

LEGISLATIVE PERFORMANCE AUDIT AND OVERSIGHT COMMITTEE

Legislative Office Building, Room 212

Concord, NH

Friday, May 2, 2025

MEMBERS PRESENT:

Representative Gerald Griffin, Chair

Representative Kenneth Weyler

Representative Keith Erf

Representative Mary Jane Wallner

Representative Lucy Weber

Senator Timothy Lang

Senator Howard Pearl

(The meeting convened.)

(1) Acceptance of the April 4, 2025 meeting minutes

GERALD GRIFFIN, State Representative, Hillsborough County, District #42: -- o'clock. I will open up the meeting and -- um -- the first -- the first item on the agenda is the acceptance of the minutes of the April 4th meeting.

****** LUCY WEBER, State Representative, Cheshire County, District #05: So move.

TIMOTHY LANG, State Senator, Senate District #02:
Second.

CHAIRMAN GRIFFIN: Are there any additions, changes, et cetera? Hearing none, I'll call for a vote. All those in favor?

******* {MOTION ADOPTED}

(2) Potential audit topics - Review Status of prior Performance Audits

CHAIRMAN GRIFFIN: The next item on here is potential audit topics. And I guess I'll -- I'll turn it over to -- um -- Director Young and Supervisor Henry. Good morning.

CHRISTINE YOUNG, Director, Audit Division, Office of Legislative Budget Assistant: Christine Young, Director of Audits for the LBA; and with me is Jay Henry, the Performance Audit Supervisor.

With your permission, Mr. Chairman, what we'd like to do, if it's okay with you, is maybe just walk you through the spreadsheet --

CHAIRMAN GRIFFIN: Yeah.

MS. YOUNG: -- of the ten-year status of our performance audits.

CHAIRMAN GRIFFIN: Yeah, please do that.

MS. YOUNG: Jay will walk you through the columns and -- uh -- what each item means.

JAY HENRY, Performance Audit Supervisor, Audit Division, Office of Legislative Budget Assistant: All right. So I think there's -- we found 30 reports based on the last -- uh -- ten years. You'll notice sometimes there's more than one agency connected to a report. For example, the Mental Health Workforce Licensing Audit, they dealt with four boards and the Office of Professional Licensing and Certification. So there's actually five agencies that should respond to that one audit. So there's more than thirty lines here.

Um -- we gave the year that it was released, the number of Observations that were in the report. We gave -- um -- how many of the Observations that the Agency said they have fully addressed, and also the percentage. Um -- we -- we also found out how many updates they have done.

And, also, the year of the last update.

Uh -- after we did all that, we sort of reorganized it to try to give an idea, at least, how we might look at it as far as the red ones on the top being ones that most of them have not provided an update, and then the green ones where they have reported that they have fully addressed all the Observations.

Um -- I -- I will -- I'd like to just mention that when they say they fully addressed all the Observations, that really means they fully addressed the Observations they agreed with. It may not mean that they accepted everything we said. And if you notice, we have number concurred, number of concurred in part, and number don't concurred. That -- that's their response to our Observations. So sometimes they'll say we fully concur and they're going to do everything that we recommended. Sometimes it's partially. And then sometimes they say nothing -- um -- cuz -- so you'll notice some -- some audits they didn't really concur with, fully concur with a lot of Observations; and, yet, they'll say they've a hundred percent, you know, addressed everything. But they addressed everything they -- they agreed with. So, anyway, that's just a -- a warning there, I guess.

CHAIRMAN GRIFFIN: So while -- while we -- while we're on that subject, let me ask a question. Um -- if you go in to do a performance audit and they don't concur with your Observation, right -- uh -- why is that? Is it they need to update a manual or what -- what -- what's going on there?

MR. HENRY: They may not --

CHAIRMAN GRIFFIN: Or they found another way to do it or --

MR. HENRY: Um -- they may not agree with our recommendation. They may not agree that even there's a find

-- there's a weakness. So there's, like, two things going on. There's -- we think there's a weakness. Maybe we say they're not following the law in this respect. You know, we think they ought to do something. And they -- they look at it differently and say, no, I think we're doing -- doing it over here and that's -- you see that in the reports. Because they'll -- we'll have our recommendations. They'll have the agency response, and they'll say we concur, we don't concur, we concur in part. And then if we don't -- really don't like what we say, we'll have a rejoinder saying to -- to tell the users of the report, yeah, we really don't agree with what they're saying.

So you'll see that in the reports, but there's nothing in law that says they have to do anything we suggest. It's really we're making recommendations to Management and it's up to them to make changes and then legislate. You have the opportunity to have oversight. You can challenge them on it -- um -- and you can have -- you can have disagreements over things. That's -- that's fine. I think that's --

MS. YOUNG: Yeah.

MR. HENRY: -- covers it.

MS. YOUNG: Pretty much covers it. Yep.

CHAIRMAN GRIFFIN: Representative Weyler.

KENNETH WEYLER, State Representative, Rockingham County, District #14: What you -- what you don't show is the number of times that you said legislative fix needed to be done and whether or not it was, in fact, done.

