

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 212

Concord, NH

Monday, May 6, 2013

MEMBERS PRESENT:

Rep. Lucy Weber (Chair)

Rep. Lynne Ober

Rep. Raymond Gagnon

Rep. Carol McGuire

Sen. Lou D'Allesandro

Sen. Sylvia Larsen

Sen. John Reagan

(Convened 10:00 a.m.)

1. Acceptance of minutes of the February 22, 2013 meeting.

CHAIRWOMAN WEBER: Well, I'm going to declare it 10 o'clock and call the meeting -- call to order this meeting of the Legislative Performance Audit and Oversight Committee. I'm going to remind the Committee Members that Representative Laurie Harding has resigned due to time pressures and Representative Mary Jane Wallner has been appointed in her stead but had made travel plans prior to that appointment that she felt she couldn't change. But there are five of us here. So is there -- the first article of business is acceptance of minutes of the February 22nd, 2013, meeting?

****** SEN. REAGAN: Move the acceptance.

REP. MCGUIRE: Second.

CHAIRWOMAN WEBER: Moved and seconded. All in favor? Opposed? So the minutes have been accepted.

***** {MOTION ADOPTED}**

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

CHAIRWOMAN WEBER: Item number two is current status of ongoing and pending performance audits. Good morning, Senator.

SEN. D'ALLESANDRO: Good morning.

RICHARD MAHONEY, Director, Audit Division, Office of Legislative Budget Assistant: Thank you, Madam Chairman. Good morning to you and Committee Members. For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant; and I'll be brief in my comments, Madam Chairman, with regard to an update on the status about current and pending performance audits.

The first audit I'd like to talk about is our audit of the uncollected state taxes at the Department of Revenue Administration. This Committee approved a revised Scope Statement at its last meeting to focus on the Collections Division only at the Department of Revenue Administration. Our field work is currently in progress. We anticipate finalizing that report, presenting it to the Fiscal Committee in May or June or I should say June of this year since there was no meeting of Fiscal in the month of May. Total hours so far through May 2nd was just under 1500 hours at a cost of approximately \$120,000.

The next audit in process is our audit of the Electronic Benefit Cards at the Department of Health and Human Services. This topic was originally approved by this Committee at its last meeting and approved by the Fiscal Committee on March 8th. We held an entrance conference with the Department on April 11th and our field work is currently in process for that audit. We hope to present that report to the Fiscal Committee in August of this year

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

pending your approval of the proposed Scope Statement for the audit at today's meeting. We've spent approximately 435 hours on this job so far at a cost of about \$32,000.

If you recall, Madam Chair, at the last meeting the Committee left it up to our Department in terms of priority of audits that the Committee approved for -- to conduct. And our plan at this point in time would be to start the Department of Corrections, Community Corrections audit next, along with the Community Development Finance Authority Program audit following that. Both of those audits should begin somewhere in the June or July time frame as some of our staff begin rotating off of our current audits in progress. Staff assignments have been made for both of these audits, although none of -- no time has been spent on either one of them at this point in time.

I should mention that the -- our audit of the Community Development Finance Authority will be the first audit our office has conducted of a non-state entity under our statutory authority under RSA 14:31-a, I (d), which allows us to conduct program result audits of entities authorized to expend State funds and the CDFA does receive some State funds.

The next audit in our queue would be Department of Health and Human Services, Assisted Living and Nursing Facility Inspections. We also think that audit would begin sometime in the month of July, as some of our staff return from loan to the Budget Division at the end of June.

REP. OBER: If the budget doesn't pass, you'll just put that off?

MR. MAHONEY: In all likelihood we would, yes.

REP. OBER: Okay.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

MR. MAHONEY: Next in our queue is the Department of Resources and Economic Development, Economic Development Programs audit, and we anticipate beginning that somewhere in the August time frame.

And the last audit in our queue at this point in time is the Board of Pharmacy, Controlled Drug Prescription, Health, and Safety Program. That audit is required by Chapter 196, the Laws of 2012. It had originally been scheduled to be conducted no later than December 31st of 2014. Although Senate Bill 83 was introduced this session and has now passed both houses, and while I checked last Friday, I don't believe that's become law yet, but when it does become law, if it does become law, the due date for that audit report would be December 31st of 2017 from December 31st, 2014.

And that is -- that is all I have to report, Madam Chair, with regard to our pending and ongoing performance audits.

CHAIRWOMAN WEBER: Thank you very much. Are there questions about the pending and ongoing audits? Seeing none, I thank you.

(3) Discussion and approval of proposed Scope Statement For the Department of Health and Human Services, EBT Cards

CHAIRWOMAN WEBER: And we'll move along to a discussion and approval of the proposed Scope Statement for the Department of Health and Human Services, EBT Cards.

MR. MAHONEY: Thank you, Madam Chairman. With your permission, I'd like to ask Stephen Fox, our Performance Audit Supervisor, to join me at the table to walk the

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

Committee through that statement, if you would.

CHAIRWOMAN WEBER: Please.

MR. MAHONEY: Thank you.

STEPHEN FOX, Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: Good morning, Madam Chairman, Members of the Committee. For the record, my name is Stephen Fox. I'm the Performance Audit Supervisor for the LBA Audit Division.

The proposed Scope Statement you have in front of you this morning is of the Department of Health and Human Services, Division of Financial Assistance, Electronic Benefits Transfer.

Back on February 22nd of this year, this Committee, as Dick has already indicated, requested us to conduct this audit. It has been approved by the -- the recommendation has been approved by the Fiscal Committee on March 8th of this year. Our entrance conference was held with the Department on April 11th.

Traditionally, states used to disburse cash and food assistance through paper checks or coupons. Beginning in 1988, however, the Federal Government began testing automated or electronic benefits transfers or EBT cards for their food stamp program, with the goal of improving efficiency and effectiveness of the -- of the program, both administratively and for the recipients.

In 1996, the Federal Government required all states to implement an EBT system before October 1st of 2002. EBT is expected -- was expected to generate such significant savings for the food stamp program that it prompted states to not only use it for that program but also for other

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

distribution of other benefits, such as Supplemental Nutrition Program for Women, Infants, and Children, Financial Assistance to Needy Families, also known as TANF or the Temporary Assistance to Needy Families. Each state and in some cases cooperatives of states contract with third-party providers to maintain an EBT system and New Hampshire is one of those states.

Through that -- through the EBT system, funds are disbursed on cards which are used to deliver multiple benefits, for instance, food stamps, now known as -- excuse me -- SNAP or Supplemental Nutrition Assistance Program, cash assistance, such as the Temporary Assistance to Needy Families, and other State supplemental programs. The cards are similar to what we would consider to be a traditional debit or credit card, except there's no line of credit and recipients cannot exceed the approved benefit amounts.

The Division of Family Assistance in New Hampshire uses EBT cards as a sole method for distributing food stamp benefits. However, cash assistant recipients may choose to have their benefits issued via either by the EBT card, deposited directly into their own bank account through an electronic funds transfer, or by way of paper check. Should note that less than 1% of the funds, mostly State supplemental programs, such as Old Age Assistance, Aid to the Needy Blind, Aid to the Permanently and Totally Disabled, and Refugee Assistance are currently receiving funds through paper check. So the vast majority of the funds transferred are either through EBT or electronic funds.

The Division of Financial Assistance maintains advantages exist for issuing cash assistance through EBT and EFT. In addition to those benefits identified by Federal Government, the State has identified also that they can recover unused funds if accounts are inactive for a

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

specific period of time. The DFA experience has been that this amounts to approximately 130,000 recovered funds each year, which covers the contract cost for -- to deliver benefits through EBT. Also, EBT does allow for an electronic record of transactions.

Electronic funds does not allow for recovery of unspent funds or transaction records as the money is deposited directly into bank accounts, however -- and, additionally, EFT is labor intensive. However, the monthly cost to administer the EFT portion of cash assistance is much lower than EBT, and there are no transaction fees for recipients. If, for instance, if any recipient is using an EBT card and an ATM, there may be a transaction charge associated with that.

During March of this year, the Division of Financial Assistance disbursed benefits to over 61,000 EBT cards in New Hampshire.

The cash assistance programs that -- that are eligible for electronic funds transfer or EBT transfer include both Financial Assistance to Needy Families. During March of 2013, there were approximately 1.5 million in funds transferred to over 3,000 recipients of EBT and another \$340,000 to 675 recipients of EFT. State supplemental program, such as Old Age Assistance, Aid to the Permanently and Totally Disabled and Aid to the Needy Blind was the next category of programs using cash assistance or receiving cash assistance. And in March of 2013 there were 900 -- 9,487 recipients receiving funds; 70% of that was received through EBT. The maximum benefits for the supplemental programs for one person are \$724 and \$1,067 for a couple.

Refugee Cash Assistance supports refugees, either individuals or families, during their initial resettlement

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

period in New Hampshire. They must not be able to qualify for other aid in order to be eligible for the State assistance. And in March of this year, the DFA issued \$25,300 to 35 individuals and families, 99% of which was issued through EBT.

Our Scope as we propose it will focus only on the cash assistance programs. That is because the Supplemental Nutritional Assistance Program or the SNAP Program, food stamps is largely funded by Federal Government. There are very few State funds. The only State funds are used that are in the program are help to administer the program. So we're not talking about a lot of State expenditures here. Therefore, we would like to focus this audit on the supplemental or the cash assistance programs and the question that we're looking at in terms of the Scope is the bolded question under the center headed Audit Scope.

Are cash assistance benefits provided through electronic benefits transfers effective in achieving programs' objectives?

We will address five specific questions.

Has the State implemented restrictions on the use of cash assistance consistent with program objectives?

