

MINUTES OF THE MEETING OF THE
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION
Legislative Building
401 South Carson Street, Room 4100
April 13, 2010

This is the first meeting of 2010.
This is the second meeting of the 2009-2010 Interim.

A meeting of the Audit Subcommittee of the Legislative Commission (NRS 218E.240) was called to order by Assemblywoman Sheila Leslie, Chair, at 9:37 a.m., Tuesday, April 13, 2010, in room 4100 of the Legislative Building, Carson City, Nevada, with a simultaneous video conference to room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

AUDIT SUBCOMMITTEE MEMBERS PRESENT:

Carson City:

Assemblywoman Sheila Leslie, Chair
Assemblyman Tom Grady
Senator Maurice Washington

Las Vegas:

Assemblyman Mo Denis
Senator Bob Coffin

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Paul Townsend, Legislative Auditor
Donna Wynott, Office Manager
Eugene Allara, Deputy Legislative Auditor
Jane Bailey, Audit Supervisor
Daniel Crossman, Deputy Legislative Auditor
Diana Giovannoni, Deputy Legislative Auditor
Dennis Klenczar, Deputy Legislative Auditor
Gary Kulikowski, Deputy Legislative Auditor
Sandra McGuirk, Deputy Legislative Auditor
Doug Peterson, Information Systems Audit Supervisor
Lee Pierson, Deputy Legislative Auditor
Jeff Rauh, Deputy Legislative Auditor
Shannon Ryan, Audit Supervisor

The roll was taken. A quorum was present.

Item 1— Approval of minutes of the meeting held on November 5, 2009

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO APPROVE THE AUDIT SUBCOMMITTEE MINUTES OF NOVEMBER 5, 2009. THE MOTION WAS SECONDED BY ASSEMBLYMAN DENIS AND CARRIED UNANIMOUSLY.

It was noted that Senator Washington arrived at the meeting.

Item 2— Awarding of Contract for Single Audit for the State of Nevada for fiscal years 2010 through 2013 (NRS 218G.350)

Paul Townsend, Legislative Auditor, stated information relating to the awarding of the Single Audit contract was included in the Committee packet of information provided to the members. He introduced Shannon Ryan, Audit Supervisor, who is the Single Audit Coordinator for the Audit Division.

Mr. Townsend explained the Single Audit report, which would be presented later in the meeting, is required by law to ensure the State continues to receive federal funds. He stated in Fiscal Year 2009 the amount of Nevada's expenditure of federal funds was \$3.8 billion. Mr. Townsend continued, many states have the state legislative auditor conduct the audit, however in Nevada it has been contracted out for the last 19 years.

Mr. Townsend explained the process for awarding the contract began by contacting the State Board of Accountancy to identify all firms licensed in the State of Nevada. The firms are contacted and requested to provide specific information if interested in conducting the Single Audit. The responses are then evaluated. It was determined that three firms were of sufficient size and experience to conduct the Single Audit. A request for proposal (RFP) was provided to each of the firms.

Mr. Townsend reported two proposals were received timely. He added it is fortunate to have these two very reputable Nevada firms interested in performing the Single Audit. He noted they were Kafoury, Armstrong & Co., and Piercy Bowler Taylor & Kern. Mr. Townsend continued, the proposals were scored in five areas. The results were reported in the proposal summary noted in the Committee information packet.

Mr. Townsend reported both firms were capable and well respected, however Kafoury, Armstrong & Co., received a higher ranking in all areas except cost. Mr. Townsend explained the first area was firm capability in which the proposal from Kafoury, Armstrong & Co., indicated a strong knowledge of applicable auditing standards as well as requirements under the American Recovery and Reinvestment Act (ARRA). The firm had already participated in a pilot project and had audited the first round of programs. As noted in their proposal, while ARRA funds do change the scope of the Single Audit the firm has the learning curve behind them. He explained of the \$3.8 billion in federal expenditures in 2009, \$367 million were ARRA funds. He added this amount would increase next year.

Mr. Townsend stated the next area was staff qualifications. In examining this area Kafoury, Armstrong & Co. had a more experienced staff that would be participating in the Single Audit. He added the project manager was a shareholder and has been with the firm for over 30 years. Kafoury, Armstrong & Co., supervisory staff also had extensive

experience with governmental entities. Mr. Townsend added that one senior manager with 11 years experience has coordinated a single audit for multiple governmental clients. The senior manager over the financial component has over ten years experience and also currently works with numerous governmental entities. The third senior staff member has over seven years experience with the firm and the State Single Audit.

Mr. Townsend noted in the area of governmental auditing experience the higher ranking of Kafoury, Armstrong & Co., is due to the firm's extensive experience in conducting audits and providing services to more than 50 governmental entities. This includes some of the largest in the State. In addition to performing the State Single Audit for the last 16 years, the firm also conducts audits in Clark and Washoe Counties, Clark County School District, Washoe County School District, and the cities of Las Vegas, Reno, and Sparks.