MR. HENRY: Yeah.

REP. WEYLER: That's not in here, right?

MR. HENRY: We didn't look at that. Yeah, that -- that would have been -- that would have taken more time to go

into that detail. Yeah.

REP. WEYLER: Thank you.

MR. HENRY: Um -- and we also at the end we have a final update. So we -- the ones in green, you'll notice they'll -- they've said this is our final -- our final update. And -- and in the Executive Order, the second Executive Order that's when they stop updating, because they said we've done everything we're going to do.

Um -- there are some notes here. I would like to mention some of the notes on some of these reports.

CHAIRMAN GRIFFIN: Please do.

MR. HENRY: Yeah. Um -- interestingly, the Prescription Drug Monitoring Program, which is sort of up in the middle of the red area, this -- it was -- used to be in the Pharmacy Board, and it used to be part of the Office of Professional Licensure and Certification back in 2017. And when we were doing this, I sort of remembered that that program moved over to HHS and we had to do some research. It was moved over in HHS in 2021. And I was thinking, I wonder if they even know that there's an old audit of this program.

I contacted the -- the internal auditor over at HHS, who happens to be here behind me and said guess what? You have a -- you have a -- you -- you've -- you've taken over a program that has an old audit, and I've told you before HHS has been very good at updating their reports. And they've actually within two weeks or so reviewed everything and they produced an updated report. I have it here if you want to look at it. They've also submitted it to Transparency New Hampshire. There's people from the program if you have questions; but, basically, they've said they fully resolved 24 of 26 Observations. And I think they substantially resolved one and partially resolved one.

So if you want to see an example of what an update looks like, I can hand that out.

CHAIRMAN GRIFFIN: Yeah, that would be wonderful.

MR. HENRY: Let's see.

CHAIRMAN GRIFFIN: Yes, Representative Erf.

KEITH ERF, State Representative, Hillsborough County, District #28: Regarding that, will you then be updating this spreadsheet to accommodate to --

MR. HENRY: Oh, yeah. This -- this is just an example what we can do. You guys are in charge of it; but I would move this down into, you know, the yellow area. What we doing here.

(Mr. Henry hands out documents.)

MR. HENRY: This is very typical of what we find on-line, this kind of report. They give you a little description of everything they've done.

CHAIRMAN GRIFFIN: Thank you.

MR. HENRY: One (Inaudible) person (Inaudible) is like rulemaking, which you all know is complicated.

So I think the purpose of this exercise, you've already had your first success in that. An agency has reacted to a question. And, you know, this is what you want I think as -- as a Committee. While you're looking at that, I'll just mention -- um -- I had another note on the Liquor Commission, Division of Enforcement and Licensing. They said they're at 68% sort of completed, but it's really higher than that. When you look at some of the Observations that they've partially done, like they've -- they may have, like, completed four out of five recommendations. So, you know, in a sense it's higher than

that percentage. Just wanted to give you a heads up for that. And Human Rights, they just released a report, wouldn't expect an update, you know, right now or they'll be coming up for an update real soon.

I think that's it. If you have questions about these columns and --

REP. ERF: So regarding the Prescription -- this is the Prescription Drug Monitoring Board update; correct?

MR. HENRY: Yes.

REP. ERF: And there's two listed in here, Lines 14 and 15. Are those actually both representing the same in the spreadsheet?

MR. HENRY: We're in the spreadsheet because -- um -- yeah. They've -- they both had Observations they had to respond to back in 2017, but they've -- now that the program has left them, Pharmacy has nothing to do with it now and OPLC has nothing to do with it. So that's why it's a -- it's a little weird.

REP. ERF: Does this relate to both Rows 14 and 15 or only Row 15?

MR. HENRY: They could answer that better than I -- probably I could; but not everything we recommended to the Board of Pharmacy and OPLC probably doesn't even match what's happening at HHS. Maybe in some of it I've heard -- I just talked to them and they said, you know, a lot of things had already been fixed. It's just no one, you know, I think only one report was updated in all that time.

REP. ERF: So the 14 and 15 referred to two different reports, not one originally as -- as it was --

MR. HENRY: It was one report, but it had two agencies that -- that we made recommendations for, yeah. Because

the Board of Pharmacy was part of OPLC.

REP. ERF: OPLC.

MR. HENRY: Yeah.

REP. ERF: Thank you.

CHAIRMAN GRIFFIN: Representative Wallner.

MARY JANE WALLNER, State Representative, Merrimack County, District #19: (Inaudible). I'm sure (Inaudible). Didn't we do an audit of Special Education?

MR. HENRY: Recently, yes. We did --

REP. WALLNER: Does that show up? It doesn't show up?

MR. HENRY: Down at the very bottom you'll see --

REP. WALLNER: Oh, okay.

MR. HENRY: Um -- yeah, special dispute resolution.

REP. WALLNER: Thank you. Thank you very much. I kept missing that one.

