approval or consideration for this Committee and approval of the Scope Statement for that audit.

The second audit in process at the moment is the assisted living and nursing facility inspections at the Department of Health and Human Services. We held an entrance conference with Commissioner Toumpas and members of his staff on December 16th. We have not yet begun field work, but our audit plan is just about finalized, again, pending approval of the Scope Statement from this Committee today hopefully.

Another audit that was approved by this Committee and submitted to the Fiscal Committee in March of 2013 is the Police Standards and Training Council audit, and that remains tabled by the Fiscal

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Committee.

(Senator Larsen enters the room.)

CHAIRWOMAN WEBER: Senator, we're just hearing our progress report because we did not until you arrived have a quorum, so I'm going to let Mr. Mahoney finish the status report, and then we'll go on with our business. Thank you. Go ahead.

MR. MAHONEY: At its last meeting, this Committee approved three performance audits, one of those being the Charter School approval process at the Department of Education. That's the next audit we will be beginning to plan for, and we have an entrance conference scheduled with Commissioner Barry at the Department of Education tomorrow morning as a matter of fact.

The other audit -- other two audits that were approved at this Committee's last meeting and approved by the Fiscal Committee at its January meeting is the Department of Safety Homeland Security radio interoperability initiative. No work has yet been done on that audit topic.

And the last topic that was approved by this Committee at its last meeting was the Department of Administrative Services statewide recycling, and we have not begun any work on that audit either.

And, finally, in our queue is the Board of Pharmacy, controlled drug prescription health and safety program. The program results in an audit that is required by Chapter 196 laws of 2012. And that's due to be conducted on or before

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December 31st, 2017. I should note that the Board of Pharmacy issued a Request for Proposal for a off-the-shelf software and associated services to be able to collect data for the Board of Pharmacy for this program. And that RFP closed period at the end of January. January 31st was the last day for submission of proposals.

So I'm not sure where that stands at this point in time, but the Board of Pharmacy is progressing obviously with regard to that program. And that concludes my update, Madam Chair.

**1. Acceptance of minutes of the December 3, 2013 meeting.**

CHAIRWOMAN WEBER: Thank you so much. I'm going to go back to item number one and ask if it is the pleasure of the assembled company to accept the minutes of the December 3rd meeting.

**\*\*** SEN. REAGAN: So moved.

CHAIRWOMAN WEBER: Senator Reagan moves acceptance of the minutes. Is there a second?

SEN. LARSEN: Second.

CHAIRWOMAN WEBER: Senator Larsen has seconded. Is there any discussion of the minutes of December 3rd? Seeing none, all in favor of acceptance, say aye. All opposed, nay. The minutes are accepted.

**\*\*\* {MOTION ADOPTED}**

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3. Discussion and approval of proposed Scope Statements for the Department of Health and Human Services, Assisted Living and Nursing Facility Inspections, and Department of Resources and Economic Development, Economic Development Programs performance audits.

CHAIRWOMAN WEBER: So we are moving right along to the two Scope Statements.

MR. MAHONEY: Madam Chair, with your permission, I'd like to have Stephen Fox -- Stephen's our performance audit supervisor responsible for all of our performance audit teams -- present the two audit Scope Statements to the Committee this afternoon.

CHAIRWOMAN WEBER: Thank you.

STEPHEN FOX, Ph.D., Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good afternoon, Madam Chairman and Members of the Committee. For the record, my name is Stephen Fox. As Richard indicated, I am the performance audit supervisor for the LBA Audit Division.

I bring your attention to the proposed Scope Statement on nursing and assisted living facilities inspection. It's the two-page Scope Statement. In the interest of time, I will give a very quick overview of our intended work here and the background. The Health -- Department of Health and Human Services Office of Operations Support has the responsibility for oversight and enforcement of

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basic standards designed to promote safe and appropriate care of persons receiving care and treatment in various types of health facilities, including nursing facilities and assisted living facilities.