Mr. Townsend reported in the area of technical approach Kafoury, Armstrong & Co., provided a very detailed organizational chart explaining how the engagement would be staffed and managed. They also provided a work plan describing how the financial and compliance components would be performed. In addition the firm indicated a strong understanding of the work necessary to satisfy audit requirements related to ARRA funds.

Mr. Townsend stated in the area of cost Kafoury, Armstrong & Co., did not have the lowest cost; however, based on a review of other states that contract out the single audit, the cost was fair and reasonable.

Mr. Townsend stated in closing, this was arguably the most important contract the State of Nevada awards as it helps to ensure what will amount to over \$4 billion in federal expenditures next year. Mr. Townsend stated Kafoury, Armstrong & Co., had the strongest proposal. He offered to answer questions from the Committee. Mr. Townsend noted that representatives from both firms were present in Carson City to answer questions from the Committee.

Chair Leslie thanked Mr. Townsend for the presentation. She called for questions from the Committee in regard to the process used to rank the proposals.

Senator Coffin stated he had studied the information provided in the Committee information packet as reported by Mr. Townsend. In regard to the scoring method Senator Coffin would not dispute that in Mr. Townsend's opinion Kafoury, Armstrong & Co., might score higher in these categories except for the bid. He stated the scoring method would be more appropriate for three or more entrants in a bidding competition because the awarding was in whole numbers and not in fractions. He added in the firm capability category Kafoury, Armstrong & Co., scored ten and Piercy Bowler Taylor & Kern scored five which Senator Coffin thought as very unlikely that one firm was twice as good as the other in the category of firm capability. Senator Coffin noted with the final total scores of 93 versus 67 he suspected there must be something wrong with the scoring process. He related that he had called Mr. Townsend on this issue. Senator Coffin asked that Mr. Townsend recall that phone conversation, and suggested that Mr. Townsend might have additional thoughts on the issue. Senator Coffin added if there had been a third firm there would have been a much different outcome on scoring, not necessarily a change in the leader, but rather the difference between the two firms.

Mr. Townsend stated research on the ranking method had identified this method as the best practice for awarding contract services in state and local governments. And the ranking method as Senator Coffin had described quite accurately was not intended to show that one firm was twice as good as another but was intended to move away from very close scores to better indicate which firm was first and second. He stated that this method was recommended with the number of firms ranging from two to five, adding that this method should not be used for over five firms. Mr. Townsend stated both were reputable firms and the method utilized demonstrated that one firm stood out and deserved a higher ranking.

Senator Coffin asked for comment from Mr. Townsend on the price of services category. He stated, assuming they were both capable firms as stated, with a bid which was approximately 20% less than the other firm; why would the lower priced firm only be given a scoring difference of four points. He remarked there would be little incentive to come in at a low bid if a firm does not receive a better ranking for a lower price.

Mr. Townsend stated cost was an objective area and was included to provide full disclosure. Mr. Townsend noted that established methodology was followed.

Senator Coffin thanked Mr. Townsend for his testimony. He had additional questions but deferred to other Committee members to ask questions.

Assemblyman Grady commented that one firm had more experience than the other in the area of governmental auditing. He noted that both were respected firms. He asked to hear testimony from the two firms.

Chair Leslie stated she was reluctant to hold a full presentation, however the Committee would be able to ask questions of the representatives of the two firms. She noted that a function of the audit staff was to provide the necessary information to the Committee.

Chair Leslie asked for additional information on how other states paid for the single audit. She asked if the proposed prices were within the range paid by other states.

Mr. Townsend replied eight other states contract out their single audit. Comparisons revealed the average rates were well over \$100 per hour. In comparison with the two Nevada firms, even with additional work caused by ARRA funds, the rates are reasonable. He noted that across the country rates were going up per fiscal year. Mr. Townsend noted that in spite of the difficult economic times there was an increased burden on states to provide greater accountability for the ARRA funds and increased scrutiny of federal funds in general. Mr. Townsend noted the workload is increasing for auditors across the country.

Assemblyman Denis asked why only two firms would be interested in bidding on the single audit project.

Mr. Townsend explained as indicated in earlier testimony, an extensive process is utilized to identify interested firms that are licensed in Nevada. He stated a larger number of firms indicated interest in doing work for the State, however a fairly high standard is set to include firms that are the size and have the experience to complete the

project. Three firms met these standards. Responses were received from two firms. The third firm's response was not received timely.

Assemblyman Denis asked about ranking requirements for governmental auditing experience.

Mr. Townsend replied they were looking for governmental auditing experience on the state and local levels. A review of large entities such as Clark County and the Clark County School District revealed a diverse group of funds. The Single Audit also includes diverse programs in areas such as health and human resources, DOT, and environmental issues, which must be addressed in the Single Audit. This involves different accounting systems.