MR. HENRY: Yeah. And here's like an example where they agreed with, fully concurred with nine of the 20 Observations. Uh -- partially concurred with 11 and now they said they're 100% completed.

REP. WALLNER: Okay. Thank you.

MR. HENRY: Yep.

REP. WALLNER: That's helpful.

SEN. LANG: Mr. Chair.

CHAIRMAN GRIFFIN: Um -- Senator.

SEN. LANG: So, again, when I'm looking at this list the ones that give me pause and concern, given what's going on, is the Mental Health Workforce Licensing that has no action and nothing done, understanding it's -- it's been two years since that was done. When we started Mental Health Workforce, BMHP all the way down to OPLC, right? They're -- they've had this audit for at least a year and a half, two years, depending when it was released in '23, and they've done absolutely nothing when we're in the middle of or at least they're not reporting --

MR. HENRY: Their reporting, yeah.

SEN. LANG: -- anything. Put it that way. I'll correct myself and say they're not reporting any actions in a time when everybody seems to agree we have a mental health crisis.

So, for me, Mr. Chair, I'd be interested in either bringing them in and make them respond to either in writing or in person the actions and get them to update this list as one of our first priorities.

CHAIRMAN GRIFFIN: How -- how does the rest of the Board feel about them?

(Inaudible.)

CHAIRMAN GRIFFIN: Yeah, I think it's pretty unanimous.

SEN. LANG: Right. I guess what I'd say is for the next meeting either have a written response from them or ask if they're -- if they don't send one, have them show up so we can ask them the questions on how -- when do you plan on getting this resolved, you know, is what -- or -- and if they're willing to give it to us in writing, that's fine. If they want to show up then that's fine, too. I'm okay with either one, but.

CHAIRMAN GRIFFIN: Representative Weber.

REP. WEBER: And just so you -- just to be clear, that's a lot of different boards and a lot of different people, and I don't -- I don't disagree that they all ought to be here. I just want to make sure that we understand how much work we're creating for these folks to get them here. Um -- but I think I do believe it's a good idea to find out where we're at and what's going on.

MR. HENRY: Yeah. I'll just mention there are a lot of Boards in the red area up here. If you look through it, you'll see. And Boards are hard -- hard to deal with because, again, they're meeting once a month. Once they get over the audit, they're shellshocked. And then if -- they can forget about the audit, too, if you get new members. Um -- and also the Office of Professional Licensure, I think there's been a change in leadership from what I understand.

SEN. LANG: Dee Jurius.

MR. HENRY: So, I mean, we worked well with the former Executive Director. She really, I think, understood audits at that point. We probably need to connect with the new Director just to give him a heads up or her. I'm not sure.

Um -- but dealing with Boards is also they meet once a month. That means even if you send a letter, they got to wait till the next meeting so they can talk about it. Then they got to do something about it. It -- it's -- when we -- when we work with them it's like it can be a two or three months process to get them to do something because of how they meet. So you may run into that just telling them, hey, someone needs to show up here or you need to produce something. It may not happen like DHHS did. They're able to just get things done.

CHAIRMAN GRIFFIN: Representative Weber.

REP. WEBER: And I just want to note that, again, that this is -- this is -- working with these Boards in particular has been historically very difficult because the Boards are composed of professional people who sometimes are less willing to listen to anybody who doesn't have their specific qualification past their name. And I speak as one who's an attorney so I know that happens in all professions.

And -- and I think that plus the interaction between the Board doing the substantive regulation and the OPLC, which has been a long process of working on the licensing aspect. Um -- I think it's a really good thing to be going back over, because there's been a lot of change over time, particularly for some of these. And I think it -- it's something that has been a perennial problem. So focusing on it is -- it may not be an easy process, but I think there are some others that we might want to look at, too; but I -- I agree that this is absolutely the place to start.

CHAIRMAN GRIFFIN: I -- I think we all recognize that the current voluntary system isn't working too well if you look at a number of red items here. And it's been many years in some cases and -- and no correspondence. No -- no follow-up on the audits in terms of the current system where there's voluntary and -- and it isn't happening. It has nothing to do with -- with you guys. It's not your fault. It's the current system. And I think we need to look at changing that in some manner, some simple manner that doesn't put a burden, you know, a huge burden on you guys, but motivates -- motivates the people who were audited to respond to the Observations. And I think that's what we're trying to do here is -- is figure out a system that will work, and we're open to ideas, you know.

SEN. LANG: Chair, if I may? So, again, I -- I think a letter -- I don't think we need the whole Board here. I think the Chairman of the Board just come in, tell us what's going on. We give him 30 days' notice that we're asking you to show up on this date. We -- we're going to be

talking about your audit. Tell us what's going on. And he may say I got to go back to my Board. That's fine, but let's put him on the chair and let him say that -- um -- is kind of my -- my opinion is that it's the only way we're going to get progress, I think, is by using a little bit of, you know, the Chairman of the Board and the Legislature is asking you to show up at your performance audit because you have an outstanding performance audit item that's not been addressed. Please come prepared, ready to talk about your performance audit, and let them just show up. Invite every single Chair of those boards into the meeting. Um -- tell them the Legislature is requesting you attend this meeting to speak about your performance audit. And, again, I think that alone, just like it did with DHHS, might spur some updates for us alone just by having them and everyone else will start looking at this list going I better get in front of it before I to have be in front of the Board -- in front of the Committee.