How does the State -- how does DHHS monitor recipients to ensure that EBT card use is consistent with program objectives?

Is the Department effectively educating and communicating program goals and expectations to recipients of cash assistance?

Do transaction and other associated fees inhibit the effectiveness of EBT cards?

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

And the last one is: Are EBT cards a more effective, efficient, and economical method to administer cash assistance than electronic funds transfers or electronic purchasing cards?

I should note that electronic purchasing cards are not currently used in this state. One advantage to them is that they are backed up by Visa or Master Card and can be used to pay bills on-line or purchase items through the Internet.

REP. MCGUIRE: I'm not familiar with electronic purchasing cards. Are those like prepaid credit cards?

MR. FOX: They're similar, right.

REP. MCGUIRE: Okay. Thank you.

MR. FOX: To answer these questions we will, of course, look at procedures and policies and practices related to EBT administration. We'll use State and Federal guidelines regarding cash assistance; identify -- interview DFA staff and management; analyze EBT data; review cash assistance program objectives and determine whether EBT activities are aligned with the program objectives; review the DFA's ongoing education and monitoring efforts; review State, Federal, and other reports to determine whether benefits -- what are the benefits and drawbacks to a cashless benefit transfer system; review EBT practices from other states and other procedures as we find necessary.

As proposed, this audit would be completed in August of this year. I'd be happy to answer any questions the Committee has. I should also note that the -- we have representatives from the Division of Financial Assistance here this morning, too. Thank you.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: Questions. Thank you very much.
Representative Ober.

REP. OBER: Thank you, Madam Chairman. Steve, this year alone we've been gifted with \$20 million worth of fines to the Federal Government because of programs in HHS that have not been administered and monitored according to Federal guidelines. These are fines that, of course, money could have gone to pay for something else. So do you feel comfortable with questions 1, 2 and 3 that you will have enough information in conjunction with the Department to ensure that this -- these are not programs that are also going to have significant fines from the Feds, that we will be operating the way we should?

MR. FOX: At this point, it's premature for me to speculate what the findings will be; but we do believe that there are -- there is sufficient data in order for us to try to answer those questions. I can't guarantee that the Department has all the answers available or has all the data available to us. But I do think this is a sound approach in order to try to answer those questions.

REP. OBER: Thank you.

CHAIRWOMAN WEBER: Any further questions from anyone? Seeing none. I thank you very much. Do we need to officially approve that Scope Statement?

REP. OBER: Probably.

MR. MAHONEY: Madam --

** REP. OBER: I would move to accept the Scope Statement.

REP. MCGUIRE: Second.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: Moved and seconded. Yes, you were going to say something.

MR. MAHONEY: Yes, Madam Chairman. I just want to make it clear to the Committee that we have historically come to this Committee to approve the Scope Statements. There's nothing in statute that requires that that happen. The only thing in statute that is required is that the recommendations from this Committee are submitted to the Fiscal Committee for its approval of the topic.

CHAIRWOMAN WEBER: Okay.

MR. MAHONEY: That's where the statute ends in terms of requirement. But we have historically -- this Committee has historically voted to approve Scope Statements.

One of the reasons we have our transcriptionist here today, Ceil, is historically our office has looked at these transcripts to try to inform us when we prepare the Scope Statements and they're really to make sure that we are on the same page with you in terms of what your intent is for these audits.

CHAIRWOMAN WEBER: Thank you.

MR. MAHONEY: I just wanted to make that clarification, Madam Chairman.

CHAIRWOMAN WEBER: We have a motion and a second. Is there any further discussion? If not, all in favor of the Scope Statement as submitted, please say aye? Opposed? So be it.

MR. FOX: Thank you.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: Thank you.

*** {MOTION ADOPTED}

4. Discussion of proposed performance audit of Police Standards and Training Council, tabled and referred Back by the joint Fiscal Committee

CHAIRWOMAN WEBER: The next discussion is proposed performance audit of Police Standards and Training Council, which was tabled at the Fiscal Committee and possibly referred back. So is there anybody here who wishes to speak to that issue?

PETER HANSEN, State Representative, Hillsborough County, District #22: I'd like to speak to it if you don't mind, Madam Chair.

CHAIRWOMAN WEBER: Certainly.

REP. HANSEN: Thank you. For the record, my name is Representative Peter Hansen, and I had asked that this audit be conducted. Over the past several years, there have been occasions where there have been incidents involving various police agencies and enforcement agencies which have led the public, in my opinion, and also in the opinion of other people, to suggest that perhaps while the rules appear to be well written, they may not be thoroughly followed.

My purpose in asking for the audit was to establish whether or not there were considerations given that ought not to be or if everything was being conducted by the rules and regulations that I presume are almost self-imposed by the Police Training and Standards Council.

I've noted of late that there are at least two

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

articles in various newspapers which have brought up the question of whether or not, for lack of a better word, and there may be a softer word, the credibility of the agency is not -- is undergoing a change. And I think that an audit of this nature probably addresses a lot of those issues.

And I think finally, Madam Chairman, that in looking at the construction of the Commission, I note there's only one civilian, and that civilian is somewhat involved in law enforcement because they are a part of the educational structure of the State of New Hampshire. And I would suggest that one thing that might be looked at is the inclusion of more, for lack of a better word, civilians on that Board to ensure that we, the people who are subsidizing or paying for these services, have an input into what it is that's being accomplished by the agency. Be happy to take any questions.

CHAIRWOMAN WEBER: Thank you, Representative. Well, I believe you have one from Senator D'Allesandro.

SEN. D'ALLESANDRO: Really, it's more of a comment. I think I'm the only one sitting in this room who was here when Standards and Training was organized in 1973 when Arthur Kehas put together the penalty assessment situation.

REP. OBER: When you were a baby.

SEN. D'ALLESANDRO: When I was a child. And I think the agency has performed admirably in doing what we have asked it to do, train police officers. We have added corrections people, we've added Fish and Game, we've added part-time people. I think the entity has done a terrific job and the proof is in the pudding in terms of the kind of support we get in our local communities. So I'm really very disturbed at some of your comments. They really bother me. This agency has performed admirably over the years.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

In my district, my district, we have lost one police officer who was killed in the line of duty. We have had another police officer shot seven times defending people in the line of duty. We have had an admirable record of protecting the public. And I think the training received by Standards and Training has been invaluable in terms of performing their dedicated mission.

I attend almost every graduation of Standards and Training. I go over there and visit Standards and Training. The organization has been well-managed, it has been well-run. The State has taken advantage of Standards and Training on numerous occasions by going to Standards and Training and stealing money from their budget. I think that's awful. That's awful what's happened. We -- in terms of even capital expenditures. So I think that they have done a tremendous job over the years and continue to do a tremendous job. And we -- we, the public, say the first line of defense is our police force. And the training that they receive is of the highest quality, the highest quality. And I can't understand why people keep going after Police Standards and Training. It is -- it's beyond my comprehension, to be honest with you. And I think though, too, to ask them to submit to another audit -- hell, I mean, let's audit people that need to be audited. Audits are expensive. And, you know, Standards and Training has to pay the cost of this audit. So it just seems to me it should be off -- it should be off -- we should be praising them rather than talking about auditing them. Thank you.

CHAIRWOMAN WEBER: Thank you, Senator. That clearly was not a question. That was an opinion. I have both Representatives Ober and McGuire. But my question to you is, are these questions for Representative Hansen or are they part of what I -- my thought was let's have everybody who wants to speak to speak to us and then have a general

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

discussion afterwards, unless the Committee would prefer to do it otherwise?

REP. OBER: Since Representative Hansen originally sent his request to me, he has spoken, I thought I would speak very briefly to that request which I brought to this Committee, Madam Chair.

CHAIRWOMAN WEBER: Okay. Well --

REP. OBER: If that's acceptable.

CHAIRWOMAN WEBER: Let's proceed on. Go ahead, Representative Ober.

REP. OBER: I guess I'd take -- probably take exception with both of the previous speakers. But Representative Hansen sent me a one sentence e-mail that said he thought a Police Standards audit was in order. He did send me a link to one of the newspaper articles that he referenced. And I've sat on this Committee multiple years now. And I was very well aware that during a performance audit that the group headed by Mr. Mahoney does credible work and often find that there are many things to be praised as opposed to pointing a finger and saying you're doing a bad job. So I thought forwarding that on to this Committee would allow Mr. Mahoney and his team to do an audit that, in a way, could be made public and highlight some of the good things. And if there's something bad that needs to be changed, I mean, I don't know, we don't -- all of us don't have processes that might work better if we changed them slightly.

The audits I've seen have been very evenhanded working with the organization, and I felt this would give this group an opportunity to have their good work highlighted, audited by a reputable source, and stop some of the

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

negative newspaper articles. So I brought this forward to this Committee because of that at the request of Representative Hansen, who said nothing negative in his e-mail when he asked if I would submit it. So thank you.

CHAIRPERSON WEBER: Thank you. Representative McGuire.

REP. MCGUIRE: Yes, thank you, Madam Chair. Hum -- I'm actually more responding to Senator D'Alessandro's question, in that I think the intent of this audit is not to look so much at the training, which he says has been going on pretty well and Epsom has also lost a police officer in the line of duty. What I'm concerned about are the standards. We have a Laurie List of police officers whose testimony is suspect. They cannot be trusted. How can that happen and what is being done by the police office -- the Chiefs to deal with that? That's a problem. Okay. It may be a very small percentage of police officers in the state, and I believe it is, but it is the responsibility of the Chiefs. The Chiefs are trained and to some extent coordinated through the Police Standards and Training Council. That's the only place we have where we can -- where we can do something like that. And if it's not their responsibility, whose else is it?

