

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 104

Concord, NH

Monday, March 11, 2019

MEMBERS PRESENT:

Sen. John Reagan, Chair

Sen. Jay Kahn

Sen. Bob Giuda

Rep. Lucy Weber

Rep. Lynne Ober

Rep. Richard Barry

(The meeting convened at 11:04 a.m.)

1. Select LPAOC Chair

JOHN REAGAN, State Senator, Senate District #17: Let's call the meeting to order. First order of business will be nominations for Chair.

****** ROBERT "BOB" GIUDA, State Senator, Senate District #02: I will nominate Senator Reagan based on his experience.

LUCY WEBER, State Representative, Cheshire County, District #01: I would nominate Senator Kahn.

SEN. REAGAN: Let's see who comes through the door.

JAY KAHN, State Senator, Senate District #10: Not so easy. I have had no consultation with people on this.

SEN. REAGAN: This is year thirteen for me on this.

SEN. KAHN: Oh, I understand.

SEN. GIUDA: I would think for purposes of discussion, this is not really a partisan issue. This is about how government works and what we do to get performance audits back, and I would much prefer having someone who's been in the game for a while.

No disrespect intended, Senator Kahn, but there's a lot that goes on here that is going on continuously. It's a continuum. So I would advocate again for Senator Reagan.

REP. WEBER: And I would say as one who has chaired the Committee without ever having set foot in the room before, it's perfectly possible to do. And I just think, perhaps, it would be a good idea to continue with Senator Reagan as an interim right now, but to wait for a time when more of our members can be here because of the -- this date is impossible for all four other Members of the House, and I would like my colleagues to have a chance to weigh in, and I certainly would like to have the other Senators to have a chance to weigh in. I would have no problem at all proceeding with Senator Reagan for this meeting, but I don't think we ought to be -- I am very concerned about the fact that we dropped a quorum down to four anyway, because it's far less than a majority of the Committee. But I don't think we ought to be taking those kinds of decisions unless it's by acclamation.

SEN. KAHN: That makes good sense.

SEN. REAGAN: Okay. I can agree to that.

** SEN. GIUDA: Move Senator Reagan be Interim Chair.

SEN. KAHN: Yeah, same.

REP. WEBER: Second.

SEN. KAHN: All in favor?

*** **{MOTION ADOPTED}**

2. Acceptance of the October 29, 2018 meeting minutes

INTERIM CHAIRMAN REAGAN: Okay. Motion to accept the October meeting.

****** REP. WEBER: So move.

INTERIM CHAIRMAN REAGAN: Motion by Representative Weber.
Second by --

SEN. KAHN: Second.

INTERIM CHAIRMAN REAGAN: Kahn. Any additions?

SEN. KAHN: I guess I wasn't there.

SEN GIUDA: A member that wasn't there can't second the motion.

SEN. KAHN: Nobody else was in there.

REP. WEBER: Well, the only people who were in attendance who were here were myself and Senator Reagan. I don't have any objection if he wants to second, but I don't care who -- I'm not going to make a fuss about it.

INTERIM CHAIRMAN REAGAN: Okay. All those in favor?

***** {MOTION ADOPTED}**

INTERIM CHAIRMAN REAGAN: Okay. I'm going to performance audits status.

3. Current status of ongoing performance audits:

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Good morning. For the record, Stephen Smith, LBA Audit Director.

Since the Committee met last just want to report that the Police Standards and Training Council Audit Report was presented to and released by the Fiscal Committee at their meeting last month. And if the Committee would like a presentation of the audit, I know the last Committee we -- last few performance

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audits that were issued the Committee enjoyed hearing a brief presentation. So we will offer that up. However, if the Committee doesn't want to do that, that's fine.

In addition, just want to report that the recommended topic, this Committee's recommended topic of Liquor Commission, Division of Enforcement and Licensing, was approved by Fiscal back in November.

