

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Zoom Webinar (Remote)

Friday, March 12, 2021

MEMBERS PRESENT:

Rep. Lynne Ober, Chair

Rep. Ken Weyler

Rep. Keith Erf

Rep. Mary Jane Wallner

Rep. Lucy Webber

Sen. John Reagan

Sen. Bob Giuda

Sen. Erin Hennessey

Sen. Lou D'Allesandro

Sen. Jay Kahn

(The meeting convened at 3:00 p.m.)

1. Chairman's Script read:

LYNNE OBER, State Representative, Hillsborough County, District #37 and Vice-Chair: Good afternoon and welcome to the first organization meeting of the Performance Audit Board. I find that due to the state of emergency declared by the Governor as a result of the COVID-19 Pandemic, and in accordance with House Rule 67 and the Governor's Emergency Order Number 12, pursuant to Executive Order 2020-04, this public body is authorized to meet electronically. This is a work session pertaining to Performance Audit Board matters.

Please note that there is no physical location for members of the public to observe and listen contemporaneously to this meeting. However, in accordance with the Emergency Order, I am confirming that all members of the Committee and state legislative staff have the ability to communicate contemporaneously during this meeting through the Zoom electronic meeting platform, and the public has access to contemporaneously

listen and, if necessary, participate in this meeting by the Zoom platform or by telephone.

All necessary access information has been made available in the House Calendar and through the electronic calendar on the General Court website. The notice for this meeting complies with House Rules and RSA 91-A. Anyone who has a problem with accessing the meeting should e-mail LBA_Fiscal@leg.state.nh.us. In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

LBA staff are on the meeting and assist us. Please note that all votes taken will be by roll call only, and we need to start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there's anyone in the room with you during the meeting which is required under the Right-To-Know Law.

2. Roll call attendance:

VICE-CHAIRWOMAN OBER: Want me to kind of do a roll call? I'm Lynne Ober. I'm at home in Hudson and I'm alone. My husband's in the house. Representative Erf.

KEITH ERF, State Representative, Hillsborough County, District #02: Yes, I'm here, and I'm home alone.

VICE-CHAIRWOMAN OBER: Senator Hennessey.

ERIN HENNESSEY, State Senator, Senate District #01: Hi! Erin Hennessey from Littleton. My children will be in and out of the house -- room with me. They are home.

VICE-CHAIRWOMAN OBER: Senator Kahn.

JAY KAHN, State Senator, Senate District #10:
Present in Keene, at home. No one else in the house currently.

VICE-CHAIRWOMAN OBER: Representative Weber.

LUCY WEBER, State Representative, Cheshire County, District #01: Present. I'm home alone in Walpole.

VICE-CHAIRWOMAN OBER: Representative Wallner.

MARY JANE WALLNER, State Representative, Merrimack County, District #10: I am in Concord, and my husband is in the other room.

VICE-CHAIRWOMAN OBER: Senator Reagan.

JOHN REAGAN, State Senator, Senate District #17 and Chairman: Senator Reagan. I've been displaced here as the Chairman, but I'm in my office by myself.

VICE-CHAIRWOMAN OBER: I think I sort of got nominated in lieu of your absence, sir. Senator D'Allesandro.

LOU D'ALLESANDRO, State Senator, Senate District #20: I'm Senator D'Allesandro. I'm in my home in Manchester, and my wife is in the house.

VICE-CHAIRWOMAN OBER: Just so everybody knows for Chairman Reagan, I believe that is a roll call is required by all of the legislative members who are on-line at the moment.

CHAIRMAN REAGAN: Okay. Am I going to now chair this meeting?

VICE-CHAIRWOMAN OBER: I only read the notice and --

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REP. WEBER: My understanding is that the body is chaired by a House member this time.

VICE-CHAIRWOMAN OBER: Yes, it is.

REP. WEBER: We swap off each --

SEN. REAGAN: Yes, Lucy, but I was the Chairman and I was held off of joining the meeting for some reason, and so now I'm not sure how to proceed.

VICE-CHAIRWOMAN OBER: Senator Reagan, why don't you proceed because I was your Vice-Chair. I was asked to read the announcement and then we have no clerk so I did the roll call. You joined us and now why don't you take over with the organizational process and at the same time as Acting Vice-Chair and the Clerk. Senator Bob Giuda has joined us. Senator Giuda, will you tell us where you are and if anybody is with you and then we will be ready to rock and roll.

ROBERT "BOB" GIUDA, State Senator, Senate District #02: Thank you. I'm at home in Warren, New Hampshire, alone in my dining room with my Shih Tzu dog sitting next to me growling.

VICE-CHAIRWOMAN OBER: Well, I thought that we'd be ready. One more person. Representative Ken Weyler, will you respond to the roll call, please, sir?

KENNETH WEYLER, State Representative, Rockingham County, District #13: Yes, I'm here in Kingston alone in this room, others are in the house. Thank you.

SEN D'ALLESANDRO: There's no question this --

VICE-CHAIRWOMAN OBER: Senator Reagan, I think it's now up to you, the roll call is done, since you're the outgoing Chair.

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3. Roll call vote on Chair and Vice Chair

CHAIRMAN REAGAN: Okay. So we'll open -- we'll accept nominations for chairman. It must be a House member.

** SEN. GIUDA: I would nominate Lynne Ober.

REP. WEYLER: Second.

CHAIRMAN REAGAN: Other nominations.

REP. WEYLER: Move the nominations be closed.

SEN. GIUDA: Second.

CHAIRMAN REAGAN: I'm trying to avoid too many roll calls here.

REP. WEBER: Well, I believe we have to have a roll call on that.

CHAIRMAN REAGAN: Yes, we do.

REP. WEBER: Doesn't matter that there's only one.

CHAIRMAN REAGAN: Okay. We're going to call the roll and nomination of Lynne Ober for Chair. Representative Weyler.

REP. WEYLER: Yes.

CHAIRMAN REAGAN: Representative Erf.

REP. ERF: Yes.

CHAIRMAN REAGAN: Representative Ober.