Assemblyman Denis asked how much of the state experience was part of the ranking versus overall experience. He asked for a percentage.

Mr. Townsend replied the Single Audit is the biggest audit for the State. He pointed out that the firm of Piercy Bowler Taylor & Kern does work for the Colorado River Commission which is a component unit of the State. The firm listed working for entities such as the University Medical Center, Las Vegas Convention and Visitors Authority, Colorado River Commission, Regional Transportation Commission of Southern Nevada, City of North Las Vegas, Las Vegas Valley Water District, Southern Nevada Water Authority, Big Bend Water District, Las Vegas/Clark County Library District and the Boulder City Library District. Mr. Townsend pointed out that Kafoury, Armstrong & Co., listed working for entities such as Clark and Washoe Counties, Clark and Washoe County School Districts, and the Cities of Las Vegas, Reno, and Sparks. Based on the work performed by each firm, Kafoury, Armstrong & Co., ranked higher in this area.

Assemblyman Denis stated he had specific questions for each firm also.

Chair Leslie asked him to save his questions for the time being.

Chair Leslie recognized Senator Coffin.

Senator Coffin stated the Legislative Auditor gives out audit responsibilities to various firms periodically and some of these audits today may have been done by other firms. He was unsure if any of them had been done by Kafoury, Armstrong & Co., or Piercy Bowler Taylor & Kern or whether they were done by other firms selected by the Legislative Auditor. He asked whether the Legislative Counsel Bureau gives any of these other audit responsibilities, such as smaller audits, to either one of the two candidate firms.

Mr. Townsend replied the Legislative Counsel Bureau (LCB) has an audit done annually. The LCB Director recently contracted with Kafoury, Armstrong & Co., for that audit. He believed the Legislative Commission was informed of that contract, adding that this was the LCB Director's responsibility. He explained that the Audit Division was not involved in that process.

Senator Coffin asked about audits on boards and commissions. He asked who did the audits and asked if the boards and commissions arranged for their own audits. He was

aware that the Legislature looked at the audits. He asked if LCB assigned any of the auditors.

Mr. Townsend replied that the boards and commissions independently contract for their own audits. He stated they are required by statute to send the Legislative Auditor a copy of each audit and that the Audit Division monitors the boards and commissions to ensure the audits are conducted. He reiterated the boards and commissions contract for their own audits, adding that the individual boards approve the audits.

Senator Coffin was not aware until Mr. Townsend had mentioned it that Kafoury, Armstrong & Co., was contracted to perform the LCB audit. He asked if the firm does the audit every year.

Mr. Townsend replied he understood that Kafoury, Armstrong & Co., had done the audit last year. He believed they would be entering their second year doing the LCB audit.

Senator Coffin asked how long was the contract with Kafoury, Armstrong & Co.

Mr. Townsend replied he was not sure.

Senator Coffin stated he knew both of the firms very well. He was shocked to see the difference in the scoring because he considered them to be equally capable firms. He appreciated the fact that Mr. Townsend had gone through the effort to try to define a difference between the two firms. He stated that his only complaint was that the differentials were great, too great perhaps as Piercy Bowler Taylor & Kern had estimated 2,000 hours more for them to complete the Single Audit, and their average hourly rate came in at 25% less than Kafoury, Armstrong & Co. He expressed that the Committee could not ignore that fact. He stated this meant that Piercy Bowler Taylor & Kern had apparently budgeted for the correct amount of additional work hours that would be needed to supervise ARRA funds, knowing how critical that is. Senator Coffin noted the firm was willing to do it for a very low rate which he still did not understand. He hoped that Kafoury, Armstrong & Co., would explain why they had increased their rate.

Chair Leslie asked if Senator Coffin had a question for Mr. Townsend.

Senator Coffin asked if Mr. Townsend wanted to comment.

Mr. Townsend stated he had no further comments.

Chair Leslie asked if the Committee had any further questions for Mr. Townsend.

Chair Leslie asked that the principals of the two firms come forward to testify.

Chair Leslie stated the Committee would begin with the representative from Piercy Bowler Taylor & Kern.

Mr. Richard Bowler, Principal, Piercy Bowler Taylor & Kern, introduced himself as the representative for the firm.

Chair Leslie called for questions from the Committee for Mr. Bowler.

Assemblyman Denis had questions for both firms. He stated the first thing was the issue of the sufficient amount of staff to complete the audit. He asked for comments on staffing.

Mr. Bowler replied the firm employs more than 70 staff members, and approximately 32 are qualified to audit under governmental auditing standards, required to perform a single audit. He stated in this day and age it would be difficult to say that someone could not do an audit from almost anywhere in the world. He explained their firm had clients as far away as Cairo, Egypt. He emphasized that geography was not an obstacle any more. Mr. Bowler stated the firm is committed to provide the personnel and quality services necessary to complete this audit at the client's facility whenever it was necessary to have someone there. Work could be done electronically as far as data transfer and as far as obtaining audit documentation and accomplishing audit processes. He reiterated the firm is committed to have trained and appropriate personnel on site to conduct the audit as necessary.

