

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 212

Concord, NH

Thursday, June 5, 2014

MEMBERS PRESENT:

Rep. Lucy Weber, Chair

Rep. Carol McGuire

Rep. Raymond Gagnon

Rep. Lynne Ober

Rep. Mary Jane Wallner

Sen. John Reagan

Sen. Lou D'Allesandro

Sen. Sylvia Larsen

(Meeting convened at 10:01 a.m.)

1. Acceptance of minutes of the March 31, 2014 meeting.

CHAIRWOMAN WEBER: Not by the clock, but at least by my iPad I have 10:01.

REP. OBER: In Finance you can choose whatever clock you want and declare it to be what time.

CHAIRWOMAN WEBER: Well, I'm going to declare it to be 10 o'clock and I'm going to open this meeting of the Legislative Performance Audit and Oversight Committee, and the first thing on our agenda is acceptance of minutes of the March 31st --

****** SEN. REAGAN: I move the minutes for March 31.

REP. OBER: Second.

CHAIRWOMAN WEBER: The minutes for the March 31st meeting have been moved and seconded. Are there any corrections or changes to the minutes? Any discussion? Seeing none. All in favor of acceptance of the March 31st minutes say aye? Opposed? The minutes are approved.

*** {MOTION ADOPTED}

2. Current status of ongoing and pending performance Audits.

CHAIRWOMAN WEBER: Second on our agenda is current status of ongoing and pending performance audits. Mr. Mahoney.

RICHARD MAHONEY, Director, Audit Division, Office of Legislative Budget Assistant: Thank you, Madam Chairman. Good morning to you and Members of the Committee. For the record, I'm Richard Mahoney, Director of Audits, for the Office of Legislative Budget Assistant. And I'll just give the Committee a brief update on where we are on our current audits and as well as those in our queue, and I'll try to follow the audits in the order that they are listed on the agenda.

CHAIRWOMAN WEBER: Thank you.

MR. MAHONEY: The first two audits are Assisted Living Facility Inspections and Economic Development Program. Audit reports are going to the Fiscal Committee this coming Monday so that work has been completed. The reports are done. We have held exit conferences with the Departments involved and those two reports will be presented to the Fiscal Committee on Monday. At least they're on the agenda for Monday.

The next audit is the Charter School Approval Process. We held an entrance conference with Commissioner Barry on February 4th of 2014. Our field work is now complete. The report is in the process of being written and reviewed at this point in time, and we hope to present that report to the Fiscal Committee at its July meeting. At our last meeting, I had reported that we would go in June; but given the timing of the June meeting, we won't be ready with that report until the July meeting.

REP. OBER: Madam Chair, may I ask a question?

CHAIRWOMAN WEBER: Certainly.

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REP. OBER: I know there was an issue with Commissioner Barry not wanting to release data to you. Did you finally get all the data you requested?

MR. MAHONEY: The data that we were requesting was some advice that the Department had received from the Attorney General's Office, and I believe Steve Fox might be able to comment more on this; but I believe the Commissioner responded that that advice was not in writing. We did receive a copy of a correspondence that the Attorney General's Office did have, which I believe the Chair of the House Education Committee with regard to that issue maybe did have a copy of that which explained the legal rationale for the issue we were looking at.

REP. OBER: Thank you.

CHAIRWOMAN WEBER: Thank you. Proceed.

MR. MAHONEY: Next audit on the agenda is the Police Standards and Training Council report audit. That audit has been on the Fiscal Committee's agenda for some time and has been tabled.

Next audit is the Department of Administrative Services Statewide Recycling.

(Representative Gagnon enters the committee room.)

MR. MAHONEY: That topic was originally approved by this Committee on December 3rd of last year and by the Fiscal Committee in January of this year, and we have not yet begun any work on that project.

The next four audits, Consolidation of Certain Business Processing Functions at the Department of Administrative Services, Division of Child Support Enforcement, Title IV-D Program at the Department of Health and Human Services, and the Department of Health and Human Services, Division of Public Health Food Protection Program, and the Board of Pharmacy, Pharmacy Inspections Program, none of those projects have yet

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been started. All those topics were approved by this Committee in March of this year and approved by the Fiscal Committee to move forward on April 25th of this year.

The Department of Transportation audit topic was approved along with the previous topics I just mentioned and approved by the Fiscal Committee. An entrance conference was held with Commissioner Clement and members of his staff on May 21st of this year, and field work is anticipated to begin in about three weeks at the Department of Transportation.

Later on in today's agenda there's a pre-scope document Steve Fox -- I'll ask Steve Fox to walk the Committee through to give you an idea of what our office plans to do with regard to that work.