I'm concerned about that. I'm concerned about things like that motorcycle club that where some officers, apparently, I don't know the details, but from the newspaper articles they were engaging in incorrect behavior with regard to their own, something that was stolen or they claim was stolen and they stole it back. I mean, that's -- you know, it may be perfectly okay, but I think it should be investigated. And how that is handled as the standards for police officers is something I would hope we would audit and that's my position.

CHAIRWOMAN WEBER: Okay. Before we get into --

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

REP. MCGUIRE: Rebuttal.

SEN. D'ALLESANDRO: And interrogatory.

REP. GAGNON: I have a question of Representative Hansen.

CHAIRWOMAN WEBER: I'm going to recognize Representative Gagnon and let's finish with questions for Representative Hansen because it looks to me like there are various people in the audience who would also like to have their say. And then we can have a full and frank discussion among ourselves at that point. Representative Gagnon.

REP. GAGNON: Thank you. Representative Hansen, you mentioned something about a couple of series of articles that have made it to the press and, apparently, one must be this motorcycle. But could you identify what they are? What were these -- what were the subjects of those articles?

MR. HANSEN: I think -- I was not referring to that one specifically.

REP. GAGNON: Oh.

REP. HANSEN: There are any number of articles, however, as you suggest that may be read as casting some aspersion on the way things are handled. The two articles I was mentioning were from -- and I don't -- I regret that I don't have the names of the two Chiefs of police. I believe they were both Chiefs of police who stated that their -- and concern is probably too strong a word, but they're seeing the -- and again, for lack of a better word, the credibility of -- of -- of the whole law enforcement

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

agency, not any specific department or any specific agency, but they just -- in the article they seem to be questioning whether or not the -- the -- well, the credibility is not being questioned by the public. And so -- and there were two articles and I regret that I did not write down the names of the two Chiefs of police. But I believe they were both from small towns rather than from the larger police departments.

REP. GAGNON: Thank you.

CHAIRWOMAN WEBER: Any further questions for Representative Hansen? Seeing none. Thank you very much for coming and helping us with that. I see Representative Eaton on the edge of his chair. We'll keep going along.

DANIEL EATON, State Representative, Cheshire County, District #03: Good morning. Representative Daniel Eaton from Stoddard. In full disclosure, I was a member of the Police Standards and Training Council for six years. During the early part of my term on Police Standards and Training, while the cadet academy was run well and the in-service programs were run well, it was a political appointee running the operation and was in a condition where they did not even have a set of RSAs at Police Standards and Training. And they were running tests and grading officers as failing certain questions on topics that were no longer in law because they did not keep up the law books.

At the end of my term on the Police Standards and Training, I pushed to get a new director and we got Earl Sweeney, who I'm sure everyone here knows and respects, who spent significant time updating the actions, the procedures, the policies, and bringing Police Standards and Training into the 21st Century at the time. It is incredibly well-run operation. Anyone here is welcome to go visit it at any point in time. To ask for an audit

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

based on newspaper articles, I suspect that there isn't anyone in this room that has not read a newspaper article that had their name in it and were at the same meeting and can't give the two, that they don't have any correlation to each other.

The Council, which is appointed by the Governor of different police chiefs from around the state, are the ones that make the rules, the policies, and the standards for all law enforcement in the state. They do it very thoughtfully, very carefully. While I was on the Council, I pushed to increase the standards and up the timelines for how much time they had to spend in training. Getting the full-time cadet academy increased by a couple of weeks, by increasing the number of hours of the part-time academy, and the inclusion of what would have to be in there.

Now, the previously mentioned newspaper articles, if you were to suggest an audit, would require going to personnel files and that would likely require the Audit Division to have to go to Superior Court to open up personnel files, which I think would create a difficult, if not impossible, situation. If there are problems with individual officers in any way, shape or fashion, the Council has the authority to bring those officers before the Council for either corrective action or decertification. They can remove them from that. And as far as the local departments, Police Standards and Training puts out the finest police officers in the United States, and the work they do is phenomenal. The in-service training they offer is phenomenal. And in 99% of the population, I think you would find everyone would say they have been treated professionally. That the work done is done professionally.

You do, on occasion, have problem officers that have either been going through probation and during that course

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

of probation they find they're not ready to hit prime time and are relieved of duty. But you also have individual police departments that have their own policies, procedures, and standards manuals. And those officers require -- are required to abide by those local standards as well. If they do not meet the caliber of Police Standards, Police Standards will certainly have a chat with the local department. But if they have not violated the local standards that are set up by that Department, then they done their job.

Police Standards just went through a financial audit in the vicinity of \$65,000. And to impose another audit on an agency that has gotten acclaim from everywhere, including outside agencies and the Federal Government, just seems to be a complete waste of time of the Audit Division. And with that, I see there may be a question or two.

CHAIRWOMAN WEBER: There may be. Thank you very much for your testimony. Representative Ober.

REP. OBER: Thank you. Representative Eaton, as always you have made up the most wonderful story. I would like you to e-mail this entire Committee what the actual references to the materials you have testified about. And I would ask that you get that done before the end of the week. You've testified that this agency has been compared to every other State agency. I would like to see the bibliographical information on that report so I can look it up myself. You testified that they put out the best officers anyplace in America. I'd like to see the bibliographical information for that myself. And I would hope that you would agree to provide that information, not just your anecdotal, but the actual data. Do you have an objection to doing that?

REP. EATON: I think it would take more than by the end of the week.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

REP. OBER: That's what I thought. You made that up. Thank you. I withdraw my question.

REP. EATON: No, I did not make that up.

CHAIRWOMAN WEBER: Let's be a little careful with the editorial comments. Request for data, perfectly fine. Representative Reagan -- Senator Reagan, I beg your pardon.

SENATOR REAGAN: Representative Eaton, I have the same but much simpler worded, compared to what? Where you came to conclusions that -- that this agency doesn't need to be looked at because on a comparison basis they exceed everybody else's standards so we don't need to audit them but compared to what?

REP. EATON: Compared to other agencies around the country in how they operate, how the standards are.

SENATOR REAGAN: Okay.

REP. EATON: I've been to New York State Police Academy. I'm familiar with Vermont. In the State of Florida you go to a --

REP. OBER: That's anecdotal.

REP. EATON: -- private school, private academy before you can be hired by a law enforcement agency, all of which I think operate under different standards.

CHAIRWOMAN WEBER: Representative -- I'm sorry, Senator. I think of you as being Representative Reagan. I apologize.

SENATOR REAGAN: As long as you recognize me.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

REP. OBER: He was a sterling Representative.

SENATOR REAGAN: Is there a national standard for police training places and do they have information available? Is there a national standard?

REP. EATON: I think there are people behind me that can answer that far better. But, again, it is the Council, our Council that makes up the rules and standards for all of New Hampshire police officers.

CHAIRWOMAN WEBER: All set?

REP. GAGNON: Madam Chair, could I just add that there is a Federal Law Enforcement Training Center down in Georgia. And, again, this is anecdotal information, they do exist, the standards.

CHAIRWOMAN WEBER: Representative Gagnon, let's not have too much discussion. I'm still trying to get people to finish their questions for Representative Eaton. Then we can have a round table discussion afterwards. Representative McGuire, you had your hand up.

REP. MCGUIRE: Thank you, Madam Chair. Yes. Representative Eaton, you mentioned that the Council can bring individual officers before them for discipline. Do they have an organized program to investigate people on the Laurie List which is one of my main concerns?

REP. EATON: Organized -- I'm sorry?

REP. MCGUIRE: A plan to investigate and bring the individual officers on the Laurie List before them.

REP. EATON: Uh -- again, I would -- I would defer to

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

people from the Council. And what has occurred in the past is if there was an allegation of an offense it would be investigated internally. The Police Standards and Training Council does have the ability to take exception and -- and investigate that further.

REP. MCGUIRE: So --

CHAIRWOMAN WEBER: Follow-up.

REP. MCGUIRE: To follow-up, wouldn't you agree that as the Council that is responsible for police standards in the state, and when a police officer's identified by the Attorney General as not being trustworthy for testimony, he should be investigated by this Council?

REP. EATON: I'm not sure how to answer that. I think --

REP. MCGUIRE: Well, who else could investigate such a person?

REP. EATON: I think only the Police Standards and Training.

REP. MCGUIRE: Thank you.

CHAIRWOMAN WEBER: Senator D'Allesandro, did you have a question?

SEN. D'ALLESANDRO: Yes. Thank you. Thank you, Madam Chair. Police Standards and Training Council is responsible for standards, correct, and training?

REP. EATON: Correct.

SEN. D'ALLESANDRO: Standards and training. When an

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

officer leaves the Academy and goes to the place where the officer is going to serve, we pride ourselves in local control. I mean, isn't the local entity in charge of the police officer? They hire him. Do they hire them?

REP. EATON: You have to be employed before you can go to the Police Standards and Training Council and then you have to be certified within one year. They try to get them into the Council as quickly as possible and then traditionally or on a probationary period after that for about a year.

SEN. D'ALLESANDRO: And that probationary period is established by the local entity?

REP. EATON: Exactly.

SEN. D'ALLESANDRO: So the local entity really is responsible for the supervision of that officer once that officer has met a standard and been trained; is that correct?

REP. EATON: That's correct.

SEN. D'ALLESANDRO: So, in essence, if you were to say that the State should be doing something over and above that, wouldn't -- wouldn't that be a reflection that we were trying to take authority away from the local communities who really have the ultimate responsibility for these people?

REP. EATON: I don't think there's any question of that. And I think the overwhelming -- I believe the overwhelming majority of departments in the state have their own policy and procedure manual that may be less strict or more strict than what has been put forth for training already.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

SEN. D'ALLESANDRO: Further question.