Assemblyman Denis stated the second question had to do with ARRA funds and ARRA auditing. He asked for information on experience the firm has in this area of auditing. He explained there was a concern to have a qualified firm to work with the ARRA funds.

Mr. Bowler stated the firm had other clients with ARRA funding having completed one cycle of auditing under the ARRA provisions and requirements related to ARRA funding. He stated the firm was experienced and qualified to handle ARRA funding. And as was pointed out earlier the firm had allowed ample hours to not only accommodate that requirement but also to take care of the additional time that would be required to become familiar with the operations of the State.

Assemblyman Denis asked if Mr. Bowler thought there would be any issues as far as getting things done in a timely manner to meet the deadlines.

Mr. Bowler replied no. He stated he had been auditing governments for over 40 years, starting with the auditing of Clark County for a number of years. He noted there had been a lot of changes over that period of time. In fact, when he first starting auditing Clark County there was no single audit act. The Single Audit Act came into being a few years after that and he had seen the Single Audit Act and governmental auditing standards grow from its beginning and had adapted to changes that had been made throughout that process. Some of the principles used as far as accounting for governmental grant funding were as a result of his personal responses to exposure drafts in that area. He did not think that the firm would have a problem meeting deadlines with regard to that or adapting to changes that might come forth.

Assemblyman Denis asked for comments on the diversity within the firm of their employees as well as with subcontractors in regard to their use of minority employees. He stated he was really big on giving opportunities to those that sometimes do not get that opportunity and was interested in companies that had a desire to help those that might not get a chance. He asked for Mr. Bowler to comment on the issue.

Mr. Bowler replied the firm's hiring practices are consistent with providing an opportunity to anyone qualified to do the work. He stated often times you do not have an opportunity to hire from every ethic or minority group because there simply are not the candidates that come forth. He noted the firm presently employs a significant number of female employees and people of Latin descent. He noted the firm in the past had African-

American employees. Mr. Bowler reiterated the firm does not discriminate in any way. They interview and hire based upon applicant qualifications.

Assemblyman Denis asked if Mr. Bowler had a document where the firm looked at the issue and broke it down for the Committee to review.

Mr. Bowler stated the firm employed people of different ethnic backgrounds. He emphasized the firm had a semblance of an Affirmative Action Plan in place. He stated the firm would hire individuals from any ethnic background with the qualifications to work at the firm. Mr. Bowler noted he was not personally in charge of recruiting for the firm but understood the firm recruits from places such as UNLV and other universities. He thought UNLV had a very broad ethnic base in the student body and in the accounting college. He stated recruiting there would provide that kind of an opportunity but he was not familiar with the recruiting strategy in regard to the issue.

Assemblyman Denis stated Mr. Bowler did not comment on minority subcontractors that you might use. He asked for comments on the issue.

Mr. Bowler replied the firm did not typically use subcontractors.

Senator Coffin asked what led the firm to bid so many hours. He was curious about the 2,000 hours more than the incumbent. He asked for Mr. Bowler to comment.

Mr. Bowler replied prior to this meeting he was unaware of how many hours the other firm had spent doing the most recent Single Audit or how many hours they were anticipating for the upcoming Single Audit. He stated their bid was just a matter of scoping the work and determining how many hours were involved and taking into account the fact that their firm would be spending additional time initially, especially the first year, to become familiar with the processes of accounting for the State.

Senator Coffin stated the firm had bid \$47,000 per year less than Kafoury, Armstrong & Co. He noted that brought their average hourly wage down to \$69 versus \$91 from Kafoury, Armstrong & Co. Senator Coffin added that hourly rate was a big deal here. He stated the firm was adding 2,000 hours and charging \$47,000 less. He offered that the firm could be losing money on this bid. He asked if awarded this contract would the firm come back to request an adjustment to the fees.

Mr. Bowler replied no. He stated the history of the firm was pretty stable on this issue and whereas some auditors place a lowball bid in an attempt to buy business, and then request an adjustment as an attempt to receive additional fees on top of the original bid, Piercy Bowler Taylor & Kern do not follow such a practice. He suggested their existing clients, if interviewed, would report that the firm sticks by their bids. It would have to be something very unusual, almost catastrophic, to cause the firm to increase fees above the original bid. He stated for future years he had looked at the history of the Single Audit and over the last 4-year period the audit fee had increased from approximately \$290,000 to approximately \$325,000. He stated the increase over that 4-year period in that range would be reasonable and their firm might look to negotiate something like that. He reiterated the firm would not request an increase for the first year of the contract.