Just to mention, the Board of Pharmacy, Control Drug Prescription Health and Safety Program, we won't get to that --

CHAIRWOMAN WEBER: That's the 2017.

MR. MAHONEY: -- until 2017. That's correct. And, lastly, is the next agenda topic, but I can give you a brief summary of where we are. It's the Radio Interoperability Initiative at the Department of Safety. That topic was approved by this Committee in December and by the Fiscal Committee in January. We held an entrance conference with Commissioner Barthelmes and members of his staff on March 18th. And while the Scope Statement is on today's agenda for your consideration or approval, we did begin our field work there already.

(Senator D'Allesandro enters the committee room.)

SEN. D'ALLESANDRO: I was accosted by an idiot. Major. Good morning, sir. Celie. Guess what. Some idiot just attacked me in the hall.

SEN. LARSEN: We heard some yelling.

SEN. D'ALLESANDRO: Yeah. He's absolutely out of his gourd.

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SEN. LARSEN: Did you tell security? Is he safe?

SEN. D'ALLESANDRO: Oh, yeah.

MAJOR CHRISTOPHER AUCOIN, Division of State Police,
Department of Safety: I'll take a walk.

SEN. D'ALLESANDRO: He's certifiable.

REP. OBER: Is it Joe Haas who lives down here?

CHAIRWOMAN WEBER: He was here yesterday, but he was rather quiet yesterday.

SEN. D'ALLESANDRO: Thank you. Excuse me.

CHAIRWOMAN WEBER: Well, welcome, Senator.

SEN. D'ALLESANDRO: Great to be with you.

REP. GAGNON: You know how to make a late entrance. Thank you.

CHAIRWOMAN WEBER: We've gotten all the way up to item number three. So yes, go ahead.

MR. MAHONEY: Madam Chair, that really concludes my brief summarization of the current status of our audit topics.

CHAIRWOMAN WEBER: Does anybody have any questions about the current audit topics?

REP. GAGNON: Could you repeat -- I'm sorry, I did come in late. The status of the DRED pending performance, I imagine that was listed.

MR. MAHONEY: Yes. The Department of Economic Development report will be going to the Fiscal Committee on Monday of next week.

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REP. GAGNON: Thank you.

CHAIRWOMAN WEBER: Anything else? Okay.

**3. Discussion and approval of proposed Scope Statement for
The Department of Safety, Radio Interoperability
Performance Audit**

CHAIRWOMAN WEBER: Moving right along to item number four.

MR. MAHONEY: With your permission, Madam Chairman, I will ask Steve Fox to come up to --

CHAIRWOMAN WEBER: Certainly.

MR. MAHONEY: -- go through the Scope Statement for Department of Safety, Radio Interoperability. That's item number three.

CHAIRWOMAN WEBER: I'm sorry, I skipped over. Item three.

STEPHEN FOX, Ph.D., 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. I guess I'll start off by asking how much detail you want me to go through on this or you want me to go straight to the --

REP. OBER: As much as you think we need.

CHAIRWOMAN WEBER: I will leave that to you. If we need more, we'll -- we'll all leap right in. Thank you.

MR. FOX: Okay. Thank you. In January of 2014, the Fiscal Committee approved the audit topic that was presented or was recommended by this Committee for a performance audit of the Department of Safety's Radio Interoperability Initiative. We held an entrance conference with DOS management, Department of

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Safety management on March 18th of this year. A little background.

Radio interoperability permits public safety officials, such as fire, police, emergency medical services, to easily communicate across disciplines, across jurisdictions, and as needed or during both routine operations and an emergency situation. The Division of State Police has assumed responsibility for operating and maintaining a Statewide Interoperable Communications System which we are identifying as the System.

The System is based on a very-high frequency two-way radio system with a network of repeaters that are connected by fiber optic lines to microwave transmission stations throughout the State. The System itself went live in 1997. It serves as the primary daily-use communications system in the State. Also involved are county and local public safety agencies to one degree or another. Many State Agencies and municipalities also operate independent and, at times, incompatible radio systems.

In 2007, the Department of Safety wrote a required *Statewide Communications Interoperability Plan*. That was a federally-required document. The goals identified in that document are -- include codifying a governance structure, improving the System to achieve a 95% coverage of the State with 95% reliability within three years of the writing of the document, and adding a public safety wireless broadband-related strategic goals.

We did a performance audit of the Field Operations Bureau, the State Police Field Operations Bureau in 2010, and we made some recommendations regarding that system which the Management of the Department of Safety concurred with that at that time.

