

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 212

Concord, NH

Tuesday, December 3, 2013

MEMBERS PRESENT:

Rep. Lucy Weber, Chair
Rep. Lynne Ober
Rep. Raymond Gagnon
Rep. Stephen Shurtleff (Alt.)
Sen. Peter Bragdon
Sen. James Rausch
Sen. John Reagan
Sen. Lou D'Allesandro

(The meeting convened at 2:30 p.m.)

1. Acceptance of minutes of the August 9, 2013 meeting.

CHAIRWOMAN WEBER: I am going to call this meeting of the Legislative Performance Audit and Oversight Committee to order, and the first order of business is the acceptance of the minutes of the August 9th meeting. Do I have a motion?

****** SEN. REAGAN: So move to approve.

REP. OBER: Second.

CHAIRWOMAN WEBER: Moved and seconded. Is there any comment?

SEN. REAGAN: Page two. My name's spelled wrong. In two places.

REP. OBER: So probably you want to move to accept as amended.

CHAIRWOMAN WEBER: So we would like to amend to have Senator Reagan's name spelled correctly and --

SEN. REAGAN: I'm just pointing that out.

CHAIRWOMAN WEBER: Well, I'm looking at --

SEN. REAGAN: R-E-A.

SEN. BRAGDON: Oh, yeah. Actually, on the second page it's spelled R-E-G-A.

CHAIRWOMAN WEBER: Okay. That's the one.

SEN. REAGAN: Twice.

SEN. BRAGDON: Twice.

STEPHEN FOX, Ph.D, Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: My apologies, Senator Reagan.

CHAIRWOMAN WEBER: So we will note that change. Are there any further changes?

SEN. BRAGDON: My name is spelled correctly. I'll note that.

SEN. RAUSCH: And I was here and didn't remember.

CHAIRWOMAN WEBER: Seeing no further changes, I will -- are we ready for a vote? All in favor of accepting the minutes as amended? Any opposed? The minutes have been accepted.

***** {MOTION ADOPTED}**

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

CHAIRWOMAN WEBER: I was going to ask indulgence of the Committee if we could bring the Scope Statement forward because of time constraints for Senator Rausch and just get that dealt with first. Is there any objection to moving that --

REP. SHURTLEFF: No.

CHAIRWOMAN WEBER: -- to the top of the list? Seeing none. Go ahead.

3. Discussion and approval of proposed Scope Statement for The New Hampshire Veterans Home performance audit.

RICHARD MAHONEY, Director, Audit Division, Office of Legislative Budget Assistant: Thank you, Madam Chairman. Good afternoon. For the record, I'm Richard Mahoney, Director of Audits for the Office of Legislative Budget Assistant. With your permission, Madam Chairman, I'd like to ask Stephen Fox, who is our Audit Supervisor responsible for our performance audit teams, to join me to present the Scope Statement.

CHAIRWOMAN WEBER: Please.

MR. FOX: Good afternoon, Madam Chairman, Members of the Committee. As Dick said, for the record, my name is Stephen Fox. I'm the Performance Audit Supervisor for the LBA Audit Division. Performance audit proposed Scope State -- excuse me -- Statement that you have before you today is for the New Hampshire Veterans Home budgeting process. The Fiscal Committee approved this audit at your recommendation in its October meeting. And we have held an entrance conference with the Veterans Home on October 28th of this year. A little bit of background.

The Home was opened in 1890 to house Civil War

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

veterans and as an independent State agency it is located in Tilton. The Home provides nursing care and other related services for any veteran who is otherwise eligible for admittance. There's a Board of Managers that has consisted of officials from the various veterans' organizations and private citizens. They govern the operation of the Home. The Home's Commandant, who's appointed by that Board of Managers, oversees the day-to-day administration.

Currently, the Home has a capacity of 250 residents and employs approximately 400 staff. There are three primary revenue streams for the Home: Agency income, Federal funds, and General funds. Agency income is -- consists of direct payments made by residents. In State Fiscal Year 2013 the Home recorded 6.5 million in Agency income. The second revenue stream is from the Federal Government and that in 2013 was about 7.7 million. And the third revenue stream is from the State's General Fund which in 2013 was approximately 13.1 million.

Expenditures from the Home in 2013 totaled 27.3 million, of which 23.6 million was personnel and benefits. The Legislature also approved 333,000 at the end of State Fiscal Year 2013 to cover unpaid utility bills that were discovered during the State Fiscal Years 2014-2015 budget process. The Home had used its 2013 -- State Fiscal Year 2013 utility budget to pay for unpaid bills from the previous State Fiscal Year, which left a budget shortfall for State Fiscal Year 2013.

According to the Home, oil and propane prices increased significantly during State Fiscal Year 2012 which caused the budget shortfall. And this performance audit was requested as a result of concern over the origins of that shortfall.