Health facilities that would seek Medicare or Medicaid reimbursement must become certified by the Federal Centers for Medicare and Medicaid Services, also known as CMS, and are overseen and inspected by the Office of Operations Support, Health Facilities Certification Unit. All of those facilities are the responsibility -- all other facilities -- I'm sorry -- are the responsibility of the Health Facilities Licensing Unit. In addition, both units investigate complaints that are made by facilities which they oversee.

Because the Health Facilities Certification Unit inspection activities are regulated and reviewed regularly by the CMS, and they reported to us being satisfied with the Health Facilities Certification Unit's performance, we have concluded that an audit of this process is likely not necessary.

I should point out we are awaiting additional information to verify that, but right now we're basing our judgment on phone calls that were made between our auditor in charge, Jay Henry, and officials at the -- at the CMS. The -- that would leave us with a audit of the Health Facilities Licensing Unit, and that -- and that unit is responsible for all facilities that are not certified by the CMS, including 152 adult living facilities and seven private pay nursing homes or

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nursing facilities.

The Health Facilities Licensing Unit conducts two types of inspections, clinical and life safety. The clinical inspection is an annual inspection, and the life safety inspection includes facility compliance with the State fire code, the State building code, underpinning national and international codes, and other guidelines required by DHHS rules and the approved plans for new construction and renovations of existing facilities. The life safety inspections are reportedly conducted shortly after or within a few weeks of a clinical inspection, so basically once a year as well.

The audit scope that we've planned for this audit is basically the bold type on page two in the middle of the page. Did the Health Facility Licensing Unit efficiently and effectively conduct inspections of and investigate complaints against assisted living facilities and private pay nursing facilities during State fiscal years 2012 and 2013?

We anticipate the completion of this audit in April of this year and presenting it to the Fiscal Committee at its May, 2014 meeting. We'd be happy to answer any questions. I'd also point out that John Martin from Health and Human Services is also here.

CHAIRWOMAN WEBER: Thank you very much. Are there questions?

\*\* SEN. REAGAN: Move to accept the Scope Statement.

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CHAIRWOMAN WEBER: Senator Reagan moves acceptance of the Scope Statement.

REP. MCGUIRE: Second.

CHAIRWOMAN WEBER: Seconded by Representative McGuire. Is there any further discussion? Seeing none, all in favor, say aye. Opposed? Unanimously approved.

**\*\*\* {MOTION ADOPTED}**

CHAIRWOMAN WEBER: Moving right along to the second Scope Statement.

MR. FOX: The second -- second proposed Scope Statement is that of our performance audit of the Department of Resources and Economic Development, Division of Economic Development. That charges the Director of the Division of Economic Development with planning, developing, and administering programs to assist in the maintenance and expansion of existing industry and business as well as encouraging and promoting the development of new industry and businesses in the state.

The department -- the division's program staff are primarily organized into five core functions: business recruiting, business retention and support, procurement and technical assistance, the International Trade Resource Center, and the Office of Work Force Opportunity. We have included a brief description of each of those functions on pages one and two of the Scope Statement.

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The department also plays a role in overseeing the State's tax credit and job training programs designed to attract and retain businesses. While New Hampshire, compared to other states, offers relatively small incentives in the form of monetary assistance, tax credits and training grants overseen by the department were slightly less than four million dollars annually. Again, each program under the federal assistance programs is detailed on pages two, three, and four of the Scope Statement.

Our audit period for this audit will encompass calendar years 2012, 2013, and, again, the bolded statement on -- in the middle of page four lays out that audit scope. The question we're looking at is were DRED economic development programs effective in promoting the growth of new businesses, supporting expansion of existing businesses, and attracting businesses to the state during calendar years 2012, and 2013.