Senator Coffin stated extra work would be required because of ARRA funds. He asked if Mr. Bowler had taken the ARRA issue into account when the firm submitted its bid.

Mr. Bowler replied yes. He reiterated that the firm has experience with ARRA funded entities and is familiar with the requirements. Yet, as noted, the firm's proposed hours are more than Kafoury, Armstrong & Co.'s estimated hours. He thought it had been made clear that the firm had taken into consideration that there would be additional time involved here. He stated this was a good time to make a point that the firm – one of the reasons for the bid amount they had submitted at the rate they had submitted was because the firm is sensitive in these economic times to the difficulties and challenges the State is in, along with every other governmental entity in the State and the country is having to achieve a balanced budget. Being sensitive to that the firm wanted to bid an amount that would better fit in with that kind of economic situation.

Senator Coffin thanked Mr. Bowler for the responses to his questions.

Assemblyman Grady noted that Mr. Bowler had two offices, one located in Las Vegas and one located in Sandy, Utah. He asked for staffing numbers for each office.

Mr. Bowler replied the office in Sandy, Utah had just been opened. Presently one partner was located in the office. Additional staff had not yet been hired for the office. He noted the office was almost exclusively involved in governmental auditing.

[Note: Subsequent to the meeting the following information was provided by Piercy Bowler Taylor and Kern and has been incorporated into the record.]

		Ethnicity			
Gender		White	Hispanic	Asian	Black
42%	Female	80%	10%	7%	3%
58%	Male	90%	5%	5%	0%
100%	Combined	86%	7%	6%	1%

Chair Leslie stated when she had read through the proposal from Piercy Bowler Taylor & Kern, that she was very impressed and could see that great care had been taken. Chair Leslie stated the proposal was very complete. She thanked Mr. Bowler for the work done.

Chair Leslie called for questions for the firm of Kafoury, Armstrong & Co.

Ms. Felicia O'Carroll, Partner, Kafoury, Armstrong & Co., stated she had been with the firm for 34 years.

Assemblyman Denis stated as with the first firm, his initial question was in regard to the issue of the sufficient staffing to complete the audit. He asked for comment on staffing.

Ms. O'Carroll replied the firm employs 120 staff members in six offices throughout the State of Nevada. She stated the firm, located only in Nevada, specializes in Nevada entities. She noted as far as having enough people on staff and one of the reasons why some firms would not be interested in doing the Single Audit was because Kafoury,

Armstrong & Co., has as many as 15 people at one time auditing the State between financial and compliance audits which part of the time run concurrently. To have that many dedicated full-time governmental audit staff is very difficult and not very many firms in Nevada have that ability. Ms. O'Carroll stated few firms are in a position to be able to bid on the Single Audit.

Assemblyman Denis asked for comments on the ARRA funds auditing issues.

Ms. O'Carroll replied Kafoury, Armstrong & Co., audits a number of the biggest governmental entities in the State of Nevada, including Washoe County, Washoe County School District, Clark County, and Clark County School District. She stated they all had ARRA funding this year. ARRA is much more diverse funding, with much more diverse requirements. As an example, because of the ARRA funding, under normal circumstances one would be required under the Single Audit Act to have 25% of your federal money audited. Because of the way ARRA impacted this audit Kafoury, Armstrong & Co., actually audited 86%. Kafoury, Armstrong & Co., has ARRA experience coming in and they now have a lot more. Ms. O'Carroll pointed out that the firm has met all deadlines for the state for the past 16 years.

Assemblyman Denis asked for comments on the firm's ethnic diversity.

Ms. O'Carroll stated the firm employs 120 people in the firm and approximately 8% of those are minorities. The firm hires, as Mr. Bowler pointed out, without regard to ethnic or national background. Ms. O'Carroll pointed out the firm was also a female majority owned firm, adding 55% of the firm's partners are female; 11 of their 20 shareholders are female; and 5 of their 6 offices throughout the state are run by managing partners who are female. She added the firm files EEOC forms as required.

Assemblyman Denis stated he had another concern that the State has utilized the services of the same firm for 16 years. He stated with other agencies and areas he had dealt with the firms were changed periodically just to get a fresh set of eyes. He asked for comment on why the Committee should approve an additional 4 years which would be 20 years with the same audit firm.

Ms. O'Carroll replied an entity the size and complexity of the State of Nevada would require a firm with the experience and background to be able to serve as a partner with the State, not just someone who comes in and does it as a job. That is the role the firm displays with the State of Nevada. The number of programs that are audited and the cycling that is required on major programs makes this a different audit every year. Ms. O'Carroll noted there was no substitute for being on-site in the offices, observing the controls, actually watching people do the work, and not just seeing a piece of paper that says what they are supposed to be doing. She stated having close personal interaction is critical. She noted learning an entity the size of the State takes a long time and the State is better served utilizing the services of a firm with prior experience. Ms. O'Carroll explained the State was not dealing with the same situations that public companies are dealing with where salaries are based on profitability. Here it is a matter of responding to federal and state mandates, and the Nevada Revised Statutes. She emphasized that having the best firm and having the most experienced firm is what the Committee would be looking for.