Now, in terms of the ongoing and pending audits, the Department of Environmental Services, Water Division, the report has been drafted. We're currently assessing and working with the Department on responses that we received, and we're attempting to resolve several areas of non-concurrence. We're currently targeting April or possibly even May, depending upon how we progress through that.

In terms of the Adult Parole Board, field work is complete. Again, the report has been drafted and provided to the Board. We just received at the end of last week their responses, so we are working through those; and we do have an exit meeting scheduled with them on Wednesday, so we expect to present this to Fiscal in April.

(Representative Lynne Ober and Representative Richard Barry enter the committee room.)

LYNNE OBER, State Representative, Hillsborough County, District #37: You have us for five minutes. House Finance is meeting, so I didn't know if you had a quorum if we didn't come down. So we are AWOL from House Finance for five minutes. The best we could do.

INTERIM CHAIRMAN REAGAN: Okay.

REP. OBER: I told Jay before and I said House Finance is in the dregs of the budget.

INTERIM CHAIRMAN REAGAN: The dregs?

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REP. OBER: Dregs.

INTERIM CHAIRMAN REAGAN: Go ahead.

MR. SMITH: Continue or would you like me to go back?

INTERIM CHAIRMAN REAGAN: Yes, continue.

MR. SMITH: Okay. The Health and Human Services Therapeutic Cannabis Program, you'll be considering the Scope Statement that we prepared here in a moment. We expect to complete that sometime this spring with a Fiscal presentation. And, also, the Voc Rehab, Department of Education, we just had an entrance meeting on that on March 4th, so we are currently conducting interviews and scoping out that audit and we'll be presenting a Scope Statement probably at the next meeting. And as I mentioned before, no work has begun on the Liquor Commission, Division of Enforcement and Licensing.

So in terms of our ongoing and pending audits, that's where we stand. Any questions that I can answer? Senator Giuda.

SEN. GIUDA: I have some concerns with the environment -- the wetlands audit.

MR. SMITH: Hm-hum.

SEN. GIUDA: I am told that it is a very substantial audit and substantial findings. And as wetlands and DES is reorganizing, I'm concerned that they may or may not be doing so without the benefit of review by the Legislature of the results of this audit, and for budgeting as well. Do you have a definite date when this will be out? Because their budgeting process is going on based on decisions they're making that may or may not reflect inappropriate or inefficient activities that are going on over there that the Legislature should weigh in on before we give them a budget.

MR. SMITH: Hm-hum.

SEN. GIUDA: So I'm just wondering --

MR. SMITH: Yeah, I think the outlier will be the May Fiscal meeting. That's kind of our what I'll call a line in the sand. I think that given the significant amount of time that's being, as well as just the -- I don't want to indicate that they're not responding, but just there's -- we're in a process now where we're kind of -- it is going to be a large report. We have issues with many of their responses, potential rejoinders, as well as comments that we're offering to them to -- that they may want to reconsider some of their responses. So we are in that process of going through that right now.

If we feel there's a couple of meetings coming up early this week that more time is not going to resolve that, then I think we may do everything we can to hit the April meeting. But if we collectively feel that we are going to get a better report, as well as a more constructive one, then May, but no later than May. That's sort of where we stand.

SEN. GIUDA: Follow-up. Are your meetings open with them when you're meeting with DES? Are the issues here, are they open to the public?

MR. SMITH: No. That's just between us and the -- nothing -- nothing with this becomes public until Fiscal Committee.

REP. OBER: The Fiscal Committee is open, aren't you there?

SEN. GIUDA: Not anymore.

REP. OBER: Well, come.

SEN. GIUDA: I will.

REP. OBER: Mr. Chairman.

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INTERIM CHAIRMAN REAGAN: Yes.

REP. OBER: We do have to go back. Did you guys vote a chairman? And, if so, you probably don't need us for anything.

INTERIM CHAIRMAN REAGAN: We'll do that -- okay, we'll do that at the next order of business, so. Okay. So we'll reopen nominations for chairman.