Basically, we'll be looking at three areas, the three indicators in this audit. One is whether DRED promoted new business growth, provided support for expanded -- expanding existing businesses, and attracted businesses to the state with a coordinated plan; two, whether DRED's processes allowed us to adequately track and report program activities and outcomes; and, three, whether the DRED effectively and efficiently managed the tax credit and grant programs offered to businesses.

As proposed at this time, this audit will be completed and reported to the Fiscal Committee in April, 2014. That concludes my presentation on this. I point out that Christopher Way and Cindy

Harrington from DRED are both here as well.

CHAIRWOMAN WEBER: Thank you.

\*\* SEN. REAGAN: Move to accept the Scope Statement.

CHAIRWOMAN WEBER: Senator Reagan has moved to accept the Scope Statement. Is there a second?

REP. GAGNON: Second.

CHAIRWOMAN WEBER: Seconded by Representative Gagnon. Are there questions or comments or discussion?

REP. GAGNON: Please, Madam Chair.

CHAIRWOMAN WEBER: Representative Gagnon.

REP. GAGNON: When you plan here to answer these questions, we plan to have this number of bullets. And when you're talking about contacting business, are you talking about business groups as well, like the BIA and --

MR. FOX: Yes.

REP. GAGNON: That's what you're including?

MR. FOX: Chamber of Commerce.

REP. GAGNON: Are you also going to be talking to regional planning commissions? A lot of cities have economic development arms within their municipalities, and I didn't see them listed. And

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that's just -- I'm curious. Like Manchester, Nashua, and I know Claremont has an active arm. And they are always doing business with economic development, and they would be a source, I think, of information. So I didn't see them listed, and I was curious.

MR. FOX: We'll make note of that, Representative Gagnon, and make sure that we do touch base with those.

REP. GAGNON: Good.

CHAIRWOMAN WEBER: Any further questions, comments, or discussion?

SEN. LARSEN: I actually do.

CHAIRWOMAN WEBER: Go ahead, Senator.

SEN. LARSEN: I'm just wondering. When I look at your bulleted items that you're going to -- issues and questions you're going to review, is there somewhere in one of those sentences the idea that you'll review the effectiveness of some of these credits by either some analysis of job growth or --

MR. MAHONEY: It's not -- if I may, Senator, it's not in the bulleted list, but it is in the question up above. We are going to look at effectiveness in promoting growth. It doesn't specifically say credits.

MR. FOX: Number three actually does say effectively and efficiently manage the tax credit

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and grant programs.

SEN. LARSEN: Effectively address that?

MR. FOX: Yes.

MR. MAHONEY: It's important to note for the Committee Members that our statute was changed not too long ago to permit our auditors -- our performance auditors access to DRA and individual tax returns, and so that might come in handy when it comes to this audit. Steve and I have discussed that actually in the past.

SEN. LARSEN: Um-hum.

CHAIRWOMAN WEBER: Anything further? Yes. Go ahead, Representative McGuire.

REP. MCGUIRE: Are these other programs that are mentioned, the job training program and so forth, those are the grant programs you're talking about?

MR. FOX: The research and development or the R and D tax credit, the economic revitalization tax credit, the job creation tax credit, and the job training program, yes, those are all under that rubric of financial support, financial assistance.

REP. MCGUIRE: Um-hum. Thank you.

CHAIRWOMAN WEBER: Further questions? Yes.

REP. GAGNON: Thank you. In reading this today, I saw something about -- there's reference

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to New Hampshire actually spends -- oh, here. I think it's on page two. DRED plays a role -- in the last sentence, tax credit and training grant programs overseen by DRED total less than four million annually, and I guess that's not where -- I thought I saw something where we, the State of New Hampshire, are -- fund fewer, lesser amounts than other -- comparable states, and I understand that the audit is looking at the performance of the here and now today --

MR. MAHONEY: Um-hum.

REP. GAGNON: -- but are they -- can we assess if they're -- you know, is this an equal playing field? I mean I don't know how you entrust that.

