

**LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE**

Legislative Office Building, Room 212

Concord, NH

Friday, March 6, 2015

**MEMBERS PRESENT:**

Sen. John Reagan, Chair

Sen. Chuck Morse

Sen. Lou D'Allesandro

Sen. Jerry H. Little

Rep. Lucy Weber

Rep. Lynne Ober

Rep. Richard Barry

Rep. Raymond Gagnon

(The meeting convened at 1 o'clock p.m.)

**1. Organization and Election of Officers:**

SEN. REAGAN: We'll call the organizational meeting to order and first order of business will be to select a chairperson.

\*\* REP. OBER: I move Senator Reagan becomes chairperson.

REP. GAGNON: Second.

SEN. REAGAN: Second. Other nominations?

REP. WEBER: I move the nominations be closed.

REP. OBER: Second.

SEN. REAGAN: All those in favor? All those in favor?

REP. BARRY: Make it unanimous.

\*\*\* {MOTION ADOPTED}

**2. Acceptance of minutes of the June 5, 2014 meeting.**

CHAIRMAN REAGAN: Okay. Can we have a motion on the minutes.

\*\* SEN. D'ALLESANDRO: Move the minutes.

REP. OBER: Second.

CHAIRMAN REAGAN: Any additions, corrections or deletions? All those in favor? Opposed? Moved and accepted.

\*\*\* {MOTION ADOPTED}

### **3. Current Status of ongoing and Pending Performance Audits.**

CHAIRMAN REAGAN: Gentlemen, whoever's coming up and take a seat.

STEPHEN SMITH, Director, Audits Division, Office of Legislative Budget Assistant: Good afternoon, Mr. Chairman. Congratulations.

CHAIRMAN REAGAN: Thank you.

MR. SMITH: Members of the Committee, for the record, I'm Steve Smith. I'm the Director of Audits for the Office of Legislative Budget Assistant, the Audit Division. And before I go over the status of the ongoing pending audits, I'd just like to take a couple minutes to mention that since the Committee last met we did complete five reports, and we'll present to the Fiscal Committee. The Health and Human Services Assisted-Living Nursing Facility Inspections and the DRED Economic Development Program reports were presented at the June 9<sup>th</sup>, 2014, meeting. The Department of Education, Charter School Approval Process was presented July 25<sup>th</sup>, 2014, meeting. And, lastly, both the DOT Fleet Management and Department of Safety Radio Interoperability were presented at the November 10<sup>th</sup>, 2014, meeting.

And, also, I would like to mention that last fall we did have a peer review and that this happens every three years for

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our Division. This is a -- we fondly say this is when the auditors get audited. We had the National State Auditors Association come in and they looked over our overall quality control process, looked at our policies, procedures, got into the nitty-gritty of our work papers, and they made an assessment to make sure that we're doing what we say we're doing in accordance with Government Auditing Standards. And they gave us their highest opinion which is a pass. And I believe you got handed out a copy of the report there. So we thought we'd just like to mention that to the Committee as well.

CHAIRMAN REAGAN: Congratulations.

REP. BARRY: Hm-hum.

MR. SMITH: Now, moving on to the status of ongoing audits. The first three there that are listed, the Statewide Recycling, Food Protection, and Farm Inspections -- Pharmacy Inspections, those are the three audits that we currently have ongoing. For both the Statewide Recycling and the Pharmacy Inspection Audits field work is complete on those. We're in the report writing process. The respective auditee has received a draft of the report, so we are currently working with them on their comments and their responses to our Observations. We anticipate that both of those reports will go to the April 3rd Fiscal meeting coming up.

The third audit that's in process is the Food Protection Program. Field work is still ongoing, although towards the end. And we are anticipating going to the Fiscal Committee in June with that report.

The next two audits that are in our queue that the Committee has approved in terms of topics is the Child Support Enforcement and the Consolidation of Certain Business Processing Functions. Both of these topics were approved by this Committee back in March of last year and then subsequently by the Fiscal Committee in April.

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With the child support, we've just begun some preliminary planning on that. So that is the next one that we will jump into. And as far as the consolidation one, no work has begun on that to date.

The last audit on the list you will see the Controlled Drug Prescription Health and Safety Program. We won't be getting to that audit until sometime in 2017 per legislation that was passed requiring that's the deadline for that. Any questions at this point?