Our Scope will cover 15 months ended on September 30th

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

of 2013. And the question that we will be looking at is are internal controls over the New Hampshire Veterans Home budget process efficient and effective. In attempting to answer that question, we will examine how revenues and expenditures are estimated, how the Home develops and approves its requested budget, and how the budget is monitored and adjusted once it has been implemented.

The audit will focus on internal controls related to the current biennium operating budget and capital budgets. We anticipate completing this audit late in this month, December 2013. And because of the current date for the next Fiscal Committee meeting, we need to change what you see on this Scope Statement. We will be looking at reporting to the February Fiscal Committee meeting instead of the January. That's February 2014. Be happy to answer any questions related to this audit.

** SEN. REAGAN: I move to approve the Scope Statement.

REP. OBER: I'm not so sure.

SEN. REAGAN: It's just a motion.

SEN. BRAGDON: Second.

REP. SHURTLEFF: I'll second the motion.

CHAIRWOMAN WEBER: The motion has been made and seconded. Would you care to speak to your motion?

SEN. REAGAN: I have a little familiarity with the Veterans Home, and I think this is probably a good idea from the collapse of their budget and failure to pay the utility bills. I mean, I don't know who, you know, I guess we don't know who was supposed to be watching the people who were supposed to be watching how they ran -- how they

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

ran their operation so I am glad to see somebody is going to look at it.

CHAIRWOMAN WEBER: Representative Ober.

REP. OBER: Thank you, Madam Chairman. I was in this room with House Finance, Division I, when we got a full briefing on the budget which was not nearly diplomatic as you were, Mr. Fox. The current Commandant, who was chosen by that Board, is the fox watching the hen house for the budget. For the last two or three years they have not been paying all of their vendors. So every year it's gotten worse, and worse, and worse, to the point that we had vendors on the verge of going out of business because the bills were so out of due being paid. And while I think a performance audit is a good idea, we don't -- that doesn't really look at financial matters. And there's still a whole situation of financial issues in this organization, and I don't know how, and that's why I wanted to ask when I read the Scope, was how could some of those perhaps be woven into the Scope so that we broadened it a little bit. Because we basically have now the person who's responsible for not paying the bills in charge of the whole Veterans Home, and I think there are policies that are financial in nature that might not come out of a strictly performance audit.

(Senator D'Allesandro enters the Committee room.)

REP. OBER: And I don't think they've got any of those pieces in place based on what we heard and what we saw when we went over the budget in this room with them. And yet, we did approve that extra money, we wanted to approve it, certainly favor the Veterans Home. I just want to be sure we're looking at enough of a Scope. And I know we can't really ask you to do a financial audit. So I don't know how you weave in any of those pieces.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

CHAIRWOMAN WEBER: Before you respond, let me add to that 'cause I had -- was thinking along the same lines is if you could address how much you're including in what we talked about a couple of times which was looking at the systems of control and helping -- making recommendations for the procedures that might address these things. And I wasn't terribly clear on how this really did that either.

MR. MAHONEY: Our intent is specifically to look at the financial internal controls associated with the budget process. Typically, when we do a financial audit one of the first things we do is examine internal controls or internal financial accounting controls of an organization so we can determine how much testing we need to do for financial transactions. This performance audit is going to take the first half of that on a financial statement audit and basically look at the financial accounting controls. We call them internal controls at the Veterans Home focusing on the dollars. So even though we're doing this under performance audit standards, we are going to be focusing on those financial controls.

REP. OBER: Okay.

CHAIRWOMAN WEBER: Other questions?

SEN. D'ALLESANDRO: Sorry to be late, Madam Chairman. Apologize.

CHAIRWOMAN WEBER: Senator.

SEN. D'ALLESANDRO: So we're discussing the Veterans Home?

CHAIRWOMAN WEBER: Yes. I moved that forward because we're going to lose people for awhile.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

SEN. D'ALLESANDRO: Okay. Great. Thank you. My question is this. During the budget process, we were made aware of some significant financial problems with the Veterans Home that not only occurred in this Fiscal Year but went back a couple of other Fiscal Years. So the question of whether those financial machinations have been taken care of is one aspect. But I think the real aspect is how did this happen continuously there, and what must we do to take care of that, because that place lives on Federal monies.

MR. MAHONEY: Hm-hum.

SEN. D'ALLESANDRO: And our participation has been basically on the capital side. I think that's where we have put most of the money. But the fact of the matter is that -- that that entity was allowed to function in an inappropriate manner for a very extended period of time. And pending the -- pending the payments, I recognize the fact that we could have put people out of business who were never paid, the electricity, and the oil, and so forth. And I think the bottom line ought to be how did that -- A, how did that happen and how do we -- how do we correct it? I think this is one of the most serious audits that I've seen in a long time here. I mean, the way the finances seem to be handled there from everything -- from everything we heard, and what we had to do in the budget process to remit all of this stuff and take care of it. So it seems to me that -- that's got to be clearly spelled out in terms of your charge as to what -- what we have to find out about that situation, because there had to be negligence on someone's -- someone's part and what's the ramification for that.