There are several weaknesses and gaps in radio coverage which inhibit statewide radio interoperability and undermines the System's ability to be interoperable. The DOS released a request earlier this year, a Request for Proposal to obtain an in-depth study of the system focusing on overall functionality,

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coverage capabilities, and points of weakness, and the expected results of that report will be to propose improvements and identify options to meet -- excuse me -- or exceed the 95/95 statewide coverage standard.

While the Division of State Police operates and maintains a System, there is no statute or any formal charge for them to assume any specific duties or responsibilities related to statewide radio interoperability. Nor is there any formal statewide radio interoperability program or line item in the Department of Safety's budget. Instead, there's an ad hoc mix of Federal grants, State and general capital funds -- State general and capital funds is relied upon for funding. And the only specific statutory language we've been able to find is related to communications interoperability that requires the Division of Emergency Services and Communications to consider, I emphasize consider, developing a multi-purpose communications system for local government purposes.

There is no statute requiring municipalities to integrate the radio communications system into the State. And there is no requirement for local, county, and other State Agencies to participate in any interoperability planning or development or comply with the Department of Safety's policies. So, in essence, we've got a pretty wide open system that we're dealing with right now.

Our audit will be designed to answer the following question which is: How efficient and effective has the Department of Safety been in achieving radio interoperability among New Hampshire's public safety agencies, including local and county governments, as of State Fiscal Year 2014? And you see the bulleted items underneath that Scope Statement. We will be reviewing relevant State and Federal statutes, administrative rules, policies, procedures, plans, and guidelines; interviewing key Department of Safety management personnel and other key stakeholders, both within and outside State Government. We'll be reviewing similar audits and evaluations from other states, as well as the Federal Government, comparing Department of Safety

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practices to generally accepted practices, that way we'll develop from other sources, and examine the radio

interoperability policy and strategy of the State.

We expect to complete this project in August of 2014 and present the final report to the Fiscal Committee at its September or October 2014, depending on when that meeting is scheduled.

CHAIRWOMAN WEBER: Thank you. Questions? Senator Larsen.

SEN. LARSEN: Just curious. One of the things to look at, and maybe it's not an issue, would be the reliability and security of the System and its ability to be hacked or any of those --

MR. FOX: That's one of the things we will be looking at.

SEN. LARSEN: It will be in there? Or power outages or whatever might cause a disruption.

MR. FOX: Various vulnerabilities of the system.

SEN. LARSEN: Yeah, okay.

MR. MAHONEY: Senator, if I may? We've actually visited at least two transmission locations to look at security around those locations.

CHAIRWOMAN WEBER: It may be tangential, but I know I've had communications from local emergency responders, in this case it was fire, about equipment that they received as a grant ten years ago, and one of the conditions of the grant was that they replace it when it needs replacing and all of them are going to need replacing pretty soon. And there is, of course, no money for replacement either on the local or other levels. So that is an issue for us to bear firmly in mind going forward.

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MR. FOX: If I may comment on that, too? One of the current concerns is the replacement equipment that the locals, especially, are considering may or may not be compliant with what the State is hoping that will be compatible with what the State needs for an interoperable system.

CHAIRWOMAN WEBER: Representative Ober.

REP. OBER: I think, Madam Chairman, one of the issues you've identified is that towns – mine is prone to doing this – jump on grants, understand that there's a Catch-22 that they're going to have to live up to, but don't start budgeting. So I know in Hudson we've kind of beamed on our selectmen that if you're going to take one of these grants, establish a capital reserve fund and start putting money in and don't wait ten years for it to go through. I don't know how the State, and I'm not even sure whether the State should have a role, needs to kind of get that budgeting philosophy out into other communities. Because it's just as I do at home, I save for a new car and when I get a new car, I have cash to pay for it. But towns don't always think that way, and we do take those grants.

CHAIRWOMAN WEBER: Hm-hum. Any further questions? Is there a motion on the Scope Statement?

** SEN. REAGAN: Move to accept.

REP. OBER: Second.

CHAIRWOMAN WEBER: Moved and seconded. Moved by Senator Reagan; seconded by Representative Ober. Is there any further discussion on the Scope Statement? Seeing none. All in favor say aye? Any opposed? The Scope Statement is approved.

*** {MOTION ADOPTED}

MR. FOX: Thank you.

CHAIRWOMAN WEBER: Thank you.

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4. Discussion of Pre-Scope Statement for the Department of Transportation Performance Audit.