REP. OBER: Yes.

CHAIRMAN REAGAN: Representative Wallner.

REP. WALLNER: Yes.

CHAIRMAN REAGAN: Representative Weber.

REP. WEBER: Yes.

CHAIRMAN REAGAN: Senator Reagan votes yes. Senator Hennessey.

SEN. HENNESSEY: Yes.

CHAIRMAN REAGAN: Senator Giuda.

SEN. GIUDA: Yes.

CHAIRMAN REAGAN: Senator Kahn.

SEN. KAHN: Yes.

CHAIRMAN REAGAN: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

***** {MOTION ADOPTED}**

CHAIRMAN REAGAN: We'll now open the nominations for Vice-Chair.

****** SEN. D'ALLESANDRO: Nominate Senator Reagan.

REP. WEYLER: Second.

CHAIRMAN REAGAN: Thank you. Further nominations for Vice-Chair. I'll call the roll. Representative Weyler.

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REP. WEYLER: Yes.

CHAIRMAN REAGAN: Representative Erf.

REP. ERF: Yes.

CHAIRMAN REAGAN: Representative Ober.

REP. OBER: Yes.

CHAIRMAN REAGAN: Representative Wallner.

REP. WALLNER: Yes.

CHAIRMAN REAGAN: Representative Weber.

REP. WEBER: Yes.

CHAIRMAN REAGAN: Senator Reagan votes yes. Senator Hennessey.

SEN. HENNESSEY: Yes.

CHAIRMAN REAGAN: Senator Giuda.

SEN. GIUDA: Yes.

CHAIRMAN REAGAN: Senator Kahn.

SEN. KAHN: Yes.

CHAIRMAN REAGAN: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

***** {MOTION ADOPTED}**

CHAIRMAN REAGAN: Congratulations, Representative Ober. You may take --

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4. Acceptance of the September 11, 2019 meeting minutes:

CHAIRWOMAN OBER: Thank you, Mr. Former Chair. I actually did print the agenda which Jay knows is probably the first time. So, right, Mr. Henry? (Inaudible). We have recent and upcoming fiscal audit presentations and we have four -- I'm sorry -- three audits listed. We had the Department of Education.

REP. WEBER: Point of order, Madam Chair.

CHAIRWOMAN OBER: Yes.

REP. WEBER: The agenda refers to the acceptance of the minutes of September 11th.

CHAIRWOMAN OBER: Thank you, Representative Weber. You're so correct. I would like to -- have you read the minutes and is there a motion on the minutes?

REP. WEBER: I have a correction.

CHAIRWOMAN OBER: Is there a motion to approve the minutes?

** SEN. KAHN: I'll move approval to get the discussion going. It sounds like --

SEN. GIUDA: And I'll second.

SEN. KAHN: -- Representative Weber has a question.

SEN. D'ALLESANDRO: She has a correction.

CHAIRWOMAN OBER: Senator Kahn has moved approval of the minutes. Second was by?

SEN. GIUDA: Senator Giuda.

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CHAIRWOMAN OBER: Senator Giuda.
Representative -- I'm sorry. Yes, Representative
Weber, do you have a question?

REP. WEBER: I have a correction because I am listed
as not being present which I would have accepted, except
that I note that I moved the minutes of the prior
meeting. So I'm pretty sure I must have been there. So
with that correction, I have no further concerns.

CHAIRWOMAN OBER: On the motion of approving the
minutes as corrected by the addition of Representative
Weber being in attendance, if you're in favor you will
say yes when your name is called. If not, you will say
no. Representative Weyler.

REP. WEYLER: I'll have to abstain. I was not
there.

CHAIRWOMAN OBER: I will vote -- I will also
abstain. I was not -- no, I was there. Now Lucy's got
me confused. I will vote yes. Senator Reagan.

SEN. REAGAN: Yes.

CHAIRWOMAN OBER: Senator Kahn.

SEN. KAHN: Yes.

CHAIRWOMAN OBER: Senator Giuda.

SEN. GIUDA: Yes.

CHAIRWOMAN OBER: Representative Erf, you were not a
member at the time. Will you abstain?

REP. ERF: Yes, ma'am.

CHAIRWOMAN OBER: Representative Wallner.

REP. WALLNER: I was a member. I don't remember if I was there.

CHAIRWOMAN OBER: You're listed being there. You're like me.

REP. WALLNER: Okay. Thank you. Thank you. Yes, I vote yes.

CHAIRWOMAN OBER: Senator Hennessey.

SEN. HENNESSEY: Abstain.

CHAIRWOMAN OBER: Senator D'Allesandro.

SEN. D'ALLESANDRO: I'm not sure if I was there or not.

CHAIRWOMAN OBER: Your name is not on these minutes, sir.

SEN. D'ALLESANDRO: Then I will abstain.

CHAIRWOMAN OBER: Thank you, sir.

SEN. D'ALLESANDRO: Thank you.

CHAIRWOMAN OBER: The motion passes.

REP. WEBER: Could I vote?

CHAIRWOMAN OBER: Oh, Representative Weber, I didn't call you?

REP. WEBER: Nope.

CHAIRWOMAN OBER: Sorry.

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REP. WEBER: I vote yes.

CHAIRWOMAN OBER: I don't have a roll call sheet here. I'm going to have to make myself one.

REP. WEBER: I understand, it's not easy.

*** {MOTION ADOPTED}

5. Recent and upcoming Fiscal Audit Presentations:

CHAIRWOMAN OBER: All right. I will do that while we talk about the recent and upcoming Fiscal Audit Presentations. I know that Representative Weyler is Chair of Fiscal, had the Department of Education, Bureau of Vocational Rehab discuss and presented as he did with the Liquor Commission Enforcement, discussed and presented to the public and so that is out. What's the status of the Department of Health and Human Services Sununu Youth Services? Mr. Henry, do you know?

STEPHEN SMITH, Director, Audit Division, Office of Legislative Budget Assistant: Representative Ober, this is Steve Smith. Yes, we are going to be presenting that next Friday to the Fiscal Committee.