CHAIRWOMAN WEBER: Follow-up.

SEN. D'ALLESANDRO: And even in the past, officers who have committed acts outside of or let's say bad behavior, their authority has been taken away by Standards and Training. Their, quote, let's call it a license, but their ability to function as a police officer has been revoked, has it not?

REP. EATON: The certificates -- the police officers have been decertified --

SEN. D'ALLESANDRO: Right.

REP. EATON: -- by the Council, yes. And that has happened on multiple occasions.

SEN. D'ALLESANDRO: Further question.

CHAIRWOMAN WEBER: Hm-hum.

SEN. D'ALLESANDRO: And, generally speaking, isn't there an entity that -- that accredits local police departments? I know that Goffstown has just undergone an accreditation process and other departments are undergoing accreditation process. And isn't that an exhaustive investigation of the police force, how they handle their situation, and aren't members of the community interviewed in conjunction with that accreditation process?

REP. EATON: It is that, along with the policy and procedure manual that's been developed by that police department, to make sure that that policy and procedure manual meets those standards.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

SEN. D'ALLESANDRO: Further question.

CHAIRWOMAN WEBER: Follow-up.

SEN. D'ALLESANDRO: Those standards are really nationwide, are they not? I mean, they're compared -- they evaluate police departments all over the country, not just in New Hampshire?

REP. EATON: That is correct.

REP. OBER: Who is they?

SEN. D'ALLESANDRO: It's the accrediting agency for police departments.

REP. OBER: What is the name of them?

SEN. D'ALLESANDRO: I don't have it on the tip of my tongue, but I can get it before the end of the week.

REP. OBER: That would be good. I would like to have that.

REP. EATON: I suspect you can get it before the end of the meeting.

CHAIRWOMAN WEBER: I suspect you will have it with one of the next witnesses, Senator.

SEN. D'ALLESANDRO: Thank you, Madam Chair.

CHAIRWOMAN WEBER: Are you all set, Senator?

SEN. D'ALLESANDRO: Yes, I am.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: Representative McGuire.

REP. MCGUIRE: Yes, thank you. Listening to that, would you -- would it be fair to say the Police Standards and Training Council is the equivalent of a professional board as, for example, we have a board for plumbers. This is the board for police officers that deals with professional qualifications and discipline of a professional nature.

REP. EATON: I think that's probably very, very close. And to one of your prior questions, if the Attorney General had felt strongly enough about the officers you spoke of, he could have easily written to Police Standards and Training asking them to bring in those officers for a hearing.

CHAIRWOMAN WEBER: Any further questions for Representative Eaton? Seeing none. Thank you very much for your assistance today. Other people who wish to speak? Yes, go ahead.

REP. OBER: Madam Chairman, could we instruct the additional speakers that if they are going to speak if they would please cite rather than just give anecdotal information? I would like to read that study that Representative Eaton talked about but he can't cite it. He can't get it. So if they could cite things, then we can look them up. And we are not trying to question them to make them look ineffective but we do need facts. We aren't dealing with anecdotal information. We all have anecdotes. That's not the purpose of a performance audit.

CHAIRWOMAN WEBER: I understand that, Representative Ober. And, Representative Ober, you're entitled to request any additional information that you want. The people speaking in front of us can use anecdotal, whatever they choose, and then members of the Committee may give their

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

testimony and any backup or lack thereof whatever weight they want to. So no, I'm not going to instruct people that they must cite. But it's up to you. You may certainly ask and if things that would help you are not provided --

REP. OBER: Now we have police officers I think we'll be --

CHAIRWOMAN WEBER: -- you can give it whatever weight you'd like.

REP. OBER: Right, Sheriff?

MICHAEL PROZZO, Sheriff, Sullivan County: Good morning, Madam Chair, and Members of the Committee.

CHAIRWOMAN WEBER: I'm going to ask you to identify yourself.

MR. PROZZO: My name is Michael Prozzo, P-R-O-Z-Z-O. I am currently a law enforcement officer. Started my 43rd year in law enforcement. I retired as the chief of police in Claremont, New Hampshire, after I was there for 24 years. I am currently the Sheriff of Sullivan County. I'm in my 10th term.

The other hat I wear, I am the Chairman of the Police Standards and Training Council. I have been a member of the Council since 1996 and have enjoyed immensely my -- my time with the Council. It is one of the -- one of the toughest committees that I have sat on in my career.

The makeup of the Council, if I may just talk about the Council for a minute, Madam Chair, makeup of the Council, we are all appointed by the Governor, with the exception that the Colonel of the State Police, the Attorney General, the Corrections Commissioner, and the

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

Educational Commissioner are on the Council by their virtue of their position. There are two Sheriffs on the Council. I am one. The other Sheriff on the Council is Sheriff Dubois of Strafford County. There are four police chiefs on the Council; two from a larger city, two from a small town. There are two judges on the Council. So that's the makeup of 12 people that are on the Council. We meet monthly. Every -- every month the fourth Tuesday of the month we meet. The meetings are open to the public. Any one of you are welcome to come and listen to our meetings, see our agenda, and see what we do.

One of the toughest things that we do, one of the most -- everything we do I think is important, but one of the toughest things we do, the most important thing we do is look at police officers' certification. And I'll give you some examples, if I may. The example I'll give you that if there's a police officer or a correctional officer, Fish and Game officer, Troopers that we certify, all law enforcement agencies, who was convicted of a DWI, pretty serious offense, in our opinion. It's a violation of our rules and regulations. We bring that person in for a hearing. Write them a letter. We tell them because we were notified by the arresting agency or they were convicted of a crime, we write them a letter, tell them that we are going to take their certification, unless they want to come before the Council and have a hearing. They have a right to due process. They can have an attorney. They can have it recorded. They can do whatever they want. We are going to have a hearing on their certification to see whether or not they violated one of our rules and we have a lot of rules. Okay. Which go through the system and they all have to be blessed by the -- and the name escapes me of the agency that has to approve our rules, but it's a government agency in the state.

CHAIRWOMAN WEBER: That would be JLCAR.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

MR. PROZZO: Yes. Thank you, Madam Chair.

CHAIRWOMAN WEBER: That one I know.

MR. PROZZO: And we'll have that hearing.

REP. OBER: All of us know that one.

MR. PROZZO: When we go into the hearing, I as Chairman, preside in that hearing. I tell them that they have a right to have this hearing in any public or non-public session. They have a right to have an attorney. They have a right to have it recorded. Most of them choose to have it in a non-public session. If they choose to have it -- the hearing in a non-public session, we'll have the information, the academy staff prosecutes, if you will, I'll use that term, the violation. Their attorney will probably -- will put on their defense. We'll have questions by members of the Council. And it's just like hearings in Superior Court.

Once it's done, we excuse them. We may go into deliberation, we meaning the Council. And any decision we make, we have to make in a public setting. So once that we are done, we come back into a public setting, and I ask the Council, in the matter before you, concerning whatever it is, what is the pleasure of the Council. And those members stand up and do the right thing. Those members will stay there and say I'll make a motion we suspend, revoke certification of this person for a period of two years, up to two years. That's what we do. That's what our rules say how far we can go and that's how we do that.

We've had some really difficult cases come before us. I remember when Earl Sweeney was there, one of the cases that I had came before us it was just two days before

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

Christmas or three days before Christmas. I remember it like it was yesterday. And I think it was a DWI, if I remember correctly. And we ended up taking that gentleman's position, his job. Can you imagine leaving in the morning, you have a job, and you drive down to a hearing and because it was a violation of our rules and regulations, and because the members of that Council do an excellent job and listen to all the evidence and make a decision, they turned around and took that person's position, his job. When he left there he had no job two days before Christmas. It was astonishing. It really was. It really was difficult. But we do that every time we have a violation comes before us.

Now, I think one of the reasons that we're here is I have heard it's because of this newspaper article about something to do with a motorcycle club. Due process was served. Due process was served. If I remember correctly, they took him to court. He went to court. They found him not guilty. What is there to do? We have to wait until the due process is done. We have a lot of agencies that don't want to even follow our rules and regulations and we have called them in. We have dealt with police chiefs. We have dealt with a lot of agencies that we have brought in and said you're not following the rules. You need to follow the rules. And we bring them in and have the hearings. That's what we do.

We have been doing it for many, many years. I think probably since 1973. The Senator's right. I was on staff in 1981, belonged to the Claremont Police Department when I was a Lieutenant. I spent eight weeks I believe it was then at the academy, it was eight weeks. Eight weeks down there training these police officers. And nobody's here talking about our training. I've not heard here that we are not doing a good job in training. I think the issue is are we doing who's watching us. We are watching us. We are doing what it says and we have a lot of talent. We have the

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

talent of the Attorney General sitting on that Board. I have the talent of two judges sitting on that Board. I have the talent of the Education Committee sitting there listening to and everybody has these views that we listen to. And I respect every one of those members of that Council. As the Chairman, I listen. I allow people to speak. And we come up the end of the day and we make a decision that we need to make. That's how the process works. I don't think we've ever been questioned as to what we've done. I think sometimes they want more information. But if it's a closed hearing and in a non-public setting, which they have a right to do, I'm not sure what else we can -- what we can release.

Yes, we have had the newspaper call us, but it is a matter that we cannot discuss. It's a personnel matter. It's a matter which they have chose to have in non-public setting. The only thing we can do is say that this individual violated Rule 401.02. I'm just throwing that number out and don't ask me what 402.02 is.

CHAIRWOMAN WEBER: Right.