REP. OBER: Have we had nomination?

SEN. GIUDA: I nominated Senator Reagan.

REP. WEBER: And I nominated Senator Kahn.

REP. OBER: I'll second Senator Reagan's nomination.

SEN. KAHN: And I don't know why we don't have more of a quorum. And I haven't had any conversations with folks about -- with how that chairmanship of this Committee ought to be assigned. So I don't know if you have, John?

INTERIM CHAIRMAN REAGAN: I mean, it alters every session.

SEN. KAHN: Oh, I get that. It's just the makeup of the meeting is one that the attendance is sparse. I appreciate those from the House have --

REP. OBER: Until March 22nd it's a miserable time for us. So we are --

SEN. KAHN: I get it.

REP. OBER: And I had said to Mr. Henry when he first did this I was like, oh, my God.

SEN. KAHN: I mean, I thought Lucy's idea of nominating John as a -- sorry -- Senator Reagan as our temporary chair, I thought that was a good idea until we've got a full quorum.

REP. WEBER: That was just my thought because of the --

REP. OBER: I appreciate that. I'm sorry we are five minutes late, but Judge King was talking, and you can't get up while he's talking. As soon as he took a breath, we left.

REP. WEBER: I was just wondering if we could put it off until a time when more people could --

REP. OBER: Well, we could vote now. We have a quorum.

SEN. KAHN: We do.

INTERIM CHAIRMAN REAGAN: We have a quorum.

REP. OBER: Okay.

INTERIM CHAIRMAN REAGAN: So do we do it secret ballot?

REP. WEBER: I don't think needs to be a secret ballot.

INTERIM CHAIRMAN REAGAN: So we have two nominations, Senator Reagan, Senator Kahn. Those for Senator Reagan? Those for Senator Kahn? So 4-2 for Senator Reagan. And we haven't done -- because we always have Ceil, we don't have a clerk.

***** {NOMINATION FOR SEN. REAGAN AS CHAIRMAN ADOPTED}**

REP. OBER: We don't need a clerk and you're here all the time, so maybe we don't need a Vice-Chair. Nominate 'cause you always come.

REP. WEBER: I would nominate Senator Kahn as Vice-Chair.

REP. OBER: That should be a House member.

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SEN. GIUDA: I nominate Representative --

CHAIRMAN REAGAN: Weber.

SEN. GIUDA: -- Ober.

CHAIRMAN REAGAN: Okay. Any other nominations? All those for Representative Weber as Vice-Chair?

REP. OBER: Ober.

CHAIRMAN REAGAN: Ober. Oh, I thought he said --

SEN. KAHN: Should we -- for balance and --

REP. OBER: John is here all the time. So we didn't even need a Vice-Chair when he was Chair before, and I didn't need a Vice-Chair when I was Chair. So I don't know if we need that position. We're a small group. We usually just talk around the table.

SEN. KAHN: Yeah. I nominate, if that is -- if the position that's by our rules, I'd nominate Representative Weber.

REP. OBER: Now you have two nominees.

CHAIRMAN REAGAN: So we have a nomination for Vice-Chair of Representative Ober or Representative Weber. So all those for Representative Ober?

REP. OBER: John, I'm going to vote for myself.

CHAIRMAN REAGAN: And those for Representative Weber?

***** {NOMINATION FOR REP. OBER AS VICE-CHAIRMAN ADOPTED}**

CHAIRMAN REAGAN: Okay. So Representative Ober is now Vice-Chair, and we will not fill the clerk's position.

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REP. OBER: Mr. Chairman, I had read the Scope Statement and I didn't have any issues. I know a couple of you this was really all for you, so if anybody had -- but if I go back to Finance, do you have enough to conduct business?

CHAIRMAN REAGAN: Yes.

REP. OBER: Then excuse me, gentlemen. I'll see you guys next meeting. I really do apologize.

(Representative Barry and Representative Ober leave the committee room.)