CHAIRWOMAN OBER: Okay. Any questions from anybody?

REP. WEYLER: How many pages? The last couple had 300.

CHAIRWOMAN OBER: Yeah.

SEN. D'ALLESANDRO: Yeah, right, they were books.

MR. SMITH: Just a short read this time.

REP. WEYLER: Thank you.

SEN. D'ALLESANDRO: You've taken away our bedtime reading.

CHAIRWOMAN OBER: Senator Hennessey for a question.

SEN. HENNESSEY: Thank you, Madam Chair. For those of us not on Fiscal, will we get an e-mail copy or a physical copy of the audits?

MR. SMITH: Yes.

CHAIRWOMAN OBER: I can tell you they are listed already on the LBA website electronically. And, Mr. Smith, are we sending all Performance Audit Board Members a hard copy of the audit?

MR. SMITH: Yes, we do.

SEN. HENNESSEY: Thank you.

CHAIRWOMAN OBER: You're welcome. Any other questions? Seeing none.

JAY HENRY, Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: I'd like to make -- excuse me. This is Jay Henry. I'd just like to make the comment that the Voc Rehab Audit is going to be heard by ED&A April 9th.

SEN. D'ALLESANDRO: Here it is.

MR. HENRY: And the -- the Liquor Audit is going to be heard by ED&A and Commerce and Consumer Affairs March 22nd. So I'm just providing you some information.

CHAIRWOMAN OBER: Thank you. So the policy committees are following up with those. Neither of those audits was what I would call sterling. Ken's laughing when I say that, but they were pretty bad.

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REP. WEYLER: Good. It's good that it's getting wider dissemination.

6. Roll Call Vote on Terminating Audit Topics:

CHAIRWOMAN OBER: Yeah. The next item is Roll Call on Terminating Audit Topics. Can we talk about that? Somebody?

MR. SMITH: Sure, sure, Representative Ober. I'll just cover it at a high level and if the Committee has further questions about each topic, I also -- we also have the managers who did a lot of the scoping to come up with the conclusion that we're -- we're recommending. I'll start with the Cost Containment.

When we started scoping, it seemed that the questions and the concerns for this topic originated from the House Judiciary Committee, and that was based on questions that arose from their consideration of Senate Bill 237 during the 2019 session. After this Committee approved the topic for us, there was subsequent legislative study committee activity which we believe mooted most of the questions that the Judiciary Committee had. And, ultimately, the substance of Senate Bill 237, which was subsequently approved in Chapter 346, Laws of 2019, addressed a lot of those questions. And it also changed the governing statute of cost containment RSA 604-A, which is the underpinning of their kind of operating model that they were operating under and that became effective July 1st, 2020.

So we're recommending that at this time a performance audit would be better served after at least a year of operating under the new model. So -- and I think that any other outstanding questions that we identified during scoping were either not auditable or were largely related to the indigent defense

system-wide, not so much specific to the Office of Cost Containment.

So that is our recommendation to the Committee and you can certainly dive a lot deeper than that if you'd like. I see Steve Grady is -- is on the call. So, with that, I'll leave it with the Committee.

CHAIRWOMAN OBER: Questions for Mr. Smith or Mr. Grady?

REP. WEYLER: Yes.

CHAIRWOMAN OBER: Representative Weyler.

REP. WEYLER: I wasn't clear whether you wanted to delay it or cancel it?

MR. SMITH: I think that we -- I guess -- I guess initially for right now cancel it, unless the Committee -- and then the Committee could subsequently kind of put it on the queue for a later date.

REP. WEYLER: I guess even your scoping work is kind of moot at this point, too.

MR. SMITH: Yeah, yeah. We did not have an entrance meeting with Office of Cost Containment. We kind of came up with this. We just kind of tabled activity until we had an opportunity to come before the Committee.

REP. WEYLER: Thank you.

CHAIRWOMAN OBER: Mr. Smith, in the interest of not having more roll calls of the meeting, could you do the next one as well before we do a roll call?

MR. SMITH: Sure, be happy to. In regards to OPLC, as the Committee is, I'm sure, is aware there's been

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significant turbulence and organizational legislative changes since -- since OPLC was created back in 2015. It also has experienced significant turnover at the executive director position and the current director has only been in the position for a year.

Last year during the summer and fall months, OPLC had to physically relocate its offices. So that's created a lot of disruption over there. And, also, OPLC is currently pursuing organizational restructuring, and our understanding is some of that has been part of House Bill 2 in the current session. And, also, in State Fiscal Year 2019, OPLC entered into a contract with CLEAR, C-L-E-A-R. I'm not sure if that is an acronym or not, but that outfit is conducting a licensing reform research and will be providing recommendations to OPLC, and this review is still ongoing as of last month. I'm not sure when that's scheduled to conclude.

And, lastly, given the Board of Dental Examiners Performance Audit that we're currently doing and the Scope Statement you will be voting on here shortly, there will be parts of OPLC that we'll be examining to the extent that it directly relates to the Board. So we will be touching on OPLC to some extent. So based -- based on all these factors and we felt that now's not the best time and, again, we recommended kind of consistently, I guess, cancelling and possibly if the Committee so wishes to put this later in a queue of ours.

CHAIRWOMAN OBER: Representative -- Senator Giuda.

SEN. GIUDA: Thank you, Madam Chair. Steve, do you know if -- if Executive Director Courtney is in concurrence with your suggestion?

MR. SMITH: Hum --

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SEN. GIUDA: I spoke to her. I worked closely with -- let me finish. I'm sorry. I've spoken with her, working closely with her and they wanted to use this performance audit as a basis for implementing changes. Now, I wasn't aware that they had the C-L-E-A-R, which sounds like that's more focused on the licensing process rather than the OPLC administrative issues that have been such a problem for so long. So I think she had indicated to me in conversation not too long ago that she thought that this audit would be a good thing for her, especially because she's new and would help find the weaknesses and the strengths and enable her to better manage the changes that need to come.