Now we know one of the ramifications was companies could have gone out of business because we didn't pay them.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

Do they have -- do they have a case against us? In the old days you could put a mechanics lien on. But if you're not -- if you're not paying and that company suffers significant financial loss, I mean, that's outside the scope, I understand, but that's a ramification and that just looks very bad for the State, in my opinion. That's why I think the sensitivity of this audit is pretty -- pretty extreme. Thank you.

CHAIRWOMAN WEBER: I'm taking it that that wasn't a question.

SEN. D'ALLESANDRO: You got it.

CHAIRWOMAN WEBER: And I'm going to also add to that in the same vein that I see that you say you're anticipating completing the audit in December 2013, and it's already the second or third or whatever day it is. Is that a realistic time frame to get done what you need to get done?

MR. MAHONEY: We believe so, Madam Chairman. The internal financial accounting controls around the budget process itself should be fairly straightforward from our perspective. We chose in this Scope Statement not to do a, for lack of a better term, an investigation of what happened in the past because I don't think our audit would be beneficial from -- to the future by doing that. So what this Scope Statement really intends to do is focus on what systems were in place today to prevent this sort of thing from happening in the future. And I think by doing that it will shed some light on what had happened in the past and that we may be able to report on some of that in our audit report, but we do believe that we have sufficient time remaining in this month to do a lot of the work because we've been -- even though the Scope Statement is being presented to you today, we have done a lot of our background work already in order to get to this point, and

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

we just wanted to make sure that you folks were all in agreement with how we intend to proceed to be able to finish.

CHAIRWOMAN WEBER: Thank you. Representative Ober.

REP. OBER: Thank you, Madam Chairman. In deference to the Senator, I'm totally in agreement with what he said but I honestly feel that there has to be a two-prong approach here. The way they choose their Commandant may need to be changed. That would be done via legislation. We need to think about professional management. This is a professional organization. They have not had professional financial management or professional leadership and the Commandant is basically chosen by a group of people from American Legions, VFWs; great guys, served our country, but this is now kind of big business. I mean, they spend lots of money so if we're going to have a performance audit that does look at financial controls, we might get enough out of that to think about some legislative changes just to ensure that there is professional management there, as well as asking them to respond to the audit. 'Cause I think it's going to need to be two-prong based on what I saw during this demeaning budget process.

CHAIRWOMAN WEBER: Any further questions or comments? Are we ready for a vote? All in favor approving the Scope Statement say aye? All opposed? Seeing none. The Scope Statement has passed. I thank you.

***** {MOTION ADOPTED}**

2. Current status of ongoing and pending performance audits:

CHAIRWOMAN WEBER: We will now go back to item number two and look at the current status of ongoing and pending

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

performance audits.

MR. MAHONEY: Thank you, Madam Chairman. Since the Committee last met in August, we've presented two of our audit reports to the Fiscal Committee, the first being the Electronic Benefit Transfer Cards for the Department of Health and Human Services, and in the Department of Corrections, Transitional Housing and Work Release Programs which we just presented in November to the Fiscal Committee.

The next audit that we intend to present to the Fiscal Committee is the Community Development Finance Authority. Our field work is now complete. We have an exit conference scheduled with the Authority on December 17th. The report has been drafted, and we intend to present that report to the Fiscal Committee in January.

We just talked fairly extensively about the Veterans Home. We did hold an entrance conference there on October 26th -- 28th, I'm sorry, and the Scope Statement was just approved by the Committee. And as Steve mentioned, we plan to present that report to the Fiscal Committee at its February meeting.

We also held an entrance conference with Commissioner Rose and members of his staff at the Department of Resources and Economic Development on November 13th to begin our economic development program performance audit at DRED. Background work is currently in process for that audit, and we hope to have a Scope Statement prepared for presentation to the Committee at its next meeting.

CHAIRWOMAN WEBER: Could I ask you if you have thought about a date? I mean, we're talking early January or something like that?

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

MR. MAHONEY: Steve and I were talking on the way over actually. We need a little bit of time to prepare these Scope Statements and we'd like to be able to present two Scope Statements to the Committee at its next meeting so we were thinking late January.

CHAIRWOMAN WEBER: Late January.

MR. MAHONEY: Late January would be a good time, if Committee Members' schedules permit.

CHAIRWOMAN WEBER: Yes.