4. Fiscal Committee approval of audit topic - Liquor Commission, Division of Enforcement and Licensing

5. Approve Scope Statement - Therapeutic Cannabis Program Issuance of Registry Identification Cards

CHAIRMAN REAGAN: The only thing about the Therapeutic Cannabis is Mr. Holt's well aware that there's legislation that's encouraging, especially thanks to Senator Kahn. I'm still hoping we can get those other things straightened out. So you guys are aware of that?

MICHAEL HOLT, Department of Health and Human Services: Yes, we're aware of the legislation pending, including Senator Kahn's bill that would change the laws around the registry identification card issuance.

CHAIRMAN REAGAN: It should speed things up considerably.

SEN. KAHN: I think what's -- what's still most significant in your Scope Statement is to look at the rules side of the program. I think statutorily we are going to be done with -- with whatever changes. I don't think there will be anymore changes to that than what the Senate passed on this last week.

REP. WEBER: And --

SEN. KAHN: So those are -- the point was those are barrier reductions in the leg -- in the legislation that the Senate adopted, and -- but there are rule matters that, I think, came up during the course of that conversation that ought to be clarified and to improve for the integrity of the program, and for the ease of people, caregivers, and patients to be able to access. But I think that's covered in your scope. I mean, the ease of access is covered in your scope. I think the integrity of the program that it's able to be maintained given whatever legislative statute changes there are is an important thing.

JAY HENRY, MPA, CIA, CGFM, Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: The primary focus of the audit was the timeliness, how long is it taking. That's really the focus of the audit. Now, if there's rule changes going in the future -- we are auditing the past -- but if there's issues that the Legislature identified, you know, we'll probably look at that legislation just so we know, you know, what might be changing or weaknesses that may have been in the program.

SEN. KAHN: And so I want to be clear. Two things came up in the course of legislative conversation. One is that the desire for reducing barriers and some of those are in statute and some of those are in rules. And the second thing was that the integrity of the program is very important, meaning that people entering and accessing cannabis through these dispensaries are properly vetted, screened. Is that -- John -- Senator, that sound -- those were the two important issues; right?

CHAIRMAN REAGAN: Here's the next important link is Representative Weber.

REP. WEBER: The other thing I just want to be sure is in there, and I think this is not even -- it probably doesn't even rise to the level of a rule, but what I hear anecdotally from my

constituents is that the way data has to be submitted is incredibly difficult for them. As, for example, the inability to simply e-mail a picture it has to be done in, you know, I don't know whether it's even -- they have to get a CD and send it in. But they can't -- they can't just attach a picture to an e-mail and send it in, or they can't, you know, there's no provision for them to use their driver's license photo or something like that. And it's for people who are suffering already. It's yet another real barrier.

The other issue that I know that people have had talked to me about problems with is when their health care provider, as is often the case in my part of the world, is not a New Hampshire provider, but a Vermont provider. And we have altered the statute to allow for that. But I am told that actually getting it done is -- is difficult. And that may not be at all anything that we have any control over. It may be the provider themselves that are not particularly helpful in compliance, but I'd like to know that, so.

SEN. GIUDA: I think it's instructive to read the audit scope comment on the bottom of Page 3, which indicates to me systemic problems but also applicants not submitting the application properly. It may be an application form issue. What it says that we really couldn't tell; could not accurately calculate length of time it takes to issue a registry card using the complete database. So may be technical issues, the form itself may be overly intricate or whatever. But I'm reading this, correct me if I'm wrong, is that you really can't tell right now.

MR. HENRY: Well, using the database itself. That's why we are planning to do a big follow review so we'll look at all the pieces of paper that come in, look at the dates they come in, look at what they're asking for. 'Cause I think what John has found just looking at a sample is that not every application comes in complete. So from the person's point of view they think they have 20 days. They get a letter back that may say you need this. That adds another week. They take a week to find, you

know, so it becomes a two-month, three-month process. Maybe for the Department though they could be meeting that 20-day from a complete application, but it's perceived a lot longer from the patient.