CHAIRWOMAN OBER: I can add a little bit. I don't know if it will help too much, Senator Giuda, but OPLC comes before Division I in Finance and we had a very thorough almost two-hour review of where she is. She did an excellent job, which was a breath of fresh air, I have to tell you, over previous directors in there. The reorg that Mr. Smith talks about, that was started in ED&A under former Chairman Jeff Goley. It got lost somehow in the COVID shuffle. The current ED&A Chair looked at it and Courtney is -- Courtney is very much interested in having it go forward. We have approved it.

They have concluded their move which I guess was a little frantic, but they were given a month to move out. She didn't mention the audit, but she did say she felt things had turned around with some of the reorgs they had done. And I see that Representative Weber has her hand up as well; but I thought I would toss that in because we just the end of last week worked with her extensively. Representative Weber.

SEN. GIUDA: Thank you.

REP. WEBER: Thank you, Madam Chair. I was just wondering. I mean, it seems to me like there are some

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really good reasons for putting it off for a bit, unless we decide that it really is of use to her to have us do it now. But I would just like to comment that I'd like to keep it in a queue because it's an issue that I don't want to lose sight of just yet. It may be that everything turns around and resolves itself, but it's something I'd sure like to keep an eye on at a minimum. Thank you.

PAIGE LORENZ, Audit Manager, Audit Division, Office of Legislative Budget Assistant: Representative Ober, I can speak to working with Lindsey Courtney on the Scope Statement, if you like.

CHAIRWOMAN OBER: That would help.

MS. LORENZ: Okay. I'm Paige Lorenz. I was the Audit Manager assigned to the OPLC Audit. During our scoping of the project and throughout us deciding to maybe terminate or put on hold the audit, we have been working with Lindsey Courtney throughout the process. She had similar concerns about doing an audit right now with all the legislation they've proposed this session and just other initiatives they had in place for us to be looking at what happened in the past versus whether trying to rectify during specifically this session.

Additionally, when we're looking at the Board of Dental Examiners, we would have had a very limited scope for OPLC because there's not a -- wouldn't have been able to pinpoint efficiencies that were obtained at this point at OPLC. So it would have been limited to how effectively they implemented certain operations. And with the Board of Dental Examiners we can incorporate that into their Scope Statement because that's -- they still heavily rely on OPLC staff to do those things. So anything that we attribute to the Board of Dental Examiners is likely to be attributed to the organization as a whole.

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CHAIRWOMAN OBER: We have one more hand up and I hate to say this but your Zoom thing says on the Office of Legislative Budget Assistant with no name. So I do not know your name, I apologize. You do have your hand up. And then Senator Kahn has his hand up.

ANDREA KABALA, Auditor, Audit Division, Office of Legislative Budget Assistant: I apologize, Madam Chair. My name is Andrea Kabala. I'm with the LBA. I was just going to let everyone know that I do have Lindsey Courtney who is listening in on the call. I can allow her to speak at any time if that pleases the Chair. It's up to you.

CHAIRWOMAN OBER: Okay. Let's hear Senator Kahn's question, then I'll see if people want to have Lindsey Courtney join us.

MS. KABALA: Of course.

SEN. KAHN: Thank you, Madam Chair. One of the topics I recall us talking about with an OPLC Audit was data management and their information systems and how integrated they were or independent. In any case, I think that was part of the scope, Steve. Maybe -- I hope I got that right, and Paige. But maybe she can identify if the Dental Examiners' Audit would be a window to looking into how well supported they are for license renewal and complaints and other things that might affect a person's license, like continuing education credits and, in any case, you got the idea, and I look forward to hearing from her.

CHAIRWOMAN OBER: Mr. Henry.

MR. HENRY: Yes, I'd just like to say I think that this phrase looking at the dental office as a window into the Office of Professional Licensure is -- is right on target. I mean, all the staff that work for the Board

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is OPLC staff. So when we looked at both audits there was a lot of crossover of issues; and really having one audit right now, at least one audit to begin with, is going to simplify things for us. But it will make that Dental Board Audit a little bit bigger than we thought of before. So that's just my two cents for you.

CHAIRWOMAN OBER: What is the pleasure of the Board? Do you want to hear from Lindsey Courtney or do you feel you have enough information to make a decision? Senator Giuda has a thumbs up. I guess that's enough information to make a decision?

SEN. GIUDA: Yes.

CHAIRWOMAN OBER: Okay. So do we have a motion to terminate the audit topics for the Department of Admin Services, Office of Cost Containment, and the Office of Professional Licensure and Certification?

** SEN. D'ALLESANDRO: So move.

SEN. GIUDA: I move it.

SEN. D'ALLESANDRO: Second.

CHAIRWOMAN OBER: Senator Giuda moves. Senator D'Allesandro seconds. Is there any discussion on the motion? Seeing none, let me see if I can call the roll with everybody this time without missing anybody. Senator Reagan.

SEN. REAGAN: Yes.

CHAIRWOMAN OBER: Senator Giuda.

SEN. GIUDA: Yes.

CHAIRWOMAN OBER: Senator D'Allesandro.

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SEN. D'ALLESANDRO: Yes.

CHAIRWOMAN OBER: Senator Hennessey.

SEN. HENNESSEY: Yes.

CHAIRWOMAN OBER: Senator Kahn.

SEN. KAHN: Yes.

CHAIRWOMAN OBER: Representative Weyler.

REP. WEYLER: Yes.

CHAIRWOMAN OBER: Representative Wallner.

REP. WALLNER: Yes.

CHAIRWOMAN OBER: Representative Weber.

REP. WEBER: Yes.

CHAIRWOMAN OBER: Representative Erf.

REP. ERF: Yes.

CHAIRWOMAN OBER: And the Chair votes yes. We're unanimous in terminating those two audit topics, Mr. Henry and Mr. Smith.

***** {MOTION ADOPTED}**

7. Roll call vote on draft scope statement

CHAIRWOMAN OBER: The next item is roll call on the Draft Scope Statement. Mr. Smith, do you want to talk about the Draft Scope or do you want to have one of your staff talk about it?

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MR. SMITH: Hum -- I can have Steve Grady quickly go through it, or if you're ready for -- if no one has any questions or concerns as it is written, you can certainly go ahead and vote on it.

CHAIRWOMAN OBER: What is the pleasure of the Board? Are you ready to vote? Would you like Mr. Grady to go through it?

SEN. D'ALLESANDRO: I'd like Mr. Grady to go through it.

SEN. GIUDA: I as well.

CHAIRWOMAN OBER: Okay. Mr. Grady, you're on.

STEVEN M. GRADY, Senior Audit Manager, Audit Division, Office of Legislative Budget Assistant: Thank you, Madam Chair. Good afternoon. For the record, I am Steve Grady, the in-charge auditor for the Board of Dental Examiners Performance Audit.

In August of 2019, the Fiscal Committee approved a recommendation from this body to conduct a performance audit of the Dental Examiners Board. We held an entrance conference with representatives of the Board and the Office of Professional Licensure in December of 2020. The Board was created to protect the public's health, safety and welfare by licensing, regulating dentists and dental hygienists. The Board and the Office of Professional Licensure were responsible for designing integrated control systems to help achieve objectives, operate efficiently and effectively, report reliable information, and comply with laws and rules.

Our preliminary analysis indicates the Board lacked control systems to manage its relationship with the OPLC, oversee its committees, manage and monitor its

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performance in compliance with laws and rules, manage information and ensure transparency and consistency. The OPLC was created to provide the Board efficient administrative clerical business process and recordkeeping support. Reportedly, the support included assistance with rulemaking, proposed revisions to law, taking minutes, and maintaining records. Other support included processing license applications, maintaining a licensing database, processing and reviewing complaints, overseeing complaint investigations, and managing disciplinary processes.

We will design the audit to answer the following question: How efficiently and effectively did the Board administer its responsibilities and operations regulating the professions of dentistry and dental hygiene during State Fiscal Years 2019 and 2020. We plan to employ our usual inventory of methods to achieve that end. We also expect to examine management controls and other relevant matters outside the audit period to the extent that they affect the Board's operations. And we will also examine OPLC and other agency's management controls to the extent that they affect the Board directly. We anticipate completing this audit and presenting the final report to the Fiscal Committee in early fall of 2021, depending upon how much OPLC work we have to do.

CHAIRWOMAN OBER: Questions for Mr. Grady? Senator Kahn.

SEN. KAHN: Thanks, Madam Chair. So back to this question about the information and data collection storage software environment. That could touch on several of these topics and I just wanted to get your sense. We're going to get a good window into how dated that is, how -- how sufficient it is to gather the information that they need. I mean, we're good -- we're good on that topic?

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MR. GRADY: The Agency operations include the Board rest heavily upon having reliable accurate data available to them; and as a consequence of that the only way we can assess their performance is to look at the data. So we will be doing a fairly detailed review of the Board's data. And since the OPLC provides that support, we'll be looking at the systems that the OPLC operates to support the Board.

SEN. KAHN: Thank you. And just, you know, to draw that, if -- they've got 54 boards and who knows how many different licensures, 350, the -- and the point is that this audit will hit it at a time that could be helpful to future funding questions. And I just -- I hope that we give enough of a platform for the Director to be able to -- to use the audit to -- to reflect on your findings relative to technology and needs.

CHAIRWOMAN OBER: Any other questions? Seeing none. Is there a motion to approve the audit scope?

** SEN. D'ALLESANDRO: So moved.

REP. WEBER: Second.

CHAIRWOMAN OBER: Senator D'Allesandro moves. Who seconded? Was that you, Representative Wallner? Representative Weber. Thank you. Representative Weber. On the motion to approve the audit scope, if you're in favor, please say yes when your name is called. If you're opposed, please say no. Senator Reagan.

SEN. REAGAN: Yes.

CHAIRWOMAN OBER: Senator Giuda.

SEN. GIUDA: Yes.

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CHAIRWOMAN OBER: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

CHAIRWOMAN OBER: Senator Hennessey.

SEN. HENNESSEY: Yes.

CHAIRWOMAN OBER: Senator Kahn.

SEN. KAHN: Yes.

CHAIRWOMAN OBER: Representative Weyler.

REP. WEYLER: Yes.

CHAIRWOMAN OBER: Representative Wallner.

REP. WALLNER: Yes.

CHAIRWOMAN OBER: Representative Weber.

REP. WEBER: Yes.

CHAIRWOMAN OBER: Representative Erf.

REP. ERF: Yes.

CHAIRWOMAN OBER: The Chair votes yes. We are unanimously in support of the scope on the audit. Thank you, Mr. Grady.

***** {MOTION ADOPTED}**

8. Identify and roll call vote on new audit topics

CHAIRWOMAN OBER: The next topic is identify new audit topics. Somebody got new audit topics? Senator Giuda.

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SEN. GIUDA: Thank you, Madam Chair. I'd like to propose an audit based on now several years of working in certain areas of the health care in HHS arena. I'd like to propose an audit of the CFI and Community-Based Care Programs. I think that there are significant concerns about CFI Community-Based Care and it's a relatively -- it's a significantly important part of our attempts to contain costs by encouraging folks to be home. I'm sure that it's been impacted by COVID, by the remuneration rates, compensation rates for home health aides and all those types of jobs that are critical to this essential piece of our cost containment efforts in health care for the elderly and the ill.

So I'm happy to provide to the Members of the Board a -- a proposed -- I wouldn't call it a scoping statement. Certainly not -- lacks the eloquence of the LBA staff, but a document that would indicate exactly what it is we're trying to figure out. And may not get to it today, but I'd certainly like to ask the Committee to approve this and then I can get this out to you. Unfortunately, I didn't have the document put together yet till very late this afternoon. So that would be my request.

CHAIRWOMAN OBER: Senator Giuda proposes a performance audit on CFI Community-Based Care Program. Is there any question for Senator Giuda that you'd like to ask. Representative Wallner.

REP. WALLNER: Yes. Senator Giuda, I wondered in the piece that you're going to send out to us exactly what is it that you have in mind? I mean, I guess I would like to see a little more detail about what the audit -- what the audit would do. I really agree with you that it's a very important part of our -- our care system. So is it possible -- I don't know when this group meets again, but is it possible to take a look at that of your suggested audit scope?

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SEN. GIUDA: Absolutely. Again, I don't know if you want to do it -- I don't know if I can get it out to you right now. It's a fairly lengthy -- it's like a page and a half. Actually, two pages and a half. I don't know if there's a way I can get it to you as we're speaking, but I'm happy to, you know, submit it out there so people can look it over.

REP. WALLNER: Okay. Great. I would love to see it. Thank you.

CHAIRWOMAN OBER: Do you want to see that before a vote is taken, Representative Wallner?

REP. WALLNER: Hum -- I guess what I would like to know is would it be possible for us to -- I mean, we could vote to put it on the, you know, put it in the queue for an audit, but take a look at what Senator Giuda has in mind and maybe add or subtract from it after we see his lengthier piece.

CHAIRWOMAN OBER: Okay. Representative Weber has her hand up, also.

REP. WEBER: Thank you, Madam Chair. Hum -- I have two things. One is a process observation, and I'm recalling that in the past we had a list of ideas like Senator Giuda's and it possibly had maybe nine or 10 thoughts on it. And we had a meeting where we then prioritized those thoughts and came up with our priorities as a Committee about which ones we wanted to see go forward and that list may have just gotten lost or there may not be anything left on it. But that seemed to be to be a great way of doing things. If we could do something short of actually authorizing the audit today and I -- when it's an appropriate time, I also have a couple of audits that were sent to me by other people that I would like to throw out in the same way.

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CHAIRWOMAN OBER: Why don't you throw out those audits. I recall when we had the list, but I also recall when we've done audits like now where we've suggested them and voted on here. So we kind of have a combination of practices. Let's hear your suggestions.

REP. WEBER: Okay. The first one is something about which I know absolutely nothing so I will read you what was sent to me in hopes that somebody else will understand the issue a little better than I. It's headed Performance Audit of RSA 72:12-a, Water and Air Pollution Control Facilities. And what has been stated is this program of tax expenditure has been in effect since 1971 and has never undergone any type of audit or review to examine the efficiency of the program and the costs and benefits of having such tax expenditures to the impacted communities and the State. I gather that some of the expenditures are coming from communities rather than -- than the --

CHAIRWOMAN OBER: Sounds like a financial audit.

REP. WEBER: Well, here's -- here's -- it may. Let me just finish the reading and you can advise me better. A performance audit would examine the annual and total costs of the program in terms of foregone revenues for both local communities and the State of New Hampshire, the equity of such program for other local property taxpayers, the benefits of such program in terms of preventing air and water pollution, the opportunity costs of the narrow scope of such tax expenditure programs, and the cost borne by the Department of Environmental Services and the Department of Revenue Administration. And then I had a note that was -- that I was told that the cost to the Education Trust Fund was \$35 million a year.

CHAIRWOMAN OBER: For what?

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REP. WEBER: So I am a little bewildered about where in all of this all the funds are coming from, and I'm certainly more than willing to be instructed that this is perhaps a -- a fiscal audit rather than a performance audit. But it seems to me that what's being requested is a review to find out is the program actually working to presumably prevent air and water pollution or is this money that's being spent to go through motions that are no longer necessary.

CHAIRWOMAN OBER: Would you read the RSA number again, please? I didn't get it written down.

REP. WEBER: Yes, it's RSA 72:12-a, and the heading is Water and Air Pollution Control Facilities. And it came in to me very late or I would have investigated it a little bit more on my own, but it's something that people are concerned about.

CHAIRWOMAN OBER: Mr. Smith or Mr. Henry, do you guys know what this is and is this a cost audit or performance audit?

MR. SMITH: Representative, I'm not familiar with it personally. From the sound of it, it sounds more like a performance audit. Typically, our financial audits we are auditing set of financial statements or some sort of a report to express an opinion on it. This seems to be more programmatic. Correct me if I'm wrong, Representative Weber, but it seems to be more, you know --

REP. WEBER: That was my understanding.

MR. SMITH: -- what is the program doing, is it operating as it should, et cetera.

CHAIRWOMAN OBER: Lucy, you want to give us your second one?

REP. WEBER: Sure. The other is an audit of the charter school implementation with the federal grant, and its long-term impact on, number one, is traditional public schools as it relates to the Trust and, two, the enrollment charter impact on the Education Trust over the next five years.

CHAIRWOMAN OBER: Senator Giuda.

SEN. GIUDA: Yes, thank you, Madam Chair. Are we looking to the funds that were just appropriated by Fiscal?

REP. WEBER: I -- I'm assuming so. It's the federal grants. So yes, I'm assuming it is.

SEN. GIUDA: Follow-up.

CHAIRWOMAN OBER: Follow-up.

SEN. GIUDA: I'm not sure -- I'm not sure there'd be enough data to be able to assess an impact at this point in time.

REP. WEBER: Well, I'm certainly glad to do some more research and talk more with the person who proposed it and see if I can get a more definite statement.

CHAIRWOMAN OBER: Okay. Any other potential audit topics, Mr. Smith, Mr. Henry? Do you guys have suggestions for us that we haven't come up with and then Representative Weyler will be asked to yield.

MR. SMITH: I don't -- I know that Jay did provide the Committee with kind of a history of audits and different agencies as to where we've been historically.

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But, Jay, do you have any specific ones? I don't think we discussed any.

MR. HENRY: No. I know in the past we have come up with the list of just from looking at what we haven't looked at before. We didn't do it this time just because we were hoping to get -- get topics from the Committee Members; but it is something we can create for the next meeting, if -- if you wanted that.

CHAIRWOMAN OBER: Representative Weyler.

REP. WEYLER: Thank you, Madam Chair. I have a question and then I have a suggested topic. I'm looking at under Health and Human Services you say a forthcoming audit on the Sununu Center. We've been looking at that in Division III of Finance and wondering when it's going to close, and maybe a week and a half to try to make it close. So is that audit just about done?

CHAIRWOMAN OBER: I think he said we'd get it Friday, next Friday; is that true?

MR. SMITH: Yep. To state it another way, it's in the mail, Representative Weyler.

REP. WEYLER: All right.

CHAIRWOMAN OBER: Fiscal packet came today. I haven't opened it.

REP. WEYLER: Very good.

CHAIRWOMAN OBER: I'm working on the budget. I have to tell you I felt like lighting a match and holding out the door and dropping another package on the front doorstep because I'm overwhelmed with the budget here, but I didn't do that.

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REP. WEYLER: One of the things I looked at as possibly needing some performance audit, and it's cost us billions of dollars from the State coffers, is the Retirement System. I looked a while ago where they were still assuming six and three-quarter percent return. And they listed their investments. This is maybe a year ago I looked at it. And there wasn't a single investment that was above three and a quarter percent. So how can you be assuming six and three-quarter percent and why do you have such lousy investments when my investments on my IRA are telling me returning 10%. And I know that some colleges are getting 20% on their endowments. And here we have these billions, multi-billion dollar Retirement System that's limping along and keeps -- it's just gone 3% for every -- every employee that we employ to go up because they can't come anywhere near it.

So I think it's vital that we get a look at this and say what are you doing? And the investment -- how the investments are decided and what's the restrictions on putting them, and why are they doing so poorly? And, you know, I think that's ideal for a performance audit, and I hope that would go forward. Thank you.

CHAIRWOMAN OBER: Senator Kahn.

SEN. KAHN: Thanks, Madam Chair. The topic that I would like to hear us discuss at some point is related to mental health care and the workforce availability for mental health care. And so let me just put a couple of thoughts together.

We know that we have an emergency room onboarding problem. We know it's youth levels, families, adults. And my concern that I've picked up locally and that I think exists not just in this region but in other of the mental health regions in the state is the upstream problem, meaning if we had adequate workforce supply, we might be able to handle a caseload that may not -- may

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be able to deal with some of our mental health clients more effectively before they reach crisis stages.

The -- the issue that is the bottleneck is the lack of available workforce in the regions. And my question around this is is this related to a national staffing shortage, a wage competitiveness issue in our state that we aren't using the incentives that we allocate properly or effectively or is it our commercial payer rates? So -- but the issue is we're not -- we're not handling the caseload that exists with our existing workforce supply and one of the barriers to us doing that. I'll rest at that, Madam Chair.

CHAIRWOMAN OBER: Representative Wallner, do you have your hand up?

REP. WALLNER: Sorry, Lynne. Yeah. I've got my hand down now. Thank you.

CHAIRWOMAN OBER: Okay. There any other topic?

SEN. KAHN: There's one other, Madam Chair.

CHAIRWOMAN OBER: Sure.

SEN. KAHN: I was asked about Elderly and Adult Services through HHS, and it's more a question of, and I can't open the Excel document of the history. I don't know why. But the Bureau of Elderly and Adult Services, if we've done any follow-up work on caseloads there and adequacy of resources. It's a question that was given to me. It's not what I'm too familiar with.

CHAIRWOMAN OBER: Can Mr. Henry, Mr. Smith, do one of you know that answer? I certainly don't.

MR. HENRY: I just looked up. We did a report in 2003 on the Division of Elderly and Adult Services Home

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and Community-Based Care. So it's been awhile since we've been on that issue.

SEN. KAHN: And maybe that does overlap with Senator Giuda's question.

CHAIRWOMAN OBER: Sounds like it does. Well, sounds like we might have two topics that don't require additional looking at before we can vote on it. The CFI Community-Based Care Program and the Elderly and Adult Services Program, and perhaps even a third one, the Workforce Development for Mental Health. I'm not sure if -- Senator Kahn, if I worded what you said about mental health correctly or not, but I hope I'm on the right track. You can correct that. It looks like the retirement investment strategy, Ken, is that what you were asking for, about how they do it?

REP. WEYLER: Yes. I think that's a narrow enough scope can be looked at over a period of time. And should be enough and it's not, you know, it doesn't get into a huge number of people, but just the Board and how they decide. And I know years ago when we looked into it, it was somewhat shortsighted because of the people that were making the decisions. And we tried to change the Board six or seven years ago that would be able to be more financially astute but yet nothing.

CHAIRWOMAN OBER: We might actually end up with five programs here, because we've got CFI Community-Based Care Program, Elderly and Adult Services, Workforce Development for Mental Health, retirement investment strategy, and I think Lucy's first one, if I can restate that not having read the RSA, is the program listed in RSA 72-12-a, because I have not read that RSA.

REP. WEBER: And, Madam Chairman, I have now read the RSA and what it is is a tax exemption for pollution control facilities. And the program also is one of

inspection and determination when you have some kind of an installation that is partially for the purposes of pollution control, the extent to which that facility will be given an abatement under this proceeding. So I think it's -- I think it's very much in the performance area and the issue is the extent to which the towns or the taxing authorities, in whichever case, are foregoing revenue and the extent to which every other -- every other taxpayer then has to make up the revenue that's the subject of the exemption.

CHAIRWOMAN OBER: Mr. Smith, does that sound like a performance audit to you because I'm going to go with you on that. When we start auditing outside -- something outside the state authority, I don't know where we are.

MR. SMITH: Yeah, it definitely sounds --

REP. WEBER: It's a state program.

MR. SMITH: -- performance than a financial. Jay, would you concur?

MR. HENRY: Yes, it sounds like performance. I just wonder does it touch more on policy versus program performance?

REP. WEBER: It looks to me like what's being asked for is an evaluation of the performance of the program as it exists now, and is it doing what it was that it was stated to be doing in the RSA that was enacted in 1971. So I think in terms of is it relevant to today, that's policy; but is it -- is it doing appropriately the kind of allocation and meeting the purposes as set out in seventy -- in the statute in 72:12-a, colon 12-a, to that extent, I think it's performance. And I think that that would be helpful in informing policy going forward, but would not be a question of policy going forward.