CHAIRMAN GRIFFIN: Representative Weber.

REP. WEBER: I think that part of the problem is for some of these Boards the idea that there was an audit got lost many changes of personnel ago. So I think that getting back into them, and I would very much like to see us do that gradually as -- as we get the first ones done. Pick the next round and get them started. I don't want, you know, we can't do everybody all at once because we've got other things to do; but I'd like -- there are some other ones on there that I think we could do as time goes on.

CHAIRMAN GRIFFIN: It seems like a good logical starting point to me. Anybody disagree?

REP. WEBER: No.

CHAIRMAN GRIFFIN: So why don't we go forward on that basis.

SEN. LANG: So, Mr. Chair, we asking LBA to -- to draft

letters to each of the Boards --

CHAIRMAN GRIFFIN: Right.

SEN. LANG: -- listed under the Mental Health Workforce Licensing requesting that the Chairman or his designee show up prepared to talk about the performance audit.

MR. HENRY: We -- we do have a draft letter, not knowing -- not knowing exactly what you were going to do which --

SEN. LANG: Crystal ball is working great.

MS. YOUNG: Anticipated this, yes.

MR. HENRY: Which -- um -- I mean, you can use as a starting point. I don't know if you just want the Chair to work with it or the Committee can look at it. And, again, what -- not knowing how you were going to do this; but it's pretty close to what you're talking about.

SEN. LANG: I think the Chair can do that.

MR. HENRY: Okay, we can --

SEN. LANG: Everyone else he can work with LBA directly. (Inaudible) the language.

MR. HENRY: Yeah, it will go out under his signature, you know, from this Committee. And it'll -- basically they'll say, you know, deal with us, the LBA for -- for arranging it. And some of them will be like what is this about. And I -- I think we'll have to talk to a few of them.

HOWARD PEARL, State Senator, Senate District #17: You got to make sure (Inaudible).

MR. HENRY: That's right.

SEN. LANG: I just asked that when you send it to the Chair, you send a copy of the document so he knows what he's bumping into.

MR. HENRY: Remember what it is.

SEN. LANG: He has a copy of it. So make sure you send the letter and -- and the report, the audit report that we're talking about so he knows what he has to find answers for in case of change of staff.

CHAIRMAN GRIFFIN: It -- it -- it seems to me that that's a -- uh -- a good positive start and maybe the word will get around and -- and there'll be more compliance with the -- uh -- with responding to the audits.

MS. YOUNG: I agree with you, Mr. Chairman, and, you know, when you look at the list, best case scenario is maybe some of these Boards and Agencies at the top have made progress, but they just weren't aware of the reporting requirement on Transparent New Hampshire. So it will be good if we find out that that's the case; but either way we should know what the situation is.

CHAIRMAN GRIFFIN: Oh, I don't know who was first. Representative Wallner. I'll just go in the order.

REP. WALLNER: I just wondered how much follow-up do we do after -- after the audit is done and do these organizations that have not completed their recommendations, do they get a yearly reminder or --

MS. YOUNG: They do not. Um -- you know, this process is all self-reporting. So that's why it's a good idea that this Committee is embarking on this, you know, project to -- to bring them in and try to understand what the current status of the Observations in these reports is.

REP. WALLNER: I would think with -- particularly with these voluntary -- these volunteer boards that a yearly

reminder -- I mean, you may -- might have all new volunteers on it that didn't even know there was an audit.

MS. YOUNG: Right.

REP. WALLNER: So.

MR. HENRY: I think the Transparent New Hampshire process, it's all in Executive Order. So this was Governor Hassan, I think, under her administration that set out this process; but they just didn't have that one piece at the end like DAS, remind them or I guess -- well, they couldn't tell us LBA do it; but, I mean, no one was there to say --

REP. WALLNER: Remind them.

MR. HENRY: -- what if they don't submit it and what happens; and, basically, nothing happens until -- well, you guys reviewed it and said why aren't they, you know, updating this.

CHAIRMAN GRIFFIN: Representative Weber.

REP. WEBER: I was just thinking that some of them may have been complied with and just not reported. The other thing that may have happened and, obviously, it happened with the Prescription Drug Board, is that the statutes may have changed in material ways over some of these times. So, you know, for some of them the answer may be does not apply anymore because something happened to it.

Uh -- but the other thing is that we always have the option. This was done by Executive Order. But if we don't find that there's a significant degree of progress, we could always decide to take statutory action on that as well, I assume.

CHAIRMAN GRIFFIN: Uh --

REP. WEBER: I'm never really clear about the

interaction with the Executive departments and what we can order them internally but.

CHAIRMAN GRIFFIN: Representative --

REP. WEYLER: Weyler.