MR. FOX: The next item before you is a pre-scoping document for our performance audit of the Department of Transportation. This item was also recommended at the May -- the March 31st meeting of this Committee. It was approved by the Fiscal Committee on April 25th. This audit was brought on behalf of Senator Morse by Senator Reagan. We met with Senator Morse on May 12th of this year and held an entrance conference with the Department on May 21st.

In our meeting with Senator Morse, he vocalized concerns on how efficiently and effectively the Department administers its vehicle and equipment fleet. So that's what we've chosen to focus on in terms of this pre-scoping document. The document itself does provide description of the Department of Transportation's four divisions. For some background, basically, I'll just do a high-level read through that. There's four main divisions; the Division of Project Development, the Division of Operations, the Division of Aeronautics, Rail and Transit, and the Division of Finance and Contracts.

The Division of Finance and Contracts would be the Division that oversees the vehicle and equipment purchasing, while it is the responsibility of the Division of Operations to maintain, physically maintain the fleet, the vehicles and equipment.

To address Senator Morse's concerns, our performance audit would focus on how efficiently and effectively the DOT is managing its vehicle and equipment fleet. We have four items that we -- five items, I'm sorry, that we have identified as possible focus. Any or all of those would be a focus for this audit.

One is whether the size of the Department's vehicle and equipment fleet is appropriate for its responsibilities. The second one being how much the Department's vehicle and equipment fleet has changed over a ten-year period. Senator Morse was very interested in seeing that year-to-year change; third one being

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whether construction equipment is being efficiently utilized. There's a question in terms of sharing between the Turnpike Division, for instance, as well as the Division of Highways. Bureau of Highways, I should say. And then whether vehicle acquisition and use are consistent with the Department's business needs. And, finally, the last bullet goes to whether opportunities exist to improve vehicle and equipment fleet utilization. Looking at things such as purchasing versus leasing, how long -- if they do purchase, how long they keep the vehicles or the equipment in terms of turnover. And, obviously, we'd be looking at best practices related to all these things. I'd be happy to answer any questions on this pre-scope statement.

CHAIRWOMAN WEBER: I just have a functional one. This has been submitted as a pre-scope statement. So we're just discussing if this is the direction we want to go or before you do the formal Scope Statement. Is that what we are doing?

MR. FOX: There's a choice here for you in terms of this could be considered to be a scope document. If we look at the paragraph above, the five bullets the audit would focus. Audit question would be how efficiently and effectively is the Department of Transportation managing its vehicle and equipment fleet. We had at the end of the last meeting the instruction from the Committee to come back with a pre-scope statement which is what we've done.

CHAIRWOMAN WEBER: We thought that the whole Department of Transportation was a little global, so.

MR. FOX: Based on our meeting --

CHAIRWOMAN WEBER: Narrow the universe a little bit.

MR. FOX: Based on our meeting with Senator Morse and his review of some information that we had provided to him about audits in other states and our concern about a scope being that huge, we did come to agreement with him that we would look at the --

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CHAIRWOMAN WEBER: So is this one that you are now comfortable with in terms of -

MR. FOX: Yes, ma'am.

CHAIRWOMAN WEBER: -- achievability with the resources that you've got?

MR. FOX: Right.

CHAIRWOMAN WEBER: Thank you.

MR. FOX: In terms of our needs, it would be much more efficient for us if we could walk away from here today with this being an accepted scope.

CHAIRWOMAN WEBER: Are there questions or --

** REP. MCGUIRE: So moved.

CHAIRWOMAN WEBER: Well, okay. Representative McGuire has moved that.

SEN. REAGAN: Second.

CHAIRWOMAN WEBER: And it has been seconded. Are there concerns, discussions we need to go through? Representative Gagnon, followed by Senator Reagan.

REP. GAGNON: Thank you. The fourth bullet is vehicle acquisition and use are consistent with business needs. Will there be any opportunity to explore or include as part of that the option of collaborating working with local municipalities in purchasing of equipment, plows? I mean, I think in law enforcement they used to several years ago look at some kind of collaborative contracting with their --

REP. OBER: That's through DAS.

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REP. GAGNON: So will that be something that would be explored?

MR. FOX: We would be looking at various options. Whether that one is specifically included is premature to say, but it's certainly material. Are you talking about some sharing equipment that's purchased or -

REP. GAGNON: No, no.

MR. FOX: -- purchasing in volume?

REP. GAGNON: Yeah, I am saying if you can buy ten plows --

CHAIRWOMAN WEBER: Well, I think Representative Ober has a definitive answer to that.

REP. OBER: Yes. During the budget, DAS comes before Division I and they do have from cell phones to snowplows on their State purchases that your town can piggy-back on.