SEN. LITTLE: If I may?

CHAIRMAN REAGAN: Sure.

SEN. LITTLE: With apology, I've been given an awful lot in the last month. I'm a rookie here.

MR. SMITH: Hm-hum.

SEN. LITTLE: A freshman. Some things that I'm just not up to speed on yet. One being that is it normal that we receive, and I don't know if the Committee received the proposed Scope Statement, telling you of what the -- in advance of the audit? Do we receive those, because I'm just seeing this for the first time?

REP. WEBER: Hm-hum.

SEN. LITTLE: Again, I apologize. But it's been to get the scope when we are told the field work has been done. But you folks have all seen this proposed scope already?

CHAIRMAN REAGAN: Go ahead.

REP. WEBER: We have in the past approved a topic at one meeting and then a Scope Statement usually shows up at the next meeting which we review and approve.

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REP. OBER: Correct.

SEN. LITTLE: Further question?

CHAIRMAN REAGAN: Go ahead.

SEN. LITTLE: So is it common to receive the Scope telling us how the audit is going to be done after the field work has been done?

REP. WEBER: No.

CHAIRMAN REAGAN: No. Things are just a little -- everything's getting a slow start here compared to what's normally happened because of the changeover.

SEN. LITTLE: Just since this is already under way, I would just add that if I'd seen this before, I would ask if it would be appropriate to add to the Scopes of the Board of Pharmacy whether or not they were in compliance with the PDM, Prescription Drug Monitoring Program. I didn't see that on here. I know it's a new responsibility that they picked up recently.

MR. SMITH: Okay.

SEN. LITTLE: And on the proposed audit for the Food Protection Division. I have a question as to whether or not you ever interviewed the regulated entities themselves. My experience with regulated entities is you can pick up some really interesting information if you ask those who are regulated how they feel about the regulator.

MR. SMITH: If I may? Can we when we get to the Scope, actual Scope Statements themselves, I can have the audit managers on those two particular audits that you mention come up and they can address that.

SEN. LITTLE: Thank you.

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REP. WEBER: Could I ask if there are more print copies of that?

MR. SMITH: The Scope Statements?

REP. WEBER: Yeah.

SEN. LITTLE: I printed these off from the Internet.

REP. WEBER: Usually they come over.

REP. OBER: Steve Fox usually brings them 'cause he knows what we're like.

REP. WEBER: Print copies often are handed out and I would appreciate one. Thank you.

REP. OBER: Me, too.

MR. SMITH: Steve is ill today.

REP. WEBER: Oh, sorry.

REP. OBER: He knows how bad we are.

REP. WEBER: Thank you very much.

REP. BARRY: I printed mine out yesterday.

REP. OBER: Yeah, good for you. I printed mine. They're in 212 in my budget mess.

REP. BARRY: Lost forever.

MR. SMITH: I believe that normally because the Committee has not met since June of last year, Scope Statements for these particular audits in question were developed in the October, November, December time frame and just hasn't been a meeting to bring them forward. But normal protocol once a topic is approved

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and once we jump into the audit, then very early on in the process the Scope Statement would come before the Committee for their approval to make sure that, you know, standard practice that you approve it to make sure that what we have mapped out is what you intended and desired to do.

SEN. LITTLE: Thank you.

MR. SMITH: Any other questions before we move on?

CHAIRMAN REAGAN: No.

**4. Discussion and approval of Scope Statement for the Department of Administrative Services, Statewide Recycling Performance Audit**

MR. SMITH: Moving on to the actual Scope Statements themselves. I did ask -- normally Steve Fox, the Performance Audit Supervisor, would walk the Committee through these. As I mentioned, he is ill today. So, as I stated, each of these three audits are two-thirds or greater completed. For each of the three audits you have a background of the audit on Page 1 and on Page 2 is the actual Scope of what we are going to do. And given where we are with the audits, we can walk you through each one. I mean, it's basically talking different points in the document or we could just answer specific questions that you may have.

As far as the recycling audit, I will try to respond to questions on that one, but I do have the manager for both the Food Protection --

CHAIRMAN REAGAN: Any questions on the recycling audit?

REP. OBER: No.

CHAIRMAN REAGAN: Next thing. Next audit.