REP. OBER: Madam Chairman, would it be possible in the DRED audit to look into why it's not possible to use volunteers within DRED? I bring this up because Representative Umberger who is from North Conway was inquiring, she was thinking about filing a bill, was inquiring into being able to use some volunteer staff to open some of the visiting -- visitors' centers that are closed and was told by the Commissioner that that was not legal, but she couldn't really get a grasp around that. Somebody may know why that's not legal.

SEN. RAUSCH: I would say probably some type of liability.

REP. OBER: I don't know. I mean, I just thought it would be good to ask.

CHAIRWOMAN WEBER: Is that something that's contemplated in your Scope? You haven't finished developing the Scope.

MR. MAHONEY: We have not finished developing the Scope, Madam Chairman.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

CHAIRWOMAN WEBER: So that would be something that we could take up when the Scope Statement was presented to us.

MR. MAHONEY: Certainly. We can consider Representative Ober's suggestion and see if that can fit into our Scope Statement.

REP. OBER: I don't know if it will fit in or not. I just bring it up because this actually happened. And there was no clear answer about using the volunteers because we do use volunteers in other places in the state.

MR. MAHONEY: I would say, Representative Ober, the volunteer in question here is connected to economic development. We can certainly see our way towards doing that.

MR. FOX: That was the question I was going to ask.

REP. OBER: They run the visitors' center

CHAIRWOMAN WEBER: Right.

REP. OBER: So it is connected to DRED.

CHAIRWOMAN WEBER: Thank you. Go ahead.

MR. MAHONEY: The next audit up is our Assisted Living and Nursing Facility Inspections at the Department of Health and Human Services or conducted by the Department of Health and Human Services. We are currently in the process of trying to arrange an entrance conference with Commissioner Toumpas and members of his staff. I contacted Commissioner Toumpas yesterday. Steve actually spoke with him as well yesterday. So we are awaiting a date when we can have an entrance conference with the Department to begin our audit work in that area.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

We also have the Police Standards and Training Council audit that was approved by this Committee several months ago. And that has been on the -- that's been on the table at the Fiscal Committee since I believe it's March, I believe, is the correct date. March of this year. We have not done any work on that audit since it has not yet been approved by the Fiscal Committee.

And, finally, the last audit in our queue at this point would be the Board of Pharmacy Controlled Drug Prescription, Health, and Safety Program. That is in statute. It wasn't voted on in this Committee but is a statutory requirement. And, again, as I mentioned in our last meeting, we would probably begin that work in early to mid-2017. So that's quite a ways off at this point in time. And that concludes my update, Madam Chair.

CHAIRWOMAN WEBER: And I would just add as to the Police Standards and Training, I was assured that that would be voted on by the Fiscal Committee at their last meeting but that didn't happen. So I just want to pass that on to folks because the statute actually says that unless there is an affirmative vote to block the audit, the audit should be going forward.

SEN. BRAGDON: Right.

CHAIRWOMAN WEBER: So I guess my question is perhaps we ought to be contacting members of the Fiscal Committee and reminding them of that fact.

SEN. BRAGDON: Are you suggesting that they might be violating the statute by not pursuing it?

CHAIRWOMAN WEBER: I'm not making any suggestion at all. I'm just inquiring as to whether -- how people on the Committee want to proceed.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

REP. OBER: Madam Chairman, the other thought could be, Senator, that since they just sort of tabled it they assumed we are proceeding. They have not taken a vote to block it.

CHAIRWOMAN WEBER: At least some of them are well aware of the fact that it's branding fire because I had that conversation with the Chair every time and it was supposed to come up last time and nobody made a motion. So I guess my question would be seems to me, unless somebody has another suggestion, that there are two possible ways of proceeding, one of which is that we can informally contact members of the Fiscal Committee and suggest that that be brought forward or I can, as Chair, write a letter to the Committee or --

REP. OBER: Or we can do both.

CHAIRWOMAN WEBER: Or we can do both. And it's entirely up to the Members of this Committee.

SEN. RAUSCH: Just to refresh my memory. I thought the problem with that is who paid for it, and it was resolved in that it is not an expense.

CHAIRWOMAN WEBER: House Bill 2 has now clarified what we all believed was already in statute and which wasn't, and it has been clarified that that will not be an expense to them.

SEN. RAUSCH: So I thought that was the only negative issue. If that is, in fact, resolved, what is the problem?

CHAIRWOMAN WEBER: Well, that would be a question for the Fiscal Committee, but --

SEN. RAUSCH: Do we know?

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

SEN. BRAGDON: Beats me. You mistake me for somebody who knows what's going on over here.

SEN. RAUSCH: Okay.

CHAIRWOMAN WEBER: I know only that I get -- I get people asking me fairly regularly why it hasn't happened yet, and I say because we have done what we need to do.