CHAIRMAN GRIFFIN: -- Weyler.

REP. WEYLER: Thank you, Mr. Chairman. So I wished we had this when we did the review for the budget. Thankfully, the Senate, if they haven't reviewed all those agencies now, when they going to be reviewing they'll have this before them to say, "By the way, I've just looked at this audit you did so many years ago, and what have you done about that?" And it might be a way to remind them that, you know, they -- there are people reading these audits that they probably assume that most people don't -- don't -- are not familiar with the audits and can just go along about their business and ignore what was written before.

So next time we do any review on budgets we're going to be looking at these things that how come you haven't responded. Thank you.

CHAIRMAN GRIFFIN: I'll rec -- I'll recognize Representative Lang for a motion.

****** SEN. LANG: I move that we allow the Chair and LBA to draft a letter to each of the Board -- each of the Board Chairmen asking of the Chairman or their designee come in to speak to the audit discrepancies or things that haven't been accomplished through the performance audit for everything starting with Mental Health Workforce Licensing. Those various Boards each will get a letter to come do the next meeting.

CHAIRMAN GRIFFIN: Okay. It's been moved and seconded. We'll have a vote show of hands. I guess --

SEN. PEARL: (Inaudible). Okay.

CHAIRMAN GRIFFIN: It's one abstention. Otherwise, everyone voted to go forward with the motion.

MR. HENRY: We're going to ask the next meeting -- uh -- I think there was mentioned the first -- last meeting you said the first Friday of every month. Is that still -- still the case?

SEN. LANG: So the next meeting would be -- it's later on the agenda. I was going to talk about it, but we can jump in now, if you want. The next meeting we -- we had scheduled, again, the first Friday which should be June 6th. And I don't know what day we're -- when do we have to be out of the LOB?

CHAIRMAN GRIFFIN: We'll be out of here by then.

SEN. LANG: So I -- I'd recommend, Mr. Chair, if it's okay with you, I can speak to my aide who manages State House 100, the Committee room right there in the State House and see if we can get that Committee room for this time period.

(Inaudible).

SEN. LANG: I'll confirm the location. What's that?

REP. WEYLER: (Inaudible).

CHAIRMAN GRIFFIN: They told us -- they told us we had to be out by what, the 22nd?

REP. WEYLER: 22nd of May.

SEN. LANG: So that's why we can use the State House. I'll confirm it with my aide, but we'll book State House 100 for the same time slot.

CHAIRMAN GRIFFIN: So if you're able to get it you'll (Inaudible).

SEN. LANG: What's --

CHAIRMAN GRIFFIN: (Inaudible).

SEN. LANG: Yeah, I'll know right away. I'll let you know.

CHAIRMAN GRIFFIN: Representative Weber.

REP. WEBER: If -- if what we've been told is that all rooms have to have all the Representatives' stuff out of them. But we don't know which rooms they're going to keep open for the Committee of Conference process. But we were told that some of the rooms they will start immediately, and I assume that starts with taking all the furniture over to Granite Place. So -- uh -- we were told that as of May 22nd there are going to be a lot of rooms that are completely unusable, if not torn up. So that was just what we heard.

MS. YOUNG: Mr. Chairman, just an FYI. That Friday, June 6th, I will be out of town. I won't be able to attend that meeting; but I have full confidence in Jay to handle that meeting. Just wanted to let you know that.

CHAIRMAN GRIFFIN: I -- I think we probably ought to look ahead to July, too. I don't -- I don't know whether we should be meeting in July. A lot of people are on vacation.

REP. WEBER: We're usually forbidden in the building in July.

REP. WEYLER: Yeah, July and August.

CHAIRMAN GRIFFIN: Yeah.

SEN. LANG: Standing Committees and usually everyone

like JLCAR meets in July and August as well as other committees meet. So the Joint Committees tend to -- can still meet as long as we have a place to meet, and I'll just ask -- I asked my aide already. She looks like she's about to answer back. I asked to book that for the first Friday of every month until we figure something else out. So she said yes, we'll do it in State House 100.

MR. HENRY: (Inaudible).

SEN. LANG: She can -- well, you'll need to do the scheduling. Just notify Sonya Caldwell, my aide, and she'll book out the room. Whoever sends out the normal notification for this Committee we'll send it out.

REP. WEYLER: (Inaudible).

REP. WEBER: Yeah, and July is actual Independence Day. So that might not be --

SEN. LANG: (Inaudible) rest of the summer after their first meet -- the next meeting.

CHAIRMAN GRIFFIN: To move on with potential audit topics. Director Young, you mentioned last meeting you might -- you might have some potential audit topics for the future.

MS. YOUNG: I think I was just referring to we would entertain hearing about additional audit topics that you may be interested in. Um -- we're certainly not ready to start on those yet, but we'd like to get our list going again. So if you have any ideas, we're ready to listen.

CHAIRMAN GRIFFIN: Representative Weyler.