REP. GAGNON: Oh, good. Thank you.

CHAIRWOMAN WEBER: Our town certainly has done that. I think it's Senator Reagan next.

SEN. REAGAN: I'd just, in addition to my second, I'd just like to comment that each of these areas are probably fertile fields for audit. So limited this to this scope here, we should not rule out, if we've already ruled out the things that we're not auditing now, that they're probably future subjects.

CHAIRWOMAN WEBER: Consider those future topics.

REP. OBER: Or we could get a 5,000 page audit and do everything, you know.

SEN. REAGAN: No.

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REP. MCGUIRE: This prevents it starting on the next chapter.

CHAIRWOMAN WEBER: Start with this and see where we're at. Representative McGuire.

REP. MCGUIRE: Yes, thank you. One thing that I know about the Department of Transportation is that on the maintenance side a lot of the winter maintenance is subcontracted to contractors that provide their own equipment. Will that be considered as part of the fleet efficiency?

MR. FOX: Yes. We'll try to inventory and understand what equipment is owned and maintained by the Department and what is either maintained by a contractor or -- and/or owned by contractors.

REP. MCGUIRE: Most of it is owned and maintained by so I hope you will also include the tradeoff in terms of the labor costs as well.

MR. FOX: Okay.

REP. MCGUIRE: That's something of interest.

CHAIRWOMAN WEBER: Representative Wallner.

REP. WALLNER: What's the timing on this one? I see you've got quite a list here ahead of you.

MR. FOX: We have staffed this audit pretty heavily. We have five people that are going to be working on this audit. Actually, three of them will be audit managers. And we expect that we should be able to keep this within our current four-month audit time frame. So we'll be looking at this fall.

CHAIRWOMAN WEBER: Any further questions or comments? Are you ready for a vote?

SEN. D'ALLESANDRO: Just if I could?

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CHAIRWOMAN WEBER: Certainly, Senator.

SEN. D'ALLESANDRO: Just one thing. There's sort of an ebb and flow with DOT. If we give them a significant appropriation for capital work, it's up here. If there's enough money to do roads, it's up here. But for years it's been down here. So you buy those vehicles with the intention of following a plan, but you don't have enough money to do it. Those vehicles are idle, 'cause you can't rent them out. I think that has to be considered. You have to look at it over a longer term. Like, for example, maybe cut out a five-year cycle and say what's the efficiency and effectiveness of what they're doing given the resources that they have available to them over this period of time. You get something like the Act from the Federal Government, the ARRA money, and all of a sudden, bang! All of this had to be done in a very, very short period of time. So were -- were they prepared, you know, again, to do this work to get it all done so that this is a -- it's a difficult thing when you're talking about a fleet that large if you're going to get 100% efficiency, which we're all looking forward to. There's got to be a parallel universe that says we have the money to do it.

MR. FOX: Yes, absolutely.

CHAIRWOMAN WEBER: Anything further? Are you ready for the vote? All in favor accepting this as the Scope Statement say aye? Opposed? None opposed.

***** {MOTION ADOPTED}**

CHAIRWOMAN WEBER: So the Scope Statement is approved.

MR. FOX: Thank you.

CHAIRWOMAN WEBER: You can just move right along on that.

5. Other Business.

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CHAIRWOMAN WEBER: Is there any other business to come before us? Seeing none.

6. Date of next meeting and adjournment.

CHAIRWOMAN WEBER: Do we want to schedule a next meeting or do we want to leave that to the call of the Chair?

MR. MAHONEY: Madam Chair, I would suggest it's left to the call of the Chair.

CHAIRWOMAN WEBER: Senator Reagan.

SEN. REAGAN: I'd just like to say on behalf of all the Legislature that we thank Senator Larsen for this is another area of service for her long career in service.

SEN. LARSEN: Thank you.

SEN. REAGAN: We appreciate it.

CHAIRWOMAN WEBER: Thank you very much.

SEN. LARSEN: Thank you.

SEN. D'ALLESANDRO: Here, here.

SEN. LARSEN: I'm still around till December.

CHAIRWOMAN WEBER: Let's see how many times we can thank you.

REP. OBER: When is the first trip?

SEN. LARSEN: Well, the biggest one is like mid-October and it goes for a couple weeks.

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CHAIRWOMAN WEBER: Without objection we are adjourned. And we can stay and discuss the Senator's travel plans or not. Thank you all for attending. We appreciate it.

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

(The meeting concluded at 10:29 a.m.)

CERTIFICATION

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

Cecelia A. Trask

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