SEN. RAUSCH: And I'm going to go with Representative Ober who basically says it's already done. They just didn't vote --

REP. OBER: Right. They didn't vote negatively so the statute says we proceed. I mean, I don't necessarily think they're stonewalling it.

CHAIRWOMAN WEBER: I'm not sure that -- would you be comfortable proceeding without that authorization?

REP. OBER: We would have to tell him that he is comfortable proceeding. We can't hang him out to dry.

MR. MAHONEY: Our office reports to the Fiscal Committee, Representative. I'm not a parliamentarian or a lawyer so I'm not sure where this audit stands, quite honestly.

REP. GAGNON: Madam Chair. Wasn't there also the issue, Mr. Mahoney, of the type of focus and scope of work really your staff, your personnel, there was some question as to their backgrounds and their disciplines as to their capacity to provide a performance audit of the Police Standards and Training, because it wasn't so much a dollars and cents but really policies and procedures. And much of those were law enforcement policies and procedures and none of your staff had backgrounds in that field. So isn't that

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

also the issue?

MR. MAHONEY: That issue was raised, Representative. I should remind Committee that we have done performance audits of the State Police Operations Bureau. We have done a performance audit of the State Police Laboratory. It's my position that if there are standards out there, against which we can measure an organization, then we can certainly do that at the Police Standards and Training Council. And I might add that we do have a former law enforcement officer under our employment as a performance auditor.

REP. GAGNON: Thank you.

MR. MAHONEY: You're welcome.

CHAIRWOMAN WEBER: Senator.

SEN. D'ALLESANDRO: Thank you, Madam Chair. But I would suggest that we don't assume that they're approved, that we draft a letter to the Fiscal Committee announcing the fact that they are required by statute to vote on an audit. They haven't done that, and we would like to know what their position is.

CHAIRWOMAN WEBER: And if the Committee would like me to do that I would be glad to. I'm going to take that up on our behalf.

REP. OBER: Please do that.

SEN. BRAGDON: Could Dick Mahoney remind us of what the statute says they have to -- I forget exactly what the wording of the statute is. I don't remember.

MR. MAHONEY: I don't have it with me, Senator; but essentially, the statute says the Committee needs to

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

unanimously reject a recommendation from this Committee --

CHAIRWOMAN WEBER: I'll look it up and cite it.

MR. MAHONEY: -- for a topic not to go forward.

SEN. BRAGDON: Not to happen.

REP. GAGNON: Unanimously.

SEN. BRAGDON: Yes, unanimously reject.

CHAIRWOMAN WEBER: It's an interestingly worded statute because I haven't seen it in any other capacity. And somebody's only went and reread that after we get a certain way down this process. So I will simply go ahead and write that letter. Very appropriate for the Committee.

SEN. BRAGDON: Yes.

REP. OBER: Madam Chairman, before Senator Rausch has to leave, after I read the Transitional Housing and Work Release Program, and I got to Appendix B where I discovered the 2010 Audit had all these unresolved things, I did e-mail Mr. Fox and I discovered that there's nothing in statute that requires any agency to take corrective action, even when they concur. And this audit on DOC is filled with your recommendations, and them saying we concur, and them saying we concur. And I just wondered if Members of this Committee perhaps would think about legislation to put something in statute that an audit needs to be responded to if there is concurrence, especially. I can see if an agency takes a recommendation and argues that that's the wrong recommendation that they wouldn't want to be forced to do that. But especially when they're filled with we concur, we concur, not to see something taken care of three years later is an issue and one of these issues, number 12 in

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

Appendix B, is back in this audit and they still concur. But that requires legislation and the Members of this Committee might be the best group to make that happen. Certainly that's not something LBA audit --

SEN. BRAGDON: Right.

REP. OBER: -- can enforce. We would need legislation.

CHAIRWOMAN WEBER: Legislation to do that, correct.

REP. OBER: So I just wanted to put that on the table to think about. We don't have to take a vote today. But before Senator Rausch leaves when you have a chance to read this and you go through those just to think that over.

SEN. RAUSCH: I would concur. There's no point in doing an audit if there is not accountability to the audit. So I was not aware that if they concur that they still don't have to do anything. That makes no sense. And so I guess being a practical person if it requires legislation I would say if they concur -- and if they don't concur, there still should be a mediation path -- but if -- certainly if they concur, then they would have a time period in, whether it's a year or two years, that they rectify and correct it. I would agree with that.

SEN. D'ALLESANDRO: If I might, Madam Chair?

CHAIRWOMAN WEBER: Yes.

SEN. D'ALLESANDRO: It just makes sense. Otherwise, what's the sense of doing the audit? The audit is to promote corrective action. And that's why you have at the end of the audit all of those little items and whether they concur or not, if they have made a change or not. You fill in the dots, right, if they have taken advantage of? And I

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

thought that what the House has done is they take the audits and they send them to the Committee. The Committee basically, I would assume, has that responsibility to check with the entity and make sure that it's complying with the audit. I don't know if we are doing that in the Senate, if we follow that process.