REP. WEYLER: I had written down on June 30th, 9 o'clock, Room 100, Capital Broad -- oh, that's a different committee. I'm sorry. I -- I was confused for a minute over my own abbreviations. Disregard.

CHAIRMAN GRIFFIN: Representative Erf.

REP. ERF: One of the areas that I'm still interested in is the Special-Education Audit never looked at local school districts and that is really, I think, where many of the issues are. And having spent some time with these folks and also with the LBA himself, it is possible to audit local school districts, and I think we ought to look into -- into doing that, at least at some level, to understand where -- how the Special-Education process is working the local district since that seems to be where -- where a lot of the problems are that we're learning about in the budgeting process.

CHAIRMAN GRIFFIN: Representative Weber.

REP. WEBER: I'm -- I'm hoping that somebody will explain to me how we are allowed to audit something that is not an Executive Department.

REP. WEYLER: Because we give them money.

REP. ERF: I believe the LBA can speak to that. And if not, if it's not the two of you, I'm sure Mike can.

MR. HENRY: I can get the language.

MS. YOUNG: Right. I'm not sure what statute it is, but I believe we are allowed to audit five non-state entities -- is it per Fiscal Year?

MR. HENRY: I think it's over a number of years.

MS. YOUNG: Or over a number of years. Maybe in a five-year period. Don't quote me on that. But our statute does allow us to audit --

REP. WEBER: Okay. Thank you.

MS. YOUNG: -- a certain number of non-state entities.

REP. WEBER: So may I have a follow-up? So that is clarifying things because I was remembering that there was significant pushback from the Department of Education when we wanted to audit the entity that administers the Education Freedom Accounts. Am I correct in thinking that each school district would be a separate entity? So we would have to pick a school district or school districts?

MS. YOUNG: That would be my interpretation -- um -- that each district would be considered one non-state entity.

REP. WEBER: Right.

MS. YOUNG: We have never -- just for the record, we have never done that. We have never audited a non-state entity yet. So that would be new for us. But, again, in statute the statute reads, it's RSA 14:31-a, it says the Audit Division, the authority of the Legislative Budget Assistant to conduct post-audits on non-state agencies shall be limited to five entities in a five-year period.

REP. WEBER: Okay. So it's basically one a year then.

REP. WEYLER: (Inaudible).

MR. HENRY: That change -- that -- ooh.

MS. YOUNG: Yeah, I'm not sure the year of the change, but the last time this law was updated was 2007.

REP. WEYLER: (Inaudible).

MR. HENRY: I think it was an addition at some point. I think you may be right.

CHAIRMAN GRIFFIN: It -- it -- it seems to me that if we're going to do that, the ideal situation would be to

find a -- a town or a district, school district, where the School Board invited us in. Whether that's possible to find or not, it seems to me that would be the ideal situation. Because then -- then you'd be welcomed rather than -- rather than forcing yourselves on them, you know. I don't know how we go about that, but -- Representative Weber.

REP. WEBER: (Inaudible). That -- that was a thought that had crossed my mind as well. And I -- my concern is that anybody who might want to invite us is probably not experiencing the kinds of issues that gave rise to the thought that we might want to look at this.

Um -- the thing that I think we're all -- I mean, obviously, initially you folks are going to have to give some thought to is there's a huge difference between auditing Manchester and auditing Roxbury, which has a town budget of slightly less than a large mobile home park. And -- um -- and they tuition all their students so that wouldn't be very helpful.

But, you know, we've got such a vast array. And to my mind, and I'm perfectly willing to be persuaded by more thought on how we do this, but to my mind auditing one of the many school boards -- school districts is very unlikely to produce a report that is applicable to more than just that school district. And I think that what we or what I would like to see is that if -- if we come up with something, we'd like to come up with something that is more comprehensive.

So I'm just talking myself through the thought process. So, I think that it's perfectly worthy of more study, but I think that we're going to need to study it a lot to make sure that something's designed that will give us the information that we need for further action.

CHAIRMAN GRIFFIN: Representative Weyler or Erf.

REP. WEYLER: I think that --

CHAIRMAN GRIFFIN: Sorry.

REP. ERF: So my suggestion would be to actually hit a couple of districts. I agree with you. I think you want to go large, like a city. I think you want to go medium like, you know, not a -- whatever the town was you mentioned with a big mobile park, but something in the town side.

We need some insight into how Special-Education coding is happening. There's been huge growth in this area, and it's not clear why. And it's having a huge impact on our budgeting. In particular, making it very difficult to budget because it's not clear -- um -- what -- what's going to happen from year to year, other than the fact it's growing like crazy.

And this is where I'm trying to remember or Senator Reagan, when I first came on this Committee, this is exactly what he had asked for, and then basically was told kind of like this kind of discussion here. Well, we really can't do that. And I dug into this to learn what we just learned here as well that we can do this. And we learned from the special-education audits that have been going on. Great as they've been, they have not addressed the fundamental issues that Senator Reagan had originally raised regarding Special-Education and how kids are coded, and why they are coded, why they aren't coded; parents' concerns with the coding or lack of coding, and so forth.

My biggest concern -- I mean, there's a lot of issues there obviously. My biggest concern has been the financial aspect since that's, you know, sitting on the Budget Committee what we -- what we deal with. Um -- but -- but there's certainly -- and -- and I -- I grant you, we're not going to learn about the whole state, but we need some insight, I think, at that level in terms of what's going on. Because if you -- if you do it, and I used to be on the Finance Committee in my town in Weare and -- and on the School Board piece of it, we had two school boards in town,

and it's a black hole to townspeople when they go to the local school budget meetings, including being on the Finance Committee where you can ask a lot of questions, can't ask any questions about Special-Education because privacy and all that kind of thing.

So you all can go deeper than that because you as the auditors are able to have that kind of access, if you will. So that's why I raised it as a possibility. If it doesn't fit right now, you know, we can consider it, you know, down the road. I get you're very busy. I understand that. But I do think it's a worthwhile topic to at least put on the table for discussion.

CHAIRMAN GRIFFIN: Representative Weyler.

REP. WEYLER: The way I would proceed is review the DOE 25s, which should show the amount of money spent on Special-Ed and pick out the ones that have the highest percentage of Special-Ed. coding. Say the top ten. And then we write a letter asking for more detailed signed by the Chairs of the House Finance Committee and the Senate Finance Committee, both members signing that letter saying we need to know why you're so far out of balance with the rest of the state and the rest of the country that you have so many. And -- and if it's -- if we're not just picking on one, if we get probably the top ten, then we may find out -- may at least alert them that, hey, you're overdoing this. We may get some answers back. We may not. But I think it -- it might be a way to proceed and get more attention from the -- the Superintendent when it's coming from the Finance Chairs.

You know, this is something we'll be looking at again, so it might be worth a try instead of trying to dig into one. Just look at the DOE 25. What did you spend for Special-Ed. Write them a letter. How many different codings do you have? Who's done it? How many different and -- and what's the history and so on and so forth and -- and -- uh -- you know, these are things that -- that escape the

notice of the public as Representative Erf has said. They don't get these questions answered at the School Board meetings. Thank you.

CHAIRMAN GRIFFIN: Senator Lang.

SEN. LANG: So, again, I think I agree. Obviously, I was thinking looking at the ratios based on the number of students and the -- and the number of Special-Education spending. And I think, you know, look at that top list. But I also think it's important to look at the bottom list. Like what are the -- what are the schools that are doing it right doing right as well, right, is how are you keeping your Special-Ed. costs so low as compared to this school that has huge Special-Ed. costs as a ratio to number of students. I think that there's reason to do both. And to understand what might, you know, lessons learned kind of thing for the -- for either side.

But I -- I was going to ask that maybe LBA can bring back at the -- in the June meeting, we don't have the current list of what -- what's -- what is currently open again for existing audits, as well as what have already been previously approved audits that are in the hopper, and then what the expectations of when they're going to be completed. So maybe in June you can bring that back so we can remind us what is the current open or in the pipeline audits, when they're expected to be done, and then from there we can look at any other agencies we might want to do.

But I do think that Representative Weyler's on the right track of viewing some sort of ratio for the student. I just don't know if -- if it's -- we can do five in five years that mean we can do two in one year and pick one high and one low and do an audit of each in a given year. So when it comes back we can do a compare and contrast to see what the two audits differences are. Might be an appropriate way to do it, and then we can ask DOE to look at the Special-Ed. funding and say, okay, here's two school

districts. We recommend that if you're going to audit, one high, one low, and let DOE pick for us so it's not any member here picking on a community.

CHAIRMAN GRIFFIN: Representative Weber.

REP. WEBER: I think that's a really interesting approach, and I think -- I think it's particularly interesting from a finance point of view, but it's also interesting from the educational point of view because what we might be finding on the low ones is that they're just not coding kids who ought to be coded. And I understand that that's more headaches for everybody who sits on finance, but it's headaches for everybody else, but it's also kids who are getting lost in the shuffle, which is exactly what some parents have been complaining about it. And it's -- it's important to know where we're at either way. So I think -- I think the listing itself would be really interesting just to take a look at.

CHAIRMAN GRIFFIN: I, myself, I've always thought that some of these larger SAUs would be -- would be a logical target where they -- they -- um -- they provide -- um -- supervision of the Special-Education for multiple towns. And I wouldn't count them out as a -- as a -- as a target. You know, somewhere between an individual school district and a city -- a big city school district. So I think we need to look at and -- and the approaches that have been brought forward presumably would do that, because they'd fall into -- into those categories.

SEN. LANG: Mr. -- so do we want to task somebody on the Committee to reaching out to DOE and maybe doing those ratio numbers for us and getting a list of -- of school districts and students and average costs for Special-Ed. and see what that looks like, and then we can make some recommendations based on that list. You know, asking for the top ten and the lowest ten, and we can make a recommendation list from that to, you know, make a motion to move forward with an audit on two local school districts

and pick them out. Is that what we think as a plan to do?