Assemblyman Denis asked if the firm made a concerted effort to implement changes. He asked if the firm had a plan for changing people out to ensure that a fresh set of eyes are looking at things periodically.

Ms. O'Carroll replied she thought he was referring to the partner rotation which is part of the Sarbanes-Oxley Act, but does not apply to governments. She explained the firm has a number of partners who are active in governmental auditing. Ms. O'Carroll stated that as the leader of the firm in the firm's governmental practice, she brings the best background and the best quality to the work. She added the firm did not have a procedure in place to change out the partner. The upper level staff does continually change as people come through the audit and progress through the firm but noted that the two ladies sitting in attendance at the meeting were examples of having the most qualified staff do the audit.

Assemblyman Denis asked if the firm had individuals that had been doing the same part of the Single Audit for the 16 years the firm had the contract.

Ms. O'Carroll indicated that to say the firm was doing the same thing every year is a misnomer because the programs under Single Audit mandatorily rotate on a 3-year cycle and the State has staff changes. The State has the ability for significant turnover in upper management on a periodic basis. One of the things that the firm brings to the Single Audit is the continuity of staff.

Chair Leslie recognized Senator Coffin.

Senator Coffin asked if Ms. O'Carroll was also the managing partner on the LCB audit.

Ms. O'Carroll replied she was the partner in charge of the LCB account. She stated this was the first year the firm had done the audit of LCB and were pleased to be awarded the contract for the second time. She explained the audit was not affiliated with or a part of the State of Nevada contract per se.

Senator Coffin stated that worried him because the firm was also the incumbent firm for the LCB audit. He was concerned about the separation issue and asked for clarification that there was a bid to secure the LCB audit contract.

Ms. O'Carroll replied yes there was a bid.

Senator Coffin stated in his opinion the Committee has two equally capable firms. He asked Ms. O'Carroll to comment on why the firm had reduced their hourly rate by approximately 15% this year and had bid in 2006 below their market rate. But yet the firm's hourly rate was still considerably higher than the other competitor. He asked for comments on the why the firm would be raising their number of hours in order to raise your price – you were at \$323,700, now going to \$348,150. Senator Coffin stated it looked to him that the firm had increased the price and at the same time it was a contradiction in terms that the firm had cut their rate but increased the price. He asked for comments from Ms. O'Carroll.

Ms. O'Carroll stated being long time Nevada residents, the firm certainly understands the problems the State is facing in terms of financial matters. As a result the firm was also aware of the recent Special Legislative Session. The firm was completing this audit at

the time and had heard that there was going to be a request to have all professional service firms reduce their fees. Kafoury, Armstrong and Co., decided to be proactive and build that into the contract. However, the difference in the number of hours is a direct result of the stimulus funding and the additional requirements. It is not work that you can send a brand new staff accountant out to do. She reported the pilot project was performed by upper management staff including herself, and she stated that is what is needed in order to ensure that the State meets the transparency doctrines of the stimulus funding and are actually complying with all of the requirements that the stimulus funding brings along. In addition, it changes the mix of the programs that must be audited under the Single Audit Act considerably and as a result the State is auditing more of the bigger programs every year. For example, last year the firm audited Medicaid, unemployment compensation, and highway construction, which are the State's three biggest audits. Typically those would be rotated throughout the 3-year cycle. That is no longer possible under ARRA. It is also another reason that the State should have a dedicated full time, very knowledgeable staff in the field at all times.

Senator Coffin thanked Ms. O'Carroll for her testimony.

Chair Leslie called for any additional questions from the Committee.

Chair Leslie thanked the firm representatives for their testimony. She called for public comment.

Ms. Kim Wallin, State Controller, commented the Office of State Controller is very involved with the auditors and the process of the Single Audit. Ms. Wallin and her staff were concerned with the possibility of changing auditors because of the uncertainty with the federal government. Presently, the federal government allows states nine months to complete the Single Audit but that could be changed to require that the Single Audit be completed within six months which would be December 31st. She explained that the CAFR is completed by December 15th. She reported the pilot project in November and December 2009 was a test to see if the Single Audit could be completed in a 6-month period of time. The test was successfully conducted on two agencies. Ms. Wallin expressed concern that the federal government could require that the Single Audit be completed within six months. She questioned whether a new auditor would be able to meet the deadline because initially the new firm would be getting up to speed with the learning curve with all the different federal funds. For example higher education changed auditors and their audit was late which held up completion of the CAFR. The CAFR was late this year. It was not completed by December 15th; it was not completed until January 30, 2010.