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MR. HENRY: So then you're saying it's really the effectiveness of the program. Is the mission and the goals of the program still being met --

REP. WEBER: Yeah.

MR. HENRY: -- I think another way of putting that.

REP. WEBBER: Yeah.

CHAIRWOMAN OBER: Okay. So that actually gives us five potential topics. As Representative Wallner said, she would like to see the CFI Community-Based Care Program scoped out a little more, but I think each of these topics would like to be scoped out a little bit more as I listened to them personally. And as Jay -- as Senator Kahn pointed out, Elderly and Adult Services may be that with the first one, which I think LBA would probably determine if they scoped them out. What do you guys think about sending these five topics to LBA, having them start looking at the general scope. Senator Giuda will finish his paper and get it out to LBA and they can share with all of us, and then at our next meeting we can go through what LBA finds. But we have four or five depending on those two marry together going forward. Does that sound like a reasonable approach?

REP. WEBER: Sure.

CHAIRWOMAN OBER: All right. Representative Weyler moves to proceed with the five listed performance audits. Senator Hennessey seconds.

SEN. GIUDA: Second.

CHAIRWOMAN OBER: And if there's no further discussion, I'm going to call the roll one more time. On the motion to proceed with the five listed performance

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audits, if you're in favor please say yea, if you're opposed please say nay. Senator Reagan.

SEN. REAGAN: Yes.

CHAIRWOMAN OBER: Senator Giuda.

SEN. GIUDA: Yes.

CHAIRWOMAN OBER: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yes.

CHAIRWOMAN OBER: Senator Hennessey.

SEN. HENNESSEY: Yes.

CHAIRWOMAN OBER: Senator Kahn.

SEN. KAHN: Yes.

CHAIRWOMAN OBER: Representative Weyler.

REP. WEYLER: Yes.

CHAIRWOMAN OBER: Representative Wallner.

REP. WALLNER: Yes.

CHAIRWOMAN OBER: Representative Weber.

REP. WEBER: Yes.

CHAIRWOMAN OBER: Representative Erf.

REP. ERF: Yes.

CHAIRWOMAN OBER: Chairs votes yes.

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*** {MOTION ADOPTED}

9. Other business

CHAIRWOMAN OBER: Do we have any other business?

MR. HENRY: I'd just like to make sure what do you want from us at the next meeting? Do you want a little blurb, like a mini scope for each of these topics for you to consider or do you want us to send all five of these to the Fiscal Committee for approval?

CHAIRWOMAN OBER: Kenny, do you want to have blurbs that we can send later or do you want them to send those to the Fiscal Committee for approval?

REP. WEBER: I'd appreciate having blurbs and letting us take a good look at them and maybe prioritize a little bit in order of how we feel about them.

CHAIRWOMAN OBER: Representative Wallner.

REP. WALLNER: I agree with Lucy. I would like to sort of see a little bit more detail before we send them to the Fiscal Committee.

CHAIRWOMAN OBER: Senator D'Allesandro.

SEN. D'ALLESANDRO: Yeah. I agree with my colleagues. It seems to me we should look at something a little bit more before we make these decisions, be very, very helpful.

CHAIRWOMAN OBER: That would also, Jay, give you guys a chance to see if CFI and Elderly and Adult Services marry together as one or two separate audits, and I don't think we know. I believe Senator Kahn is correct when he mentioned it might be. So would you like to get together in about a month --

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REP. WEBER: Sure.

CHAIRWOMAN OBER: -- to go over the blurbs? Is that doable, Mr. Smith and Mr. Henry?

MR. SMITH: Sure.

MR. HENRY: Yes.

CHAIRWOMAN OBER: You have work ongoing now?

MR. SMITH: Yes. We have the Board of Dental is ongoing.

CHAIRWOMAN OBER: Okay.

MR. SMITH: A couple of our performance staff is assisting Mike Kane's group on the budget side.

CHAIRWOMAN OBER: Yeah, no kidding, and we need all the help we can get.

MR. SMITH: Yeah. So, you know, we -- we're not -- we're not dead in the water by any stretch of the imagination, so.

CHAIRWOMAN OBER: Okay. Senator Hennessey.

SEN. HENNESSEY: Madam Chair, my apologies. I have to leave now for another meeting; but I agree with the path that the group is taking.

CHAIRWOMAN OBER: Thank you.

SEN. HENNESSEY: Thank you.

CHAIRWOMAN OBER: Senator Giuda, did I see your hand up?

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SEN. GIUDA: Yes, ma'am. To whom would I send this draft statement? Should I send it to you, Madam Chair, and you can disseminate it to LBA and other Members?

CHAIRWOMAN OBER: If you send it to me, I'll just send it on to Mr. Henry to send out to everybody. Or you can send it straight to him and he'll send it to all of us, whichever you prefer, Senator Giuda.

SEN. GIUDA: I'll send it to you, Madam Chair.

10. Date of next meeting and adjournment.

CHAIRWOMAN OBER: Okay. Then I will get it over. All right. Then seeing no other business. Mr. Henry, will you get some dates together for approximate times in a month to send out to make sure we get a quorum together so everybody can check their calendar. And if that's it, then we can adjourn until the call of the Chair.

****** SEN. D'ALLESANDRO: Move to adjourn.

SEN. GIUDA: Second.

CHAIRWOMAN OBER: Fortunately, we don't have to have a roll call to adjourn. The Governor has said that. So we are adjourning. Thank you very much and thank you for coming.

(The meeting adjourned at 3:58 p.m.)

C E R T I F I C A T I O N

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcription from my shorthand notes and audio recording from a Zoom Remote Public Hearing of the Legislative Performance Audit and Oversight Committee on March 12, 2021, to the best of my ability, skill, knowledge and judgment.

Cecelia A. Trask, LSR, RMR, CRR
State of New Hampshire-LSR #47

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