MR. PROZZO: But that's the violation of whatever it is and that the Council took their certification. That's how it works. I'll be happy to answer any questions if I may. And I know there are other agency or other Chiefs, other members of the Council here. And I don't want to take everybody's time. So I want to allow them to speak if that's okay with you, Madam Chair.

CHAIRWOMAN WEBER: Thank you very much. I would be very much interested in the answer to the question about the list of police officers whose testimony is not deemed to be --

MR. PROZZO: The Laurie List? Are you referring to

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

the Laurie List?

CHAIRWOMAN WEBER: Yes.

MR. PROZZO: That isn't our function. That is not one of our rules. That is up to the local agency. We have had -- what happens is they'll come to us. They'll hire somebody. And they'll find that we have an issue. They'll come and ask us if that person is certifiable. Can they be certified by the training council. And we'll look at them and we'll tell them, that's fine. If it's a Laurie List issue, that's that police chief's job. That's his decision, not us to say because this person may or may not be on the Laurie List, or he may be on the Laurie, he or she, but the judge may not do that when they do the -- when they do it *in camera* before they go, that's not our decision. That's a local police chief's decision. We have -- we have rules and regulations about background checks and things of that nature that they must follow through. That is their decision to make, ma'am.

CHAIRWOMAN WEBER: Thank you. Representative Ober.

REP. OBER: Thank you. Sheriff, it's always a pleasure to see you.

MR. PROZZO: Good to see you, Representative.

REP. OBER: In your opinion, if the standards for the Police Standards and Training Council were audited, would that require opening individual personnel files?

MR. PROZZO: I'm --

REP. OBER: Standards that go to JLCAR.

MR. PROZZO: I think the standards are there, anybody

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

can look at those now. I think those are a matter of public record. What I don't know and I don't know if I can answer your question whether or not --

REP. OBER: No, that was my question.

MR. PROZZO: Okay.

CHAIRWOMAN WEBER: Follow-up.

REP. OBER: When you send your standards to JLCAR to be approved, do you have to open personnel files?

MR. PROZZO: No, not that I'm aware of, ma'am. No, ma'am. If I understand your question, I don't believe so.

REP. OBER: Thank you. Follow-up.

CHAIRWOMAN WEBER: Follow-up.

REP. OBER: I happen to agree with you. But the previous person testified that you'd have to open personnel files and go to court to do that. But who audited the New Hampshire Police Standards and compared our agency to other agencies in the other 49 states?

MR. PROZZO: I don't have that answer. Who audited us? Compared our --

REP. OBER: To all 49 states. That was our previous testimony.

MR. PROZZO: I have no idea.

REP. OBER: You have no idea. So you wouldn't know the name of that organization?

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

MR. PROZZO: No, ma'am.

REP. OBER: Thank you very much.

CHAIRWOMAN WEBER: All set. Representative McGuire.

REP. MCGUIRE: Yes, thank you. Sheriff, I just want to make sure I understand you correctly. I understand that the officer who is before the Council has a choice to make it public or non-public. Am I correct in understanding that the actual deliberations of the Council and the decision on what to do are always public?

MR. PROZZO: The deliberations are not.

REP. MCGUIRE: Oh.

MR. PROZZO: The deliberations are not public. They're just as a jury, if you will, okay.

REP. MCGUIRE: Okay. But then you announce it.

MR. PROZZO: When we come out, any decision we make, we have to make that in a public setting.

REP. MCGUIRE: Thank you.

MR. PROZZO: And may I add, Madam Chair, you know, we -- how we find out about individual police officers that may have violated our -- one of our rules and regulations, as I said, either we know they have been arrested, we get something from the arresting agency, we get newspaper clippings, and then we take a look at all those things that come in.

CHAIRWOMAN WEBER: Thank you. Any further questions? Seeing none. Representative Gagnon.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

REP. GAGNON: Thank you. Thank you, Sheriff.
Pleasure to see you.

MR. PROZZO: Good morning.

REP. GAGNON: There was some discussion earlier about the national organization. And I -- you were biting at the bit to tell us that information. What is the name of that?

MR. PROZZO: That's CALEA. And the Chief of Dover is here. His agency is a member of that. His Department has been through the CALEA training. Claremont Police Department just got certified. It's a national organization that comes in and looks at everything in the law enforcement agency. The police department.

CHAIRWOMAN WEBER: Are these initials? If so, do they stand for something or can you --

MR. PROZZO: May I ask?

CHAIRWOMAN WEBER: Sure.

ANTHONY COLARUSSO, Chief of Police, City of Dover:
The Commission for Accreditation for Law Enforcement Agencies. But it's a voluntary program. Not all departments have to participate in that.

CHAIRWOMAN WEBER: Thank you.

REP. GAGNON: Follow-up. Regarding training and collaboration, has there been any opportunities or examples where the Federal Government, whether it be FBI, with Police Standards and Training and local, Federal agencies, haven't you all worked together and collaborated on joint training or resources and so forth?

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

MS. PROZZO: Most definitely.

REP. GAGNON: Thank you.

CHAIRWOMAN WEBER: Anything further?

SEN. REAGAN: I'm still -- what's the name of this organization?

CHAIRWOMAN WEBER: I got Commission for the Accreditation of Law Enforcement Agencies; is that correct?

MR. COLARUSSO: Right.

SEN. REAGAN: Okay.

CHAIRWOMAN WEBER: Senator Larsen.

SEN. LARSEN: You mentioned that you operate by administrative rules to some extent when you are having a hearing or when you are deliberating that you follow the rules that are set for you. That's in the Joint Committee on Administrative Rules that is the state. You said it's accredited or agreed upon by a State agency review. That's a legislative body that looks at your rules?

MR. PROZZO: JLCAR.

CHAIRWOMAN WEBER: JLCAR.

MR. PROZZO: Yes, that's correct.

CHAIRWOMAN WEBER: That's an acronym like your CALEA.

MR. PROZZO: Yeah.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

SEN. LARSEN: So you follow those. Now, it's my understanding of the Joint Committee on Administrative Rules those are all public hearings and that every administrative rule is reviewed by legislators and agreed upon after being proposed by your body. You propose them. You bring them to the Legislature. So it would seem to me that if there was any issue with the review of your processes, that it should take place in the process of your rules, because that's what you follow as you're deliberating. And there is a legislative opportunity under that scenario for a legislator to look at those rules and see if they feel that they're effective enough and cover the topics that should be covered or make sure that our police are living to the highest standards.

MR. PROZZO: Thank you. Just one other thing. When I talked about the hearings I, as the Chairman, swear everybody in that testifies. Anybody who testifies that's sworn testimony that we take when we take this testimony. So, like I say, we really follow -- we really follow the guidelines of the court, if you will, and it is a mini court, if you will. Just wanted to make sure that I thought that was important to make sure that every -- anybody that testifies, any witnesses that come on, I swear those witnesses in.

CHAIRWOMAN WEBER: Thank you. Representative McGuire.

REP. MCGUIRE: Yes. Thank you, Madam Chair. I just thought of something. Approximately, how many officers are brought before the Council on average in a year, more or less?

MR. PROZZO: You know, I don't have that. I can find that information out for you.

REP. MCGUIRE: I just wanted your feel. Is it five or

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

six? Is it 20?

MR. PROZZO: You know, sometimes we'll have three -- three hearings scheduled in a month.

REP. MCGUIRE: Hm-hum.

MR. PROZZO: Sometimes we'll have three hearings scheduled in a month. And that made me think of another thing that we can do. They also have a right to ask for an informal conference with the Chairman.

REP. MCGUIRE: Hm-hum.

MR. PROZZO: And that has been done. Where I'll meet with both parties, just as the judge does, to discuss whether we're going to narrow it down, the list of witnesses, or what the issues may be. And if I decide to make a -- if they make an offer and I need to bring that back before the Council, and I tell the Council I've met with in an informal process and this is what my recommendation would be that we would suspend for six months, eight months, ten months. The Council has the authority to overrule me and say no, we won't accept that. We want a full hearing. So there's a big process in doing.

I think last month we had three scheduled. And we had one and I think we got two scheduled for the coming -- two of them been continued to the next month.

REP. MCGUIRE: So it's maybe between 50, plus or minus a few, in any year?

MR. PROZZO: How many?

REP. MCGUIRE: Fifty a year?

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

MR. PROZZO: No, I wouldn't say that many, Representative.

REP. MCGUIRE: All right. Well, that's close enough.

SEN. LARSEN: I have another question.

CHAIRWOMAN WEBER: Senator Larsen.

SEN. LARSEN: I don't know who is speaking next so I'll ask you. If you want to defer to someone else, that's fine.

MR. PROZZO: Thank you.

SEN. LARSEN: But it's my understanding that there was a financial audit of the Police Standards and Training in 2011 and that that cost the agency -- the training and standards agency \$57,694. And then you've also been advised, and tell me if I'm correct, by the Attorney General that the law says you shall -- your funds shall pay, because you are a dedicated fund and a special fund under the law shall be charged against the appropriate fund. Do you follow your -- the finances of -- do you know what your fund value is?

MR. PROZZO: We do. And Captain Ben Jean can talk about that later. But I do remember that last bill. We were astonished that it was that much. I wrote a letter as Chairman about that, that I was really just as an agency that has no money, we get all our money, as you know, from the penalty assessment, and we can only spend what we make. And that's a real problem because we don't really know what we are going to have coming in. So I was really astonished. And I know that the law says that we shall pay for any audit and I'm very concerned. Hearing the gentleman that testified before me or the first gentleman from the budget people, the hours they put in, the money that they're

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

spending, a hundred some odd thousand dollars, you know, I cringed where is this money coming from.

SEN. LARSEN: And it's my understanding that the balance of the fund -- if I can continue to question?