**5. Discussion and approval of Scope Statement for the Department of Health and Human Services, Food Protection Program Performance Audit**

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MR. SMITH: On the Food Protection I would ask Steve Grady, who's the audit manager. Normally, we try to complete our performance audits within four months. It's been our goal. But on this particular one, we are going to be looking at about six months completion. Ask Steve just to give you kind of our rationale for that.

STEVE GRADY, Senior, Audit Manager, Audit Division, Office of Legislative Budget Assistant: For the record, I am Steve Grady. I'm a Senior Audit Manager for the LBA Audit Division. I am the in-charge for the Food Protection Program Performance Audit.

To start with, as the Director indicated, this is going to take a little bit longer to do than our normal time frame of approximately four months. We estimate it's going to be about six months in total. The reason behind that or reasons behind that include, one, the complexity of the regulated -- regulatory structure. Not only is DHHS Food Protection section involved in it, but also Agriculture, Environmental Services, and a number of other State Agencies, as well as 15 local jurisdictions who do their own food protections inspections.

Consequently, we wanted to make sure that we were not hitting this topic at too high a level and we did want to get into the details of how the other Agencies interacted with Health and Human Services to ensure that if we did find a gap in the delivery of HHS's regulatory scheme that we could trace it back to its source if it lied, perhaps, within another Department or in a local jurisdiction. We could at least have an understanding as to how inefficiency or an ineffectiveness arose. So it is going to take us a little bit longer because we are dealing with a number of other agencies, and we are surveying local jurisdictions who do their own inspections.

To address the question brought up about speaking with the regulated entities themselves, we have solicited input from the regulated entities' advocacy groups to get their general

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perspective on things. And we haven't noted any major concerns from the regulated entities. Their concerns lie elsewhere primarily.

We have also been to, with DHHS field inspectors, to a number of jurisdictions and have spoken to management at those entities and they've similarly not raised any major concerns with respect to food protection operations.

SEN. LITTLE: Thank you.

MR. GRADY: Absolutely. I could go through the details of this scope document if you'd like. I can hit the high points or I could field any questions at your discretion.

CHAIRMAN REAGAN: Any questions? Okay.

MR. GRADY: Thank you.

CHAIRMAN REAGAN: Thank you.

**6. Discussion and approval of Scope Statement for the Board of Pharmacy, Pharmacy Inspections Performance Audit**

MR. SMITH: I guess the next one is the Board of Pharmacy. And I'll ask -- if you have any questions I'll ask Jay Henry, he's the manager on that. If there's any specific questions for the Board of Pharmacy.

CHAIRMAN REAGAN: Any questions on the Pharmacy Audit? Senator Little.

SEN. LITTLE: Thank you. Just the one that I raised originally which was whether or not the audit covered compliance with the PDMP, Prescription Drug Monitoring Program, which is a responsibility for this Board.

JAY HENRY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: My name is Jay Henry. I'm a Senior Audit Manager with the LBA Audit Division. That topic is -- we are going to have to address it in -- by 2017 because of legislation. So in this audit we only looked at inspections handled by the Board of Pharmacy, and we did not look at the -- the drug program or licensing or investigations. It was just a narrow focus on it.

SEN. LITTLE: I understand. Thank you.

## **7. Discussion of potential audit topics**

MR. SMITH: Lastly, I believe you have received the current active list of pending topics. The first one, as we said, that's the next -- next one that's -- we'll be acting on, number one. We also should have a copy of an e-mail that we got from Representative Weber. A couple of topics that she wanted to bring forth to the Committee. There's also an anonymous letter that we received that we have given to you regarding an SAU.

REP. OBER: Oh, that the Hudson SAU?

CHAIRMAN REAGAN: Aha.

REP. BARRY: Aging employee. Any of us that are not aging?

CHAIRMAN REAGAN: Speak for yourself.

MR. SMITH: Then I believe Senator D'Allesandro also has one.

SEN. D'ALLESANDRO: I have a request and I submitted a copy to everybody on the Board, and take a look at it. I'm requesting a legislative audit of the marriage license fees collected pursuant to RSA 457:29. Under this section, \$38 of each \$48 fee is deposited into a fund maintained by the Department of Health and Human Services pursuant to RSA 173-B[: ]15. The State Treasurer should deposit all fees received by the Department

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under RSA 457:29 in the fund and the fund shall be appropriated for the Domestic Violence Program.