SEN. BRAGDON: Again, you mistake me for -- but no.

CHAIRWOMAN WEBER: And I can answer.

SEN. BRAGDON: We do not.

CHAIRWOMAN WEBER: With respect to the House, we are behind in our work on that. And that's something that we do need to get back on track on for January. It's just the current has been a little swift this year. I keep waiting for the down time that's going to permit us to do this. But, I mean, this is reminding me that I need to communicate with my fellow House Chairs about that, but there still isn't any requirement of compliance even if we have that.

SEN. REAGAN: The initiative of the respective Committee.

CHAIRWOMAN WEBER: But I will push the House Committees along on that.

SEN. RAUSCH: You would probably need a special in order to introduce legislation; but if that was a motion, I would concur with it.

CHAIRWOMAN WEBER: Legislation at this point for the House has to be introduced through rules.

SEN. BRAGDON: Same as Senate.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

CHAIRWOMAN WEBER: It would just be a matter of one individual drafting something up and submitting it.

SEN. D'ALLESANDRO: Madam Chair, I would act with caution about creating more laws. What it seems to me, the prudent action might be to get to the Committee Chairs that have these audits and say what have you done with the audits, and do you believe that you have within the purview of your Committee the authority to make sure that these audits are complied with. If they think that there's a gray area where they don't have the ability or the power to do it, then they should come back to you, to us, and make the case for submitting -- submitting legislation. But to just do legislation, we've got too much legislation on the books now, in my opinion. And with all due respect to my qualified colleague, the eminent veterinarian who does great work and who I sat beside in the Committee of Public Works when we were in the House together, I think we ought to be sensitive to that fact. 'Cause in a way we're -- we might be throwing an insult at the Committees saying you haven't done any work without us checking on it so we put some laws in. You know, I'm sensitive to that.

CHAIRWOMAN WEBER: Well, I will -- I will take the issue up with the Committee Chairs from my perspective and then -- but, you know --

SEN. RAUSCH: And I will go with the wisdom of this Committee.

CHAIRWOMAN WEBER: To see where we get with that.

SEN. BRAGDON: We could audit -- we could have the auditors audit the House Committees to see if the -- the Senate might vote for that.

SEN. RAUSCH: Then, Madam Chair, I am going to excuse

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

myself.

CHAIRWOMAN WEBER: Thank you. Thank you very much.

SEN. RAUSCH: And now go to my next one that you put me on. Thank you.

SEN. BRAGDON: What's that?

SEN. RAUSCH: The Ethics.

SEN. BRAGDON: Oh, them. I've heard of them.

(Senator Rausch leaves the Committee room.)

REP. OBER: While I think it's good to go to the Committee Chairs, I think one of the big issues with the audits and with follow-up with the audits is that there isn't a clear path. For example, number 12, which I cited here, from 2010 says financial controls at the Transitional Housing Unit should be improved. You might think that an audit on Corrections would go to Criminal Justice, and if they aren't the people, who would really look at financial controls. So I think putting the onus entirely on the Committees is not a fair situation either, because there's so often pieces of it really go someplace else. Change and user access controls in the correctional information system should be strengthened. That's a science and tech issue. That would work with DoIT.

So if they often cross multiple areas, and I'm not sure Committees alone should be following up, I really think there should be some onus on the agency heads to do some of this coordination. I mean, wouldn't be really difficult to work with the head of DoIT and the staff assigned to make sure that user access controls are in place because we have pretty standard access in many of the

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

agencies. So I think that's part of the problem working with the Committees. I don't want to just say oh, the Committees are behind and haven't done their jobs. I don't think that's a fair assessment in many cases.

CHAIRWOMAN WEBER: And I think to follow-up on that, one of the issues is that I think you've put your finger right on it. It falls between the cracks as to is this a Committee function, is this a staff function, is this an agency head function? Who needs to follow-up with this? And I think that if there is pending legislation that's one of the things we ought to give some thought to.

REP. OBER: Yep.

CHAIRWOMAN WEBER: But, I mean, that's something that needs to be worked out either in discussions or through a legislative process.

SEN. D'ALLESANDRO: I think, if I might, Madam Chair, I think I would work it out with the Chairs and find out what their perception is. And if, indeed, as Representative Ober clearly points out, there are audits that don't fall directly under one's purview but under the other, you could take every one of these audits and send them to Finance. I think that's the bottom line. That's where they all -- that's where it's all going to happen.

CHAIRWOMAN WEBER: Right.