CHAIRWOMAN WEBER: Senator, I believe that there's a bit of a difference of opinion as to where the funding for the performance audits come from. Because my understanding is that Police Standards and Training will not be charged for performance audits as opposed to financial audits. That said, they do cost money and the money comes, I believe, from the Legislative Budget. Is that --

SEN. LARSEN: If I can continue the question?

CHAIRWOMAN WEBER: Okay.

SEN. LARSEN: RSA 14:31-c says the cost of any audit done by the Legislative Budget Assistant or by any other auditor under his direction shall be a charge against the appropriate funds. So it doesn't say a financial audit. It says any audit. So I think that would be an interesting question, but I just want to continue my questioning, if I might.

CHAIRWOMAN WEBER: Yes, understood.

SEN. LARSEN: If I might? I understood your balance is 509,000. At least recently it was just 509,000.

MR. PROZZO: That's correct.

SEN. LARSEN: The average cost of a performance audit, the last two were about 148,000. So you would see a pretty significant decline in the fund if you were audited and had to pay for it according to what I think the statute says;

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

is that correct?

MR. PROZZO: I agree with you, Senator.

SEN. LARSEN: Thanks. Thank you.

CHAIRWOMAN WEBER: Okay. Further questions? Thank you very much.

MR. PROZZO: Thank you very much, Madam Chair.

CHAIRWOMAN WEBER: Could I have the folks from the Audit Department just see if they can provide a little bit of clarity. Because what I have been hearing and what Senator Larsen is reading the statute are different things, and I'd just like to have that point cleared up.

MR. MAHONEY: Yes, Madam Chair. I believe Senator Larsen has accurately stated what the statute says. The statute was put in place originally in 1973, giving our office the ability to charge back for audits to special funded agencies.

Performance audits did not come into existence in the state until 1987. And so, historically, our office has never charged for performance audits, in spite of the fact that the language in the statute says something different than that. There's no one currently in our office who has the institutional knowledge regarding why we have never charged for performance audits. But at the time that statute was put in place, we only conducted financial audits.

CHAIRWOMAN WEBER: Thank you. Perhaps you need a follow-up.

SEN. LARSEN: How -- and I appreciate the courtesy and

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

the -- I know it comes out of funds here, as a result, but I don't know how you get around a statute that says it shall be a charge and shall be transferred from said fund to the General Fund. So --

MR. MAHONEY: Senator, I'm not --

SEN. LARSEN: A little tricky.

MR. MAHONEY: I'm not a lawyer, but there's a concept called administrative gloss that agencies have used and the Attorney General's Office has referenced in the past with regard to an agency's interpretation of statute and their application thereof. So my guess is, and it's only a guess because, again, I'm not a lawyer, this might come under administrative gloss.

SEN. LARSEN: Thanks.

CHAIRWOMAN WEBER: Thank you. Thank you for providing that.

MR. MAHONEY: Thank you, Madam Chair.

CHAIRWOMAN WEBER: I'm going to ask at this point on a suggestion from Senator Reagan that is there anybody here who has not spoken who -- from the audience who wants to speak in favor of the audit? Okay. Other people who wish to speak opposed to the audit?

Okay. I am going to ask the Committee perhaps to discuss a little bit as to how we want to proceed, one of the points being that I understand there are a lot of people who have things they want to say to us. I also know that our procedure is that we can certainly recommend this audit again to the Fiscal Committee. But the Fiscal Committee will not be made up of any different people than

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

it was made up of last time. So I am not sure where this Committee wants to go with the issue at this point. So, Representative McGuire, if you care to address that question, it would be helpful.

REP. MCGUIRE: I think the point I want to make is that we do not want to do a broad-based audit of everything the Police Standards and Training does. Because as Senator pointed out, the actual training doesn't appear to be an issue to anybody, I think, if we're doing a fine job. We would like to look at the standards and, in particular, how they deal with discipline of police officers and beyond, you know, who brings them information? How effective it is and are notifying people, and what they can do with the issue that the -- there's all these 200 odd police departments that are all independent and have their own different rules and standards. How do they deal with that? Because I think that's of concern to all of us. You know, are the rules uniformly applied? Is something that will get your patrolman fired from Epsom going to get them fired if they instead quit that day and goes off to work in Deerfield or Manchester?

CHAIRWOMAN WEBER: Okay. Representative Ober.

REP. OBER: The other thing is every audit we have heard about, Department of Revenue Administration for uncollected taxes, those are rules that went through JLCAR that the Legislature agreed to. We want to look and see if those rules are being done the way they said. The Department of Corrections Community Corrections, another one where they have written rules. The controlled drug prescription, health, and safety program, another one where rules have been written.

We have a lot of rules that go through JLCAR, and I do think JLCAR does what they can in the time. The thing is,

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

are they being effectively used in the field or should there be tweaks and that's really all a performance audit does. It doesn't dig into people's personnel file. It doesn't compare this agency against another agency for doing well or not doing well. It -- every audit I've seen with under Mr. Mahoney and Mr. Fox's direction has looked at what are we doing, what works well, working with the agency, what could we improve. I would think that any agency at any time would like to know how they could be better. I mean, I am concerned that we have \$20 million worth of lawsuits this year from Health and Human Services. But I know speaking to Commissioner Toumpas, he's taken some steps already to correct some of those things because he, too, was concerned. So it's just kind of a partnership to move on. Since they work in partnership with an agency, I would find it hard to believe an agency wouldn't want to say, yeah, let's do this, and we are going to prove to you we are the best. We are going to look at things. Maybe we'll learn something with outside eyes. You know, it just dumbfounds me that people would object knowing how thoroughly and carefully the Audit Division works with the agency and tries to do the very best and be evenhanded. I mean, every audit I've ever seen has had many good things as bad things, if not more good things.

CHAIRWOMAN WEBER: Thank you. Senator D'Allesandro.

SEN. D'ALLESANDRO: Thank you. I think if you have that much concern, and certainly, Representative Ober, I appreciate --

REP. OBER: I didn't have as much concern; but having this today, I have more concern than I had when I proposed this.

SEN. D'ALLESANDRO: Then it seems to me you ought to get the Attorney General or the FBI to examine an entity

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

over which it has knowledge. The Legislative Budget Office supposedly does financial audits and performance of duties that were prescribed to them. I think we're going way, way, way out of our venues to say that the Legislative Budget Office should go before Police Standards and Training and look at how they're performing. I think that's way, way out of bounds.

REP. OBER: We are asking them to look at their duties, Senator. That's all.

SEN. D'ALLESANDRO: I -- their duties -- their duties should be looked at by someone in law enforcement, because that's where the duties are performed, not by accountants.

REP. OBER: And the fox --

CHAIRWOMAN WEBER: Excuse me, Representative Ober, we are going to do this one at a time. Are there other people who have not yet commented who wish to do so? Senator Larsen.

SEN. LARSEN: I would just encourage us to continue with the public hearing, because I do have a noon meeting and I wanted to get through the rest of our agenda.

SEN. D'ALLESANDRO: I have a meeting, also.

SEN. LARSEN: I would ask, Madam Chair, if we could encourage people to speak to issues that haven't been addressed.

CHAIRWOMAN WEBER: Okay.

SEN. LARSEN: And there are people here who travelled here to speak to us.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: We'll do that. Further members who want to say something? Yes. Come and identify yourself for us.

DAVID CAHILL, Chief of Police, Town of Sunapee: My name is David Cahill. I'm the Police Chief for the Town of Sunapee. I've been a police officer just over 26 years. I've been assigned as a Council member just over one year.

CHAIRWOMAN WEBER: And I will say that Senator Larsen's comment on, please, if we heard it before, fast-forward to the things that you need to make clear that we haven't heard.

MR. CAHILL: Thank you and I appreciate that. The issue with this Laurie List, if I can try to address that, I'm certainly not an expert in that. That falls within the Attorney General's Office. Those reports are made by local law enforcement to the Attorney General's Office and the County Attorney's Office. They're the ones that house those lists, and they're the ones that have them. Because they are the chief prosecutorial law enforcement agency in our counties and in the State of New Hampshire. It is not the responsibility -- it hasn't been the responsibility of Police Standards and Training Council, but rather then of those prosecutorial agencies.

Some of the concerns here with the inappropriateness or actions of a police officer, I've been 11 years now as a police chief. I've certainly have had officers that were either less than credible or less than desirable for my agency and they no longer work for me. I try to take care of those issues as they arise, as will many local police departments as well. Some of those issues I may have had within my own police department have not been or were not reportable to the Police Standards and Training Council, because they weren't violations of the Academy rules. You

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

have to meet certain rules for a violation in order to have a report. So the innuendoes in these newspaper articles may be accurate or cause some concern, may not be enough to rise to the level of a review by Police Standards and Training Council.

I was a Detective in my career for almost 12 years, never once did I ever conduct an investigation or participate in an investigation that was done by newspaper articles or innuendoes. That's certainly not what we are here for, not what I would start a case in my position today within my department. Facts and circumstances have to be what we have as reported.

As the Sheriff and the Chairman reported, there are many reports that come forward to the Police Standards and Training Council for the actions of police officers. And as I said, I've been on the Council for just over a year and I have participated in, if not suggested, that we remove the certification of police officers in at least four to five cases. So it happens and it takes place, and we hold them accountable.

I don't think anybody on the Council is resisting or opposing the audit. Our concern becomes the financial cost of this audit. And with all due respect to the Audit Commission, we might not charge them. With the fund the way it is and with the cost that we'd be looking at for this kind of an audit, it's too much of a risk for us to try to sit here and say, we agree to it. Let's go ahead and do it. We are fighting for the cost of this particular audit because as Senator Larsen said, I don't know how they getaway from violating the State law or the statute that says you shall apply because in my everyday job there are statutes that I have to go by that say you shall do this. And we do them as police officers or we wind up in front of the Council. So that's all I have.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: Thank you. Is there any follow-up question? Representative McGuire.

REP. MCGUIRE: Yes. Thank you for your testimony. I appreciate your concern about the funds. But when you said that the Attorney General and the County Attorneys maintain the Laurie Lists because that's not a matter for the Police Standards and Training --

MR. CAHILL: Right.

REP. MCGUIRE: -- does that imply that trustworthiness in testimony is not covered by the rules of the Police Standards?

MR. CAHILL: No. It means that there was an internal investigation done which generally the Police Standards and Training Council may not be privileged to that internal investigation within that police department. And out of that, it may be that an officer was inappropriate during an investigation or lied on his time card.

REP. MCGUIRE: Hm-hum.

MR. CAHILL: As a result of that, would that be an issue for Police Standards and Training Council? It may be; but if that local agency made that report, then he could have not made the report, done an internal, done a discipline within the local police department, and then made the report to the Attorney General's Office or the County Attorney's Office. The Police Standards and Training Council is not an internal affairs division. That is for the local law enforcement agencies.

CHAIRWOMAN WEBER: Okay. Any further questions?

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

REP. MCGUIRE: Thank you.

CHAIRWOMAN WEBER: Representative Ober.

REP. OBER: Madam Chairman, given the testimony could we get -- ask Mr. Mahoney come back to the next meeting with a written statement of whatever needs to be done, perhaps to check with the AG about who pays for performance audits?

CHAIRWOMAN WEBER: I think that would be a very good idea and I also --

REP. OBER: And I don't think we should vote on this until we have that.

CHAIRWOMAN WEBER: I also think we ought to think among ourselves about perhaps legislation that would clarify that for the future, because it seems like that would be a very useful thing to have in place if we're --

REP. MCGUIRE: Indeed.

CHAIRWOMAN WEBER: -- if we are not doing it according to what's there. We need to make it clear who does pay on that.

REP. OBER: Could we also before we take a vote on this see if we can get clarification?

CHAIRWOMAN WEBER: We absolutely could. It's entirely up to the Committee.

MR. CAHILL: One more thing I have is the rule that we're all referring to today are public knowledge, public information. I believe they're posted on the Police Standards and Training Council's Website. I'm happy to get

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

copies and provide to this Committee, Madam Chair.

CHAIRWOMAN WEBER: Thank you.

MR. CAHILL: Thank you very much.

** SEN. REAGAN: I would move to table this.

REP. OBER: Second.

CHAIRWOMAN WEBER: Senator Reagan moves we table. And Representative Ober, was that you that seconded it? Did you wish to --

REP. MCGUIRE: I would like to discuss the tabling, because I think -- I think --

SEN. LARSEN: Table motion is not debatable.

CHAIRWOMAN WEBER: I think the issue is whether there are people here who would really like -- have come and should perhaps have their say. But the motion is before us. So all in favor of tabling at this time, raise their hands? All those opposed?

SEN. LARSEN: I am only voting this way to allow for people to speak if they have to --

CHAIRWOMAN WEBER: I understand that. So what I'm going to do is take the rest of the quick testimony if we can after which I will allow a renewal of the tabling motion.

MR. CAHILL: Thank you, Madam Chair.

CHAIRWOMAN WEBER: Other people here today who would like to speak who have not had the opportunity? Yes,

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

just -- just two more; is that correct? Okay. Great.

DAVE DUBOIS, Sheriff, Strafford County: Mine is very brief. I want to just touch on --

CHAIRWOMAN WEBER: And please identify yourself.

MR. DUBOIS: Dave Dubois is my name. I'm current Sheriff in Strafford County, former police chief in the City of Rochester. And I've had the occasion as the police chief in Rochester to place officers' names on the Laurie List.

Chief Cahill just talked about Laurie briefly. I just want to add one small piece to that on one portion of the testimony. That list is simply for the purpose of determining if a police officer is a credibility problem. It's important to understand that when a police chief puts an officer's name on the list, it's the police chief's opinion that the officer's testimony should be challenged or is subject to challenge. It's not determined to be a credibility issue until a judge reviews the entire case *in camera* at the request of the defense attorney after being notified by a prosecuting attorney that the officer's name is on the list. The reason I tell you that is because it's very -- we have to be careful not to label someone as a problem on the opinion of one chief without the judicial review of the court.

If you're going to bring people back to talk about this issue further and educate you further on certain things, I would suggest it may be a good idea to have the Attorney General come in and speak specifically about the Laurie List. Because this appears to be something that the Committee's very concerned with legitimately, because it's a very important issue for the public to be concerned with. But it has to be thoroughly understood before you could

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

attribute it to Standards and Training. Everyone's testified before me that it's not a Standards and Training issue. It appears that that's confusing the Committee, and it may be able to help to have the Attorney General explain it further in detail.

CHAIRWOMAN WEBER: Thank you very much.

MR. DUBOIS: That was it.

CHAIRWOMAN WEBER: Thank you very much for that clarification.

MIKE SIELICKI, Chief of Police, Town of Kensington: My name is Mike Sielicki, police chief in Kensington and been a police chief for about 20 years in four different parts of the state. And I just want the -- my big concern is, again, with the audit and the cost of the audit if they have to pay. The Academy runs on a shoe string as you saw. And if we are going to take money from them to possibly pay for this audit, my concern is training. That money will come at the cost of training. And, to me, that's scary, and it's also dangerous to do. So that's my biggest concern. And, Senator, you said we have some of the best trained officers in the state, in the country. And I know that because I've been around different places at work and my son works in Florida. By far, our training is much better than theirs. But that's my concern is if we are going -- if they have to pay for the audit, it's taking money away from the training.

CHAIRWOMAN WEBER: Duly noted and appreciate it.

REP. OBER: I have a motion.

CHAIRWOMAN WEBER: Yes.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

** REP. OBER: I would move to ask Mr. Mahoney to clarify the cost and to get back to us and to delay any action until Mr. Mahoney can return with that.

CHAIRWOMAN WEBER: Is there a second to that motion?

REP. MCGUIRE: Second.

CHAIRWOMAN WEBER: Okay. Any further discussion to that motion, which I would think would be a tabling motion as well as the request --

REP. OBER: Actually, I did not move to table. I moved to delay.

CHAIRWOMAN WEBER: Why don't we do it one at a time. Would you be willing to amend your motion simply to the request to Mr. Mahoney about the opinion?

** REP. OBER: I move to -- my motion is to delay until we get a response to that, not to table. That to allow him to get an answer, bring back, and to delay any further action on this. I'm not actually moving to table. I'm giving Mr. Mahoney a chance to come back to us at our next meeting.

CHAIRWOMAN WEBER: Okay. Any further discussion of the motion as made?

SEN. D'ALLESANDRO: Just clarification of the motion. The question's to Mr. Mahoney. Mr. Mahoney, are you violating the law by not charging for audits?

REP. OBER: That's what they're going to find out.

SEN. D'ALLESANDRO: Why don't we ask him the question. Mr. Mahoney, are you in violation of the statute --

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: Thank you very much.

SEN. D'ALLESANDRO: -- by not charging for performance audits? And as a result of that, what action should be taken against you for not performing according to the law?

MR. MAHONEY: Senator, I --

CHAIRWOMAN WEBER: If you can.

SEN. D'ALLESANDRO: If you can.

CHAIRWOMAN WEBER: If you cannot, we'll wait for an opinion from the Attorney General's Office.

MR. MAHONEY: As I mentioned, I'm not an attorney and I would not knowingly violate the law, Senator. I believe our office, as I stated previously, has never invoiced any agency for a performance audit in the history of the statute as I've mentioned previously.

In terms of the second part of the question, I believe it was your question, Senator, what could be done? Certainly, a clarification of the statute to make it clear, crystal clear, on what the intention of the Legislature is with regard to billing for performance audits would be helpful.

SEN. LARSEN: If I could?

CHAIRWOMAN WEBER: Senator.

SEN. LARSEN: I know you don't have the statute in front of you, and I have a reprint of the statute RSA 14:31.

MR. MAHONEY: Hm-hum.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

SEN. LARSEN: And I think the issue may be that the -- it says the cost of any audit, and I'm skipping some, or any authority by any auditor under his direction. It basically says the cost of any audit done by the Legislative Budget Assistant of a department, division, or agency funded by the Highway, Fish and Game, or any self-sustaining or special fund shall be a charge. So the issue might be that generally you're auditing non-special account funds -- agencies and there's no charge for a performance audit. This specific statute talks about agencies funded by the Highway, Fish and Game, or self-sustaining or special fund. So this Police Standards and Training is a special fund. Most of our audits are more general topics and not always in a special fund. That might be where the difference occurs. So I would encourage you to look at that specific question.

MR. MAHONEY: We have considered that in the past, Senator.

SEN. LARSEN: Hm-hum.

MR. MAHONEY: As you know, we have conducted not too long ago an audit of the Public Utilities Commission. And they are a self-funded agency. That performance audit was not billed to the Public Utilities Commission. And as I said, we have conducted others and I can get you a list in the past. But we have considered that. We believe the statute or the intent historically has not been to invoice agencies for the cost of these audits.

REP. OBER: If we may get an opinion from an attorney. As Mr. Mahoney says, he's not an attorney, and I think we all need that opinion as well as they do.

CHAIRWOMAN WEBER: Okay. The motion was to delay any

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

further action until we have received an opinion from the Attorney General's Office. Is there any further discussion on that motion? All in favor raise your hand? Opposed? I see none. So that will be our course of action.