MR. FOX: Well, Representative, one of the things that we do is we look at audits -- performance audits that were produced by our peer agencies in other states. We do a lot of background research, and information that we can develop through that -- that sort of source, we will and use that comparative information in order to just basically see where we are.

REP. GAGNON: We've tried to through the years in potential legislation and potential crafting of policy and plans that would better empower the economic development.

MR. FOX: Yes.

REP. GAGNON: Okay. Thank you.

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CHAIRWOMAN WEBER: Representative McGuire.

REP. MCGUIRE: I just wanted to comment on that regard. Knowing that the program is effective and efficient is certainly good ammunition for increasing its size.

REP. GAGNON: Yes.

REP. MCGUIRE: And conversely.

CHAIRWOMAN WEBER: Senator Larsen.

SEN. LARSEN: You mentioned the creation -- and I was very actively involved in the issue of broadband. You mention it as a position, but you don't -- I don't know if you intended to have within the scope of the review a look at whether -- I mean I believe there's been significant progress made in broadband expansion into the more rural parts of our state. Will there be part of that in your report? Because that was directly related to job quotes and the idea of home businesses, small businesses.

MR. MAHONEY: Senator, we can certainly consider that. I have not yet seen our audit plan, our proposed audit plan, but we will in the next few days, I'm sure, because the team has been working on that plan, and I just don't know if they've considered broadband.

Steve, I don't know if you have any additional information on that.

MR. FOX: I haven't gone through the audit plan

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completely myself yet. I did receive a copy of it earlier today. I have not been able to get through the whole thing, so we will keep that in mind.

SEN. LARSEN: It reflects on the efficiency and effectiveness of the department, but it certainly, I think, has some good stories to report. I'd be interested to see what you find.

MR. MAHONEY: Um-hum.

CHAIRWOMAN WEBER: Any further comments, questions, or discussion? Seeing none, all in favor of approving the Scope Statement, signify by saying aye. Opposed? All are in favor.

**\*\*\* {MOTION ADOPTED}**

#### **4. Other business.**

CHAIRWOMAN WEBER: That brings us up to other business. Senator Reagan, you said you had some other business.

SEN. REAGAN: I would like to request a performance audit of the four D child support program out of D.C.Y.F.

REP. MCGUIRE: Which one?

SEN. REAGAN: The four D. That's how it's identified.

REP. MCGUIRE: Oh, okay.

SEN. REAGAN: It was last audited 19 years

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ago.

REP. MCGUIRE: Things have changed.

SEN. REAGAN: Things have changed.

CHAIRWOMAN WEBER: Why don't we add that to the list and take that up at our next meeting.

SEN. REAGAN: All right.

CHAIRWOMAN WEBER: Okay. And at that point you'll have sorted out some of these ones in progress, and you'll know a little bit more what the time frames are.

MR. MAHONEY: Um-hum.

#### **5. Date of next meeting and adjournment.**

CHAIRWOMAN WEBER: Is there any further business to come before the Committee?

\*\* SEN. REAGAN: I move to adjourn.

CHAIRWOMAN WEBER: We will adjourn at the call of the chair unless -- unless you folks have any reason otherwise. I assume you'll stay in touch.

MR. MAHONEY: Yes, Madam Chair. We will do that. Since we've started -- or are about to start another audit at the Department of Education, I would assume that we would be ready for another meeting in four to six weeks potentially.

MR. FOX: Probably sometime in March.

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CHAIRWOMAN WEBER: Okay. The middle of March. That would be best for us. If we were -- I know in the House we're jammed up entirely until the 6th of March. So is there a motion to adjourn?

REP. MCGUIRE: You have one already.

CHAIRWOMAN WEBER: All in favor? We are adjourned. Thank you all very much.

MR. MAHONEY: Thank you. Thank you very much.

(The meeting adjourned at 4:23 p.m.)

## C E R T I F I C A T E

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

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