I'm requesting the audit because there seems to be some -- some problem with the amount of money that's been deposited. There seems to be a deficiency in the amount of money that was deposited in the fund. And the recipient of the fund is New Hampshire Coalition Against Domestic and Sexual Violence. They came to see me about the discrepancy. And I'm asking that we audit to find out if there is a discrepancy and to confirm or deny the fact that there is a discrepancy. And everyone has a copy of it with the background -- with the background information.

REP. OBER: Hm-hum.

SEN. D'ALLESANDRO: That's available. And a series -- a series of financial documents that indicate that there's a problem.

REP. OBER: Is this related to that employee that Vital Records let go, do you know?

SEN. D'ALLESANDRO: I'm not aware of that.

REP. OBER: Okay. Just curious.

CHAIRMAN REAGAN: My question is, is this properly here for performance audit or is this more properly a financial audit?

MR. SMITH: I think at face value it probably fall in the financial area. We will take it and assess it as to whether it does. But I think probably more than likely more appropriate for financial division side so, therefore, we will put it in our queue for the financial folks to look at versus the performance audit side which would come under the purview of this Committee. So I don't see -- if we do, I don't think that would require the approval of this Committee --

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CHAIRMAN REAGAN: Right.

MR. SMITH: -- to do, so. Like I said, I'll discuss this with Jeff Pattison and make sure --

SEN. D'ALLESANDRO: I'll bring it to Jeff's attention, also.

MR. SMITH: Yeah.

SEN. D'ALLESANDRO: Great. Thank you.

CHAIRMAN REAGAN: Yes.

REP. WEBER: If I could speak to the two in my very brief e-mail, which I'm awfully glad I sent out because my memory isn't quite as long as it used to be either. The two concerns that I had expressed to me by various people, one was the -- the New Hampshire Joint Board of Licensure and Certification and there's just no oversight over it. It's a freestanding entity and there it is. And so there were some concerns expressed about how it works and --

REP. OBER: Mr. Chair.

CHAIRMAN REAGAN: Yes.

REP. OBER: After she speaks, I'd like to ask a question.

REP. WEBER: And then the second one was an issue of mooring permits from the New Hampshire Division of Ports and Harbors, and I gather that there has been simply a lack of -- a lack of anything or lack of response from Ports and Harbors on the issue of moorings. And I'm told that there are moorings that have not been used for years that also can't be reallocated to somebody who might actually use them. So that's the other one that people were concerned about.

CHAIRMAN REAGAN: Didn't we just add legislation that dealt quite extensively with the renting process anyway?

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REP. WEBER: I'm not remembering that. You may well be right.

REP. OBER: The Joint Board is one of the two areas that is being reorganized in the upcoming budget, and it has not had an official -- we have had a budget hearing with them in Division I because they report to Division I. The Governor's Budget Director was in and the Executive Director of the new Board was in, but they haven't worked out all the details yet of the organization. So I would suggest that that top one might be premature until, one, they find out if it's going to be in the budget. Because they have kind of stopped work until they find out whether we are going to accept it in the budget, the House and the Senate, and then look at it after we know about the budget.

REP. WEBER: That one might be well one that might be just added to the queue for to wait until see if it's right.

REP. OBER: Hm-hum.

CHAIRMAN REAGAN: We just had a bill in Senate ED&A asking for a commission to oversee the Joint Board, which we recommended ITL.

REP. WEBER: Okay.

CHAIRMAN REAGAN: It seemed like that was the purpose of the ED&A Committees to perform that function.

REP. WEBER: Right.

CHAIRMAN REAGAN: So.

REP. OBER: And, plus, again, the reorganization is funded, but they're taking a slow approach. Same thing with the Lottery and Charitable Racing and Charitable Gaming which is going to merge together.

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REP. WEBER: Yes.

REP. OBER: We met with them. They have a proposed budget. They are taking a slow approach. Is the Legislature going to approve or not?

REP. WEBER: Right.

REP. OBER: So until they do, work is kind of waiting on us.

REP. WEBER: That makes perfect sense to me. We have often put off things because things were still in a state of flux of an agency, so.

CHAIRMAN REAGAN: As long as that doesn't become the mechanism for delaying.

REP. WEBER: Right.

REP. OBER: If the budget passes, then I think we -- and it stays in there, then I think you've got an idea where you want to go with this.

REP. WEBER: Right.

REP. OBER: If the budget passes and that reorganization gets removed out.

REP. WEBER: We may want to go ahead with it anyway.

REP. OBER: May want to do it on a different level because it will be a different organization.

REP. WEBER: Right.

CHAIRMAN REAGAN: So what do you need from us today?

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MR. SMITH: Well, I think the goal would be to get at least two topics approved by the Committee because we will have staff probably available in the next month or so that we can get moving with. So I believe, Steve, that was his desire is to have --

CHAIRMAN REAGAN: Representative Ober.

REP. OBER: Number two on the list presented by LBA on Potential Performance Audit Topics I think would be a good one to look at. So it would be one of my high topic ones. And I think what Senator -- the Senator presented Vital Records, that's important, but if that's going to financial audit, I'm happy with that. So I would definitely be in favor of approving number two. I don't know about the rest of you.

The Dam Bureau, number seven, in DES might be a good one. DES two years ago moved those people from where they were into General Fund money and they have not been audited; but they have been an organization for two years working under General Funds.

CHAIRMAN REAGAN: How about one more?

REP. BARRY: Number five.

REP. OBER: Somebody else has got to have an idea.

REP. BARRY: I was thinking number five. If it's never been audited, the Work Ready New Hampshire Program. I don't know what kind of dollars might be involved in that, but.

REP. OBER: Probably a good idea.

CHAIRMAN REAGAN: Okay. So you have three that you can come back with a pre-scope anyway.

MR. SMITH: Yes.

CHAIRMAN REAGAN: And --

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MR. SMITH: Does the Committee have any preference in terms of prioritization? I will mention there is transition going on at Administrative Services.

REP. OBER: Yes.

MR. SMITH: I don't know whether that should be -- whether the Committee would like to move right into that one after or before any of these or if there's any preference. Just wanted --

CHAIRMAN REAGAN: We'll appreciate your opinion what should happen.

MR. SMITH: Okay.

CHAIRMAN REAGAN: If somebody would nose around about the Ports and Harbors, everything may be fine there, but we have reasonable suspicion --

MR. SMITH: Hm-hum.

CHAIRMAN REAGAN: -- they didn't straighten it out.

MR. SMITH: So I guess for the benefit of myself, given that this is my first meeting with the LPAOC, is there a formal vote that should take place for the topics that you selected?

REP. WEBER: There will be.

CHAIRMAN REAGAN: So we have a motion for --

\*\* REP. BARRY: Move those three.

SEN. D'ALLESANDRO: To move the three topics.

REP. OBER: Second.

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CHAIRMAN REAGAN: Seconded by Representative Ober.  
Discussion? All those in favor? Okay.

\*\*\* {MOTION ADOPTED}

MR. SMITH: Committee is comfortable with our assessment as pertains to Administrative Services, whether it makes sense to go in there sooner rather than later?

CHAIRMAN REAGAN: Yes, yes. You're the closest to the subject so we look for your guidance.

MR. SMITH: Okay.

REP. WEBER: And to follow-up on what Senator Little said. We will have Scope Statements at our next meeting.

CHAIRMAN REAGAN: Timely, right.

REP. WEBER: We will meet more often.

CHAIRMAN REAGAN: We'll meet more timely.

REP. WEBER: Than June to March which is unusual.

SEN. LITTLE: Thank you.

**8. Other business:**

**9. Date of next meeting and adjournment**

REP. BARRY: Set the next meeting date?

CHAIRMAN REAGAN: No. We have to see what develops for them. When they are going to need answers, then we'll go through the same struggle.

MR. SMITH: Based on where we are with these topics, probably somewhere around the May time frame is probably going to be another meeting to develop some Scopes to present.

CHAIRMAN REAGAN: Okay.

REP. OBER: Praise the Lord. The budget will be in the Senate. I'll have more time available.

SEN. LITTLE: Great.

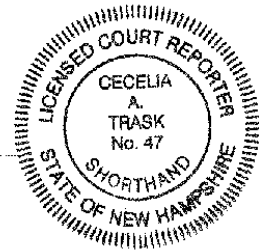
CHAIRMAN REAGAN: Okay. Any questions or any anything else that you folks need resolved? Okay. So this meeting is adjourned.

(Meeting adjourned at 1:25 p.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  
Cecelia A. Trask, LSR, RMR, CRR  
State of New Hampshire  
License No. 47



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