***** {MOTION ADOPTED}**

MR. MAHONEY: Representative Weber, excuse me. Stephen Fox has indicated to me that I believe it would be the Legislature that we need to ask the Attorney General's Office for this information as opposed to myself. I'm not sure what the reason for that is, but he may have had prior experience.

CHAIRWOMAN WEBER: I would be more than glad to write on behalf of the Committee to the Attorney General's Office asking for a clarification, if that -- if you think that's the appropriate procedure. We'll do it that way.

MR. FOX: In a previous audit that -- I'm trying to think back to what it was -- I believe it was related to an audit of the Department of Corrections sexual harassment, we had asked the Attorney General for an opinion related to decisions that were made under that area, and it was told to us by the then Deputy Attorney General that our office was not authorized to ask for any sort of opinion from the Attorney General. It had to come either from the Legislature or from the agency itself under audit.

CHAIRWOMAN WEBER: But I'm assuming it would be adequate if it's from a committee of the Legislature.

MR. FOX: Yes, absolutely. Just our office is not authorized.

CHAIRWOMAN WEBER: I'll write that letter on behalf of the Committee and I will get to that promptly so that they

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

will have time before our next meeting.

5. Discussion of performance audit of the Department of Education requested by the House Finance Committee, Division II

CHAIRWOMAN WEBER: So that brings us to a discussion of performance audit of the Division of Education requested by House Finance Committee, Division II. And I'm wondering if the Chair of Division II is still with us or if he is departed?

MS. MITCHELL: No.

CHAIRWOMAN WEBER: I wonder if, because I have absolutely no more information than that, if we want to also defer that until the Chair of Division II might be available to us because -- and let me state just from a personal position, we have five audits in the pipeline. We've been aiming for six audits in the pipeline, and I personally would like to hear about relative merits of both things that are of concern to people before I made a definitive recommendation. So I wonder if it would be a good idea to --

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

CHAIRWOMAN WEBER: Move to table. Is there a second to that?

REP. MCGUIRE: Second.

SEN. LARSEN: Second.

CHAIRWOMAN WEBER: All in favor of tabling? Opposed?

******* {MOTION ADOPTED}

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: Did have you a comment, Representative Ober?

REP. OBER: I did, and I'd have to look up Roberts Rules of Order because I don't know if under Roberts Rules of Order, which committees use, if table is debatable or not and the motion came before I could make the comment. So I'll agree to not vote or vote no because -- sorry. Came too fast.

SEN. D'ALLESANDRO: Well, would you like me to withdraw the tabling motion?

SEN. REAGAN: Too late now.

SEN. D'ALLESANDRO: We've already voted.

REP. OBER: You already voted.

SEN. D'ALLESANDRO: I didn't realize there was a time constraint.

CHAIRWOMAN WEBER: Okay. We have voted to table that one.

SEN. D'ALLESANDRO: Right.

CHAIRWOMAN WEBER: So is there any other business? Yes.

6. Other Business:

MR. MAHONEY: Madam Chair, thank you very much. I just want to discuss very briefly Scope Statements for our upcoming performance audits. I'm not sure how often this Committee would like to meet, but I would anticipate that

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

we may need another meeting to discuss Scope Statements for our next upcoming audits sometime end of August, early September. I know that's the date of the next meeting and adjournment portion of the agenda, but I wanted to make sure the Committee at least consider potential alternatives to reviewing Scope Statements, particularly in the summer months, because once our staff rolls off of their current assignments onto these new audits, they'll do background work, and a lot of that background work is to try to prepare a Scope Statement for presentation to this Committee and I'm not -- I'm just not sure the availability of members during the summer months to do that. And if we don't have an approved Scope Statement, it makes it very difficult for us to go forward with an audit. That was it, Madam Chairman. Thank you.

CHAIRWOMAN WEBER: Well, I certainly with respect to the next meeting would hope that we would have one long before the end of August because I think we have done a number of pending things that we need to turn our attentions to.

REP. OBER: I agree.

CHAIRWOMAN WEBER: I have no -- I personally have no objections meeting in the summer months other than the month of July when my understanding is we are forbidden in the building. But that may be --

REP. OBER: Maybe we could meet the end of June.

REP. MCGUIRE: End of June sounds about right. We should have Scope Statements for two of the audits by then, the Corrections and the Community Development Finance Authority.

CHAIRWOMAN WEBER: Would that be helpful?

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

MR. MAHONEY: They may be ready in July. I don't believe they'll be ready in June, Representative McGuire.

REP. MCGUIRE: If you're going to start in July --

REP. OBER: Maybe you could check with the Speaker and ask her if we could meet, because Fiscal is allowed to meet. If given the timing, if we would be allowed to have one meeting towards the middle of July.

CHAIRWOMAN WEBER: Okay.

REP. MCGUIRE: JLCAR meets in July, too.

CHAIRWOMAN WEBER: I will check with the Speaker about meeting in July. Did you have some other recommendation you wanted to make about dealing with the Scope Statements during the summer months or just want the Committee to be aware?

MR. MAHONEY: I didn't know if the Committee would like to do this of the e-mail. But given the discussion today, I'm not sure what the Committee's desire would be for that kind of thing. But that's where I was going with my suggestion, Madam Chair.

CHAIRWOMAN WEBER: The discussions, I think, should be in a public meeting. I'm not comfortable making decision by e-mail, though I will check with the Speaker on that. And I think that the recommendation of the meeting the end of June, in any case, is a very good one so I think we'll -- do you want to go ahead and schedule that now or do you want to wait for the round-robin letter that we usually get on the scheduling?

MR. MAHONEY: Madam Chair, I suggest waiting, because

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

we're not quite certain when our staff will be rolling off. It will be around the July time frame. But, again, they need to do background work before they can actually put a Scope Statement together and that takes some time as well.

CHAIRWOMAN WEBER: I think we're actually talking about two different things as well. I think we are talking about a meeting at the end of June to finish up the business that we have put off here about the two audits that we have as proposals, because we need -- we need information back on those. I also am hearing a willingness from the Committee to come in in July and deal with what needs to be dealt with in July so that you can get your work done in a timely fashion, but I'll be able to report on that in June.

MR. MAHONEY: Thank you, Madam Chair.

CHAIRWOMAN WEBER: Representative Ober.

REP. OBER: Are we under Other Business?

CHAIRWOMAN WEBER: Sure.

REP. OBER: The Department of Education has over 300 employees and the majority of their money is federally funded. As we heard with the EBT, we're looking at the portion that's not federally funded. So I would have said prior to the motion to table that I really didn't want to table that because I thought that it was too broad and that we should just have killed performance audit of DOE and gone back to Division II, who did not testify in front of full Finance, because I sit on a Div. I, that they were even asking this. And Finance specifically wished pieces of DOE that are not federally funded that they would like audited and deal with it as we have DRA. We are looking just at uncollected state taxes, for example.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

CHAIRWOMAN WEBER: Right. And I think my thinking on it was somewhat similar but a slightly different procedure which was that I entirely agree that it was too broad. But I want to see -- I want to be able to hear what is contemplated.

Now, I notice that the Chair of Division II is now here. So I don't know whether we want to go back or whether we want to just wait until our next meeting to discuss that.

REP. MCGUIRE: Is it possible to audit the effectiveness of the programs that are funded by Federal funds? I mean, we pay Federal taxes, too. We should be concerned of how efficiently they're administered.

CHAIRWOMAN WEBER: You care to address that?

MR. MAHONEY: Yes, Representative McGuire. It is possible to do so. I know Steve Fox mentioned we were not looking at food stamps because of the Federal funding nature of it. And equally important, if not more important aspect of it, the State really has no discretion with regard to having supplemental -- Supplemental Nutrition Assistance Program funds distributed by EBT cards, which is really the primary reason why we are not looking at food stamps in that regard.

CHAIRWOMAN WEBER: So it is possible to do it for -- if we have standards that we want to or rules that we want to check on whether they are being followed?

MR. MAHONEY: Yes, Madam Chair.

CHAIRWOMAN WEBER: Was that your question?

REP. MCGUIRE: Right. Because I think that the fact

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

that Department of Education is 90% Federal funded is -- may or may not be relevant because there may be joint Federal/State programs that we want to look at and say are we being effective on this particular program.

CHAIRWOMAN WEBER: Right.

REP. MCGUIRE: We need to know the program.

CHAIRWOMAN WEBER: Right, I agree. But I do think that I would like to have more information before we -- but we have tabled that. So I think it's -- unless somebody wants to take it off the table.

SEN. LARSEN: I think the motion was, you know, and the motion was a special order for the next meeting, I believe. Really wasn't a tabling motion, which means it still can be discussed if we wanted to. But --

CHAIRWOMAN WEBER: And would you care to or --

SEN. LARSEN: If I might, if the -- if the House member who suggested this under Division II could keep it very limited, it might help us in this next month to be thinking about which one we would be more interested to hear about. So if we could just hear briefly what -- what area of Department of Education we are talking about.

CHAIRWOMAN WEBER: Representative Eaton.

REP. EATON: I will go back to the Division and ask specifics.

SEN. LARSEN: So you needed some time.

CHAIRWOMAN WEBER: Specifics would be very helpful, because we had nothing but the broadest of issues so that

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

May 6, 2013

would be helpful. Thank you.

7. Date of next meeting and adjournment

CHAIRWOMAN WEBER: Is there any further business to come before the Committee? Seeing none. We will adjourn and we will look at a meeting in late June. And I thank you all very much.

(Concluded at 11:44 a.m.)

CERTIFICATION

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

Cecelia A. Trask

Cecelia A. Trask, LSR, RMR, CRR
State of New Hampshire
License No. 47