SEN. D'ALLESANDRO: And, I mean, in the House you could set up a subcommittee to do it because of the size of your Finance Committee. In the Senate it would be a little more difficult because we only have a Finance Committee of six. But I've been around here for 40 years, and we have been talking about audits for the 40 years I've been here. And in many instances the same narrative occurs with the audit

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

in terms of this hasn't -- this hasn't been done. I mean, we started auditing the Correction system, I believe, in 1970 when we had -- actually in 1973 when we had that Special Committee that went over there and spent a lot of time over there, took a lot of testimony over there.

(Senator Bragdon leaves the Committee room.)

REP. SHURTLEFF: Part of the *Laaman* decision, Karl Laaman.

SEN. D'ALLESANDRO: Actually, Laaman was testifying before our Committee. We hired an outside entity, paid him a lot of money to do a scope of where we should go with the prison system. That was discarded. It's in the Library. And I refer to it every time we talk about expanding the prison system. I say, you know, read this report we had in 1973. We paid about 50,000 bucks approximately that planned the situation. And I don't want to beat a dead horse, but I think that we should be more vigilant in terms of either the committees or subcommittees or whatever in terms of respecting the audits because each time you do an audit it costs you a ton of money, number one. And, number two, most of the suggestions are pretty good. If they're carried out, they end up saving us money and making us more efficient and effective, which is what we're supposed to be doing in this process.

So I think that anything that moves us in that direction is important. As I said, in the final analysis, every one of these, lowest common denominator, everything becomes an economic issue. Enough said. Thank you.

4. Discussion of potential performance audit topics

CHAIRWOMAN WEBER: Anything further? Okay. We are up to discussion of potential performance audit topics.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

MR. FOX: If I may, I'll pass out the list of potential audits as it stands now.

CHAIRWOMAN WEBER: Could you give us just an indication as to how much work going forward you now have in the pipeline? Because if we're not going to be meeting again until the end of January, that's actually a fairly short period of time for us. But we want to be sure that -- I mean, my sense is that there's already enough to keep you busy through January in the pipeline or is that true?

MR. MAHONEY: That's basically true, Madam Chair, yes. So do we absolutely need new audit topics today? No. But depending on timing of when we, for example, complete the Veterans Home audit, we do not have any other approved audit topics that we can work on at this point in time. We have the drug -- Prescription Drug Program for 2017.

CHAIRWOMAN WEBER: That's 2017.

MR. MAHONEY: Police Standards and Training which is not yet approved by the Fiscal Committee and those are the only really two audits that we have not begun.

REP. OBER: Madam Chairman.

CHAIRWOMAN WEBER: Yes, ma'am.

REP. OBER: A fast look here at these. I mean, item number one, the recycling is going to save the State money. Anything you can do to save money one would like to be doing that. But item number seven, the Charter Schools, is a constant budgetary in joint branches and education in joint branches' conversation which might be worth looking into because as they note there's an increase of interest in Charter Schools and this has not been audited. We end up

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

with a lot of questions, whether it's the finance or if you go to an education hearing on Charter Schools which might help clarify. While the Adequacy formula is interesting, with Ed Murdough retiring, the new guy just coming on board, he hasn't really been there long enough to get his feet wet. And what happened with the Adequacy formula forced us to pass that special bill beginning of January was before he came on board. So I don't know if that could be shoved till February and we could think about that one.

CHAIRWOMAN WEBER: So do we want to bring forward one at this point?

REP. OBER: I'd be in favor of one and seven right off the bat.

SEN. D'ALLESANDRO: Well, if I might, Madam Chair.

CHAIRWOMAN WEBER: Senator D'Allesandro.

SEN. D'ALLESANDRO: I would think that the Homeland Security Radio Inoperability Initiative, we have been talking about that ad infinitum, and I know that that's a critical issue in terms of safety. We had an incident in Manchester where the fire and police couldn't communicate with one another. And I think that still is the case in many areas of the state. I know they have been working on this for a long period of time. That's a real safety issue.

REP. OBER: The issue with three, and I believe it's a safety issue, Senator, is that it is jointly towns, cities, and State. For example, in Hudson, we had to take steps to make that happen. So it sounds like Manchester has got some steps to take. This would look at State. But I haven't really heard an issue on the State side and Earl Sweeney did come testify on the budget. We didn't hear anything critical on that.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

SEN. D'ALLESANDRO: I know the State is through the Department of Safety is looking. I think they're looking for a capital appropriation for radios. Now I believe with Colonel Booth leaving, who really orchestrated the Communication Task Force, I don't know what the level is at the present time 'cause I haven't been involved. I haven't been involved in it. I agree with you, there's a State issue and there's a local issue, but there has to be a connect between the State and the locals because we get called in all the time. I mean, the State gets called in. There isn't a major crime that's committed in the state that the State doesn't have responsibility for it. You don't have good interoperability between the locals and our Department of Safety, Homeland Security, then we're out of business.