Ms. Wallin acknowledged the firm of Piercy Bowler Taylor & Kern had testified that the contract had included hours to learn the operation. She stated part of learning the operation would mean that Office of State Controller staff would be required to help the new auditors learn the operations. At the present time, with budget cuts and furloughs and the fact she would be short two staff people that actually work on the audit, she would have to come before the Legislature to request to fill those two positions at a cost of \$216,000, so they would be available to help with the audit. Ms. Wallin noted that because of their relationship with Kafoury, Armstrong & Co., and the stability between

her staff and Kafoury's staff, last year the Controller's Office was able to reduce overtime during CAFR season by 24%. She did not see that happening with a change in auditors. She noted that was the biggest decrease in overtime since they had been tracking overtime for 11 years. Also this year the Office has four new GASBs to be implemented. Ms. Wallin noted there is a lot of uncertainty this year and without this uncertainty she would probably not be requesting that the Committee not change auditors.

Chair Leslie thanked Ms. Wallin for her testimony.

Chair Leslie called for Mr. Townsend to testify.

Senator Coffin asked if Mr. Townsend had put in the report that Kafoury, Armstrong & Co., is now in charge of the LCB audit.

Mr. Townsend replied the Kafoury, Armstrong & Co., proposal included a conflict of interest and independence disclosure listing all of the audits they are involved in. He added that Piercy Bowler Taylor & Kern had a similar disclosure included in their proposal. Mr. Townsend pointed out his involvement with the audit of LCB, as previously indicated, was that he had obtained a list of accounting firms who were interested in doing work and had provided that list to the LCB Administrative Services Unit. Beyond that he was not involved with the LCB audit, or with the awarding or monitoring of the contract. He added the Audit Division is completely independent of the LCB audit. Mr. Townsend stated the Administrative Services Unit of LCB does the accounting for LCB and was the entity being audited.

Senator Coffin thanked Mr. Townsend for the testimony.

Chair Leslie brought the issue back to the Committee for a vote to accept one of the proposals for the Single Audit contract for fiscal years 2010 through 2013. She asked for comments and discussion from the Committee.

Assemblyman Grady commented after reading all of the information and on the recommendation from the Legislative Auditor and the recommendation of the State Controller he was in favor of the contract being awarded to Kafoury, Armstrong & Co.

Assemblyman Denis commented he had questions about the 4-year term of the contract. He asked if there were options to change the term of the contract.

Chair Leslie asked Mr. Townsend to comment on whether the term of the contract could be changed.

Mr. Townsend replied the proposal is based on a 4-year term and the proposal is an offer by the accounting firms for that. Their proposal has been based on the 4-year period. He believed the Committee could take action at their discretion, but the offer did relate to four years.

Assemblyman Denis stated the only reason he posed that question was the issue of having the same firm for that period of time. But at the same time he heard the arguments of experience being important. He just wondered if the contracts were for a shorter period of time that it would provide an opportunity to consider making a change.

Chair Leslie stated it sounded like the contract would have to be rebid since other bids came in based on a 4-year time period.

Assemblyman Denis stated he wanted to hear what other members had to say.

Senator Coffin was puzzled at the vast difference in the Single Audit bids. He would have thought they would have come in closer. This shows it was truly a blind process and for that he thanked Mr. Townsend for conducting this in a proper way. Senator Coffin was troubled by the scoring system which he thought tilted too far in favor of one firm over the other. He suspected they would be within a few points of each other if there had been a third or fourth candidate to consider. Senator Coffin was disturbed that there were only two firms supposedly qualified. He thought that Kafoury, Armstrong & Co., was the only bidder four years ago. Senator Coffin noted if we do not encourage new firms to get this business because it is unprofitable or if it looks like it is a done deal every time it goes to bid, the State could run into serious problems because this would discourage competition and would preclude the kind of independence that the State should have. He stated if we just continue with the incumbent this time without thinking about the rotation problem then we run the risk of not having any bids in the future. He was inclined to be troubled about the fact that there had not been a rotation, although the Sarbanes-Oxley Act does not cover governmental auditing, it does nevertheless have common sense regarding corporate accounting. He was also concerned that accountants could become too cozy with their clients and with the principles within the company. He believed that could happen in governmental accounting. Senator Coffin stated since he knew both firms and had the highest regard for both he had no problem voting for the low bidder. He would hope that the low bid would count for something in this day and age. He stated a 20% lower bid was significant. He stated he would lean toward voting for Piercy Bowler Taylor & Kern.

Chair Leslie asked if Senator Washington had comments on the issue.

Senator Washington commented he was unsure of which firm to vote for as they were both qualified.

