

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE MINUTES

April 29, 2024

The Legislative Performance Audit and Oversight Committee met on Monday, April 29, 2024 at 9:00 AM in the LOB Room 212.

Members in attendance were as follows:

Rep. Ken Weyler
Rep. Gerald Griffin
Rep. Lucy Weber
Rep. Keith Erf
Rep. Mary Jane Wallner
Sen. Cindy Rosenwald, Chair
Sen. Carrie Gendreau
Sen. Rebecca Whitley
Sen. Howard Pearl
Sen. Timothy Lang

The meeting was called to order by Senator Rosenwald at 9:00 AM.

VOTE ON ACCEPTANCE OF THE MARCH 18, 2024 MEETING MINUTES:

On a motion by Senator Lang, seconded by Representative Griffin, that the minutes of the March 18, 2024 meeting be accepted. **MOTION ADOPTED.**

STATUS OF ONGOING PERFORMANCE AUDITS:

Christine Young, Director of Audits, and Jay Henry, Supervisor of Performance Audits, provided the Committee with brief updates of ongoing performance audits:

- NH Commission for Human Rights – a draft report was sent to the Commission on April 9th, and a meeting with the Commission will take place next week to answer any questions. Commission members are scheduled to meet on June 6th to discuss the audit report. The audit is anticipated to be presented to the Fiscal Committee in July.
- State Oversight of Special Education – no updates to report since last time, and work is still in progress.
- Education Freedom Account Program – discussions with the Department of Education regarding how to best continue with the performance audit of the program have continued to take place. The scope statement is not ready for presentation as of this meeting. The Department’s review of the contractor should be finished in approximately one month.

SUSPENDED, TABLED, AND POTENTIAL AUDIT TOPICS:

When asked by Senator Rosenwald how many performance audit topics could be taken on, Director Young stated one.

- Office of Professional Licensure and Certification (OPLC) – Senator Lang suggested leaving this topic alone for the time being, as there is a 96-page bill in progress right now to address some of OPLC’s issues.
- Department of Environmental Services Appeals Process – Senator Lang inquired as to how the appeals process takes place, exactly. Representative Weber noted that the issue seems to be more appropriate for a study committee, rather than an audit, due to its large nature. Senator Rosenwald mentioned a letter sent to her by members of the House Judiciary Committee urging a performance audit of the topic.

Bob Scott, Commissioner of the Department of Environmental Services, and Adam Crepeau, Assistant Commissioner of the Department of Environmental Services spoke, explaining the legal status of where the appeals process is statutorily.

Senator Rosenwald inquired about the contents of the letter received from the members of the House Judiciary Committee, as all four appeals processes were different. Commissioner Scott clarified that each council is aligned with the types of permits and appeals most appropriate for each council, and that their rules are all similar to one another.

Representative Erf asked if the councils are a part of DES or the AG’s office. Commissioner Scott stated they are administratively attached to DES but are otherwise separate. The council members are appointed and reappointed via the Governor and Council approval process.

Mark Dell’Orfano, Assistant Attorney General, spoke, and was asked by Representative Erf if an audit would be within the jurisdiction of the auditors. Each of the councils are governed by their own provisions under RSA 21-O, and are only administratively attached to DES. Auditor jurisdiction is something that would have to be researched further.

Commissioner Scott clarified that the hearing officer from the AG’s office will rule on matters of law, and the councils themselves rule on the facts of the case. Further clarification on the appeals process was given by Commissioner Scott, who stated that while the initial appeal is to the council, an additional appeal would go to the Supreme Court. Assistant Attorney General Dell’Orfano stated they are working on implementing a full-time, permanent hearing officer, and there is little to audit at this point due to changes still being implemented. Representative Weyler and Senator Rosenwald said that the topic does not seem ready for an audit.

- Contract Management by the Department of Health and Human Services (DHHS) – Representative Weyler questioned the bidding process of State contractors. Representative Weber responded and said this issue could be solved via an information request by the LBA, rather than an audit.
- Interplay between DHHS Division of Children, Youth, and Families (DCYF) and the Bureau of Children’s Behavioral Health – Senator Lang brought up an issue that involved a child being in the emergency room for nearly 60 days without receiving services, questioning if there was a potential bottleneck. Senator Whitley noted the great deal of overlap between DCYF and the Bureau, and wanted to ensure that the systems were consistent, as many children are being placed out of state by the Bureau instead of DCYF. A potential scope for this audit may involve how those out of state placements are made, in addition to how out of home decisions are made when involving the Bureau. Related to this is the question of who is paying for this, as funding for the Bureau in part comes from residential placements and children who are pushed into the Medicaid system due to a lack of coverage from private insurance companies. Representative Weber supported Senator Whitley’s comments.
- The Doorway Program – Senators Lang and Rosenwald noted the amount of money being invested by the State in this program. Senator Rosenwald outlined issues that could potentially be covered such as how many clients are being served, the time between client appearance and treatment or interaction with a provider, and how many provider interactions are via the phone or in person.

On a motion by Senator Lang, seconded by Senator Rosenwald, to move forward with the Interplay between DHHS Division of Children, Youth, and Families and the Bureau of Children’s Behavioral Health audit first, with the Doorway Program audit second. **MOTION ADOPTED.**

Director Young asked the committee if any topics should be removed from consideration. Senator Lang stated the Department of Environmental Services Appeals Process and the Office of Professional Licensure and Certification topics were moving targets, and should be removed for the time being. Senator Pearl also questioned whether Public Access to Bodies of Water should remain on the list as well.

On a motion by Senator Lang, seconded by Senator Pearl, the topics of the Department of Environmental Services Appeals Process, the Office of Professional Licensure and Certification, and Public Access to Bodies of Water were terminated from consideration. **MOTION ADOPTED.**

The following audit topics remained on the list of potential audits:

- Bureau of Elderly and Adult Services, Choices for Independence – this audit is currently suspended due to ongoing legal proceedings.

- DHHS Bureau of Developmental Services
- DHHS Contract Management

DATE OF NEXT MEETING AND ADJOURNMENT:

Next meeting is at the call of the Chair. Senator Rosenwald adjourned the meeting at 9:49 AM.


Sen. Cindy Rosenwald, Chair