I just point that out because it seems to me the one thing I'm witnessing is there's more and more activity taking place at that major crime level throughout the state. And I see it -- I see it on television all the time. I see the State Troopers coming out. I see the State Police come. Then I see the local police come and then the fire come. So you've got a situation where they all show up and if they can -- if they can't communicate with one another, that becomes problematic.

Now, I know Doug Aiken was doing -- was working on this for a long period of time. He was up in Laconia. So I don't -- I just bring that up. I think your other points are well taken, also.

REP. GAGNON: There's also the interface with Federal agencies.

SEN. D'ALLESANDRO: Right.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

REP. GAGNON: And other neighboring state agencies.

CHAIRWOMAN WEBER: Well, I was going to say, we're both on the Connecticut River and have those proximity to I-91 issues.

REP. GAGNON: And certainly, I mean, the national alone. I mean, you think about our entire borders, I think it has some value and some merit. I think they have made some strides, I think you're correct, Colonel Booth when he was on board. They have come a long, long ways from the days when -- remember that Colebrook case where the only way Vermont and New Hampshire, both State Police could talk together, is they had to park their cars next to each other and share the radio. So I think we have come a long ways since those days. But it's certainly something that should be examined because -- and it isn't just a terrorist attack. What if there's another ice storm?

CHAIRWOMAN WEBER: Well, was an issue during the Alstead flooding as well.

SEN. D'ALLESANDRO: The Alstead flooding, sure.

CHAIRWOMAN WEBER: Would it make sense at this point to perhaps consider going forward with numbers one, three, and seven, which were the ones that were raised at this point?

SEN. D'ALLESANDRO: Sure. Sure, sure. Yeah. Fine.

CHAIRWOMAN WEBER: Could I have a motion?

** SEN. D'ALLESANDRO: I move -- I move one, three, and seven.

REP. OBER: Second.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

CHAIRWOMAN WEBER: It's been moved and seconded. Is there further discussion? Motion being to move forward on numbers one, three, and seven so that you can work on developing Scope Statements on those. Is there any further discussion?

MR. FOX: Madam Chair.

CHAIRWOMAN WEBER: Yes.

MR. FOX: We'll first draft a letter for your signature to submit to the January Fiscal Committee for their approval.

CHAIRWOMAN WEBER: Absolutely.

REP. GAGNON: Could I just -- I agree with everything you're saying. But this other issue here, the Sex Offender Registry, I mean, that's something that maybe it doesn't, you know, it isn't a priority as one, three, and seven, but I think it's something that someplace down the road we need to collectively look at.

CHAIRWOMAN WEBER: Well, we'll be having another meeting at the end of January so it's not going to be as long a time as this time. So I think that perhaps we should turn our thoughts to that and have that as the next discussion. So are you ready for the vote on one, three, and seven? All in favor say aye? Opposed? So hearing no opposition.

***** {MOTION ADOPTED}**

CHAIRWOMAN WEBER: If you would draft that letter I'll sign it.

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

REP. OBER: Madam Chair, I assume they would bring this back. I don't really know enough about the Food Protection Program to make an informed decision whether we should do a performance audit. So maybe when you come back in January you could just elaborate a little bit on that program, at least for me.

MR. MAHONEY: We'll be glad to do that, Representative Ober.

REP. OBER: Thank you. Or e-mail me.

CHAIRWOMAN WEBER: You could make it a round-robin e-mail. More information is always better for all of us rather than less information.

SEN. D'ALLESANDRO: Information saves the nation.

CHAIRWOMAN WEBER: There you go. Is there any other business to come before the Committee? Seeing none. I would just say that with respect to the date of the next meeting, we'll try and set something up for the end of January because we will all be back fully into harness at that point, although it doesn't feel to me like I've let up much this fall. I suspect that will be a Friday or a Monday so that people can actually get to the meeting and we'll do the usual --

REP. OBER: Monday mornings are okay with me but Monday afternoon, Monday evening, I'm at UNH. But Monday morning I can be up for, you know, ten.

CHAIRWOMAN WEBER: Is Friday okay for you or not?

REP. OBER: In the afternoon probably would be.

CHAIRWOMAN WEBER: So Monday morning or Friday

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

December 3, 2013

afternoon. We'll send something because we have a number of people.

REP. OBER: Maybe Friday morning. I just haven't gotten that far yet. Because like you, spending too much time here.

CHAIRWOMAN WEBER: Any further business? Seeing none. Motion to adjourn.

** SEN. D'ALLESANDRO: So moved.

SEN. REAGAN: Second.

REP. OBER: Second.

CHAIRWOMAN WEBER: All in favor?

*** {MOTION ADOPTED}

(The meeting adjourned at 3:21 p.m.)

CERTIFICATION

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

Cecelia A. Trask

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