REP. WEBER: Exactly.

MR. HENRY: That's what we want to just see if we can tell that from the file so at least you have the information of what's happening. And the forms could be -- could be an issue or -- and other barriers, you know, we'll look at that.

SEN. GIUDA: Follow-up.

CHAIRMAN REAGAN: Hm-hum.

SEN. GIUDA: Again, in that same paragraph due to the way the database is designed and used, you couldn't accurately calculate. Is the database obsolete? Is the database -- is there something you want to add to the scope of the audit to analyze the efficacy of the database itself in terms of utility and user-friendliness, access.

MR. HENRY: I think with the database for our purposes when we were looking at dates, it's overriding some of the date -- they're planning on a new database, so. That issue may resolve itself. And maybe by us pointing out problems. We observed the new database could be, you know, structured a little different, yes.

SEN. GIUDA: Thank you.

SEN. KAHN: Could I? When is the new database expected?

MR. HOLT: There's no set time frame for the contracts to be signed or the database to be built or the database once built what to be included. Hopefully, we're expecting it within this Calendar Year. Hopefully, by fall. But the contract has not yet

been signed, has not yet gone to G&C, targeting the April G&C meeting for approval.

CHAIRMAN REAGAN: So can we have a motion on the Scope Statement?

** SEN. GIUDA: Move to adopt as written.

REP. WEBER: Second.

CHAIRMAN REAGAN: All in favor?

*** {MOTION ADOPTED}

6. Seek and discuss new audit topics

CHAIRMAN REAGAN: And new audit topics. Do we have any? I think once upon a time we sent out an e-mail to all the Reps and Senators and asked if they had -- if anybody had anything, because most of them don't understand what this -- what this --

REP. WEBER: I think at least from the House aspect next time we meet the House Members who sit on Finance will have more ability to be with us, and I suspect that as a result of the process they're going through right now they may also suddenly pop up with some questions. That has happened in the past, my understanding.

CHAIRMAN REAGAN: We want to do another invite?

REP. WEBER: I think it wouldn't be a bad idea to send out. If not to everybody, perhaps -- I certainly will undertake to send them to my colleagues; and I think what I would do, unless directed otherwise, is to send an e-mail around to the Chairs and Vice-Chairs of the various committees, plus the members of the Finance Committee and see if they have ideas. I don't -- I don't want to put it out because we have a huge number of new members and I think a general call might --

SEN. GIUDA: Yeah.

REP. WEBER: -- generate a great deal of stuff to be weeded through.

CHAIRMAN REAGAN: Okay.

SEN. KAHN: I think that's a good idea.

CHAIRMAN REAGAN: So between us we have no new audit topics to suggest.

REP. WEBER: But it looks like you have enough to be going on right at the moment.

MR. HENRY: We have one more in the bank.

REP. WEBER: Yeah.

MR. HENRY: Once that starts, we'd like to have a few more so when people -- when the audit starts slowing down, someone can start-up planning on a new one.

REP. WEBER: Just sounded to me as you were discussing it that you have a fair amount on your plate.

MR. HENRY: Right now.

REP. WEBER: At least for the next couple of months.

MR. HENRY: Yes.

REP. WEBER: And then beyond that, we really ought to be gearing up.

SEN. GIUDA: Thank you, Mr. Chairman. Is there a potential that from the wetlands audit other audit items may come forth?

MR. HENRY: Well, I guess only if the Committee views something. Right now that audit is capturing a lot. It's looking at a lot in that Division, in that Bureau. So may be enough there for the Legislature to work off of.

SEN. GIUDA: Okay.

7. Other Business

CHAIRMAN REAGAN: Okay. Any Other Business?

8. Date of next meeting and adjournment

****** SEN. GIUDA: Move to adjourn.

CHAIRMAN REAGAN: So we are -- we are adjourned until the call of the Chair.

(The meeting adjourned at 11:29 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.

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