CHAIRMAN GRIFFIN: Are you volunteering?

REP. ERF: I'm -- I'm willing to volunteer. If you just what ratios you're looking for, I -- I'll have the conversations.

SEN. LANG: I think the ratio is total ADM versus spending, Special-Ed. spending.

REP. ERF: Just spending count versus student count?

SEN. Lang: Yeah. Representative Weyler, you agree with that?

REP. WEYLER: Well, if we're looking at -- if we're looking at Special-Ed., I'd look at the percentages of Special-Ed. because our state is way above the national average, and I think some of it is some of these spurious coding things. Like, you know, anxiety.

SEN. LANG: Hm-hum.

REP. WEYLER: I remember going to visit a Charter School. We have three students here that are here because they had codings of anxiety. Once they're here, they don't have it anymore. So it's, you know, that -- that kind of thing. So some of this coding, if -- if we are looking at the abuse of Special-Ed. and here's this -- this School Board that has 19% versus the State average of probably 13%, which is still high, and maybe there'll be another school district that's only 7%. So that's -- that's the thing I think that would be a key to what's happening in your Special-Ed. coding in your particular district, which never is really allowed to look at.

Anyway, that's my thought. But, as you say, it could be the percentage of students or it could be the, you know, the total number; but percentage I think would be a big --

a big clue. Thanks.

SEN. LANG: Mr. Chair. Follow-up.

CHAIRMAN GRIFFIN: All right.

SEN. LANG: So, again, I would -- again, I think it's a combination of both, right? If you have a very high Special-Ed. population compared to the rest of the state, that's one thing to look at. Or we have an excessive coding or and on the opposite side if you have very low is it you're not coding enough, right? And so I think, again, it's a combination of both total student count to number of Special-Ed. kids, as well as Special-Ed. kids to spending; right?

And I think Frank --

REP. WEBER: It's both, exactly.

SEN. LANG: I think Frank would be able to get us a list of -- the Commissioner will be able to look at that and give us the outliers and give us a list of those outliers, and then we can make a decision on what district we would like to look at that are those outliers in there.

REP. Weyler: Good.

REP. ERF: I'll have that conversation with him.

CHAIRMAN GRIFFIN: Representative Weber.

REP. WEBER: And if it's -- I don't know how the -- how labor intensive producing that report is. If it's something that they can just press a button and generate a report, it would be very interesting to see the whole state ranked top to bottom.

REP. WEYLER: Their Caitlin person that does numbers could do it within the hour.

REP. WEBER: Okay. Well, if it's possible to do the whole thing top to bottom, then I think -- I just think that would be really interesting. So -- but I don't want to pile-on unnecessary work just for my gratification. But if it's something that somebody can just generate those numbers quickly, I think that would be really helpful to have the whole set, and then we can pick from everything.

CHAIRMAN GRIFFIN: So --

REP. WEBER: And thank you for doing it.

CHAIRMAN GRIFFIN: Mr. Henry.

MR. HENRY: Yeah. Just want to remind, you probably remember, we are in the middle of a big Special-Ed. audit of the Department right now. It's looking at how the Department is managing the program and how they're overseeing the State, and that would probably inform what you want to do in the future.

Uh -- it's time-wise, we're still looking at the end of the year. And, you know, one of the reports we keep saying most likely going to be big. So, anyway, it's a topic I think you can get ready for it, but you may want to see that report and that will maybe answer questions or generate questions for you or further audits.

CHAIRMAN GRIFFIN: Well, I think what Representative Erf is -- is saying is that he -- he can get us what we need in terms of -- of the -- the outline, you know. And -- and --

REP. ERF: If you not, I'll report back.

CHAIRMAN GRIFFIN: Right. That shouldn't put a huge burden on you people, so. Okay. I think we've got a plan to move forward, and we'll go on to the next thing which is other business.

(3) **Other business**

CHAIRMAN GRIFFIN: Is there any other business? Okay.

SEN. PEARL: (Inaudible).

SEN. LANG: Second.

(4) **Date of next meeting and adjournment**

CHAIRMAN GRIFFIN: We've already done the date of the next meeting. So the place -- the place will get confirmed and --

SEN. LANG: It's confirmed.

CHAIRMAN GRIFFIN: Hm?

SEN. LANG: It's confirmed.

CHAIRMAN GRIFFIN: It's confirmed. Okay. So we'll be in Room 100 on June 6th at 10 o'clock. 10 o'clock work for everybody?

REP. WEYLER: (Inaudible).

CHAIRMAN GRIFFIN: Yeah. We're getting into the summer months. We're always going to have one or two that have a conflict. Okay. If there's nothing else, I'll close the meeting.

(Meeting concluded.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

C E R T I F I C A T E

I, Cecelia A. Trask, a Licensed Court Reporter in the State of New Hampshire, do hereby certify that the foregoing transcript is a correct transcription from the YouTube recording of the proceeding in the above-entitled matter to the best of my professional skill and ability.

Cecelia A. Trask

Cecelia A. Trask, RMR
New Hampshire LCR#00047