Chair Leslie stated she was inclined to vote for Kafoury, Armstrong & Co., this time. She recognized and agreed with Senator Coffin's remarks about competition and rotating staff. However she was also sensitive to comments from the State Controller. She stated at this time with the complications of ARRA funding the State does not have the time to bring a new firm up to speed to ensure the CAFR is completed adequately. She also gave great weight to the audit staff recommendation. She understood what Senator Coffin was saying about the scoring system but having gone through how they scored and what they scored she was satisfied. Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO APPROVE THE AWARDING OF
THE SINGLE AUDIT CONTRACT FOR FISCAL YEARS 2010 THROUGH
2013, TO KAFOURY, ARMSTRONG & CO.

Chair Leslie called for a second on the motion for the purpose of discussion only.

THE MOTION WAS SECONDED BY SENATOR WASHINGTON.

Chair Leslie recognized Assemblyman Denis.

Assemblyman Denis was torn on the issue. He understood what the State Controller was saying. He understood what the staff was saying. At the same time he was looking at the savings but if the Controller would be coming back to the Legislature to request additional staff then there was not a lot of savings. He stated he would tend to want to go with the low bid because he felt that both firms were qualified. He was leaning toward voting for the firm of Piercy Bowler Taylor & Kern. He also wanted to see if there were any other comments that would change that thinking.

Chair Leslie recognized Mr. Townsend.

Mr. Townsend stated he did hear one thing during the Piercy Bowler Taylor & Kern testimony that he wanted to clarify. On the cost proposal on page 26 under tab 2B of the Committee meeting packet he noted that Piercy Bowler Taylor & Kern presented a cost proposal of \$301,000 for one year. The RFP did request the entire amount for four years which is what Kafoury, Armstrong & Co., did. He wanted to clarify that staff had called Piercy Bowler Taylor & Kern to inquire if that was the represented amount for four years. We would multiply that amount by four which is what we did for our summary, but he thought he had heard during testimony that perhaps there might be some renegotiation after a year or two and stated that was not the case. He explained this amount is built in with the existing standards and the work that is to be performed. In the past when new standards have come in or a significant change of scope of work an amendment to the contract had been requested. But he wanted to make sure that Piercy Bowler Taylor & Kern was committed to this amount for each of the coming four years.

Chair Leslie asked Mr. Bowler to respond to the comments from Mr. Townsend.

Mr. Bowler stated he was at a significant disadvantage here in the Committee because if their firm was held to that number for 4 years, it would be interesting to know what the four year number was for Kafoury, Armstrong & Co. He stated he only knew the amount for one year.

Chair Leslie asked for Audit Staff comments.

Ms. Shannon Ryan, Audit Supervisor, replied under Tab 2A on page 1 in the Committee packet it stated there is a title called Fair Fee. In the second paragraph the firm stated that their fee for the 4-year engagement was \$1,392,000. She stated the yearly cost was derived by dividing that number by four.

Chair Leslie asked Mr. Bowler what his commitment was for the four years.

Mr. Bowler replied he wanted to make sure he understood what Ms. Ryan had stated. He stated the 4-year cost for Kafoury, Armstrong & Co., was \$1,392,000, which is divided by 4 to come up with the yearly amount. Mr. Bowler stated the firm was committed to the yearly bid for each of the four years.

Senator Coffin stated he had called Piercy Bowler Taylor & Kern and was told the firm would hold to the amount for the four years.

Chair Leslie called for any further discussion from the Committee.

Assemblyman Denis stated the only other issue was that he did not hear a commitment from either firm talking about things that they specifically do with the different minority communities. He wanted to see a commitment from the firms and business to attempt to give an opportunity to those that do not get the opportunity.

Chair Leslie stated a way to address that in the future would be to have a specific question in the RFP that the firms would have to answer.

Assemblyman Denis agreed.

Chair Leslie called for a vote from the Committee.

CHAIR LESLIE, ASSEMBLYMAN GRADY, AND SENATOR WASHINGTON VOTED YES; ASSEMBLYMAN DENIS AND SENATOR COFFIN VOTED NO. THE MOTION CARRIED.

Item 3— Presentation of audit reports (NRS 218G.240) – Paul Townsend, Legislative Auditor

Chair Leslie recognized Paul Townsend, Legislative Auditor.

Mr. Townsend stated 9 audit reports and 2 six-month reports would be presented to the Committee.

A. Office of State Controller

Mr. Townsend explained the audit of the Office of State Controller focused on the accounts receivable process. He introduced Daniel Crossman, Deputy Legislative Auditor; and Shannon Ryan, Audit Supervisor, to present the report.

Mr. Crossman began the presentation with background information on the State Controller's Office and its roles and responsibilities which include the collection of state receivables. The Office's debt collection program utilizes the services of debt collection companies to collect debts submitted by state agencies to the Office.

Mr. Crossman provided a brief legislative history of the state's debt collection process. During the 1999 and 2001 Legislative Sessions, a legal framework for improving the collection of receivables was created in NRS 353C. The chapter authorized collection mechanisms and gave specific responsibilities to the Controller's Office regarding receivables and collections. In the 2009 Legislative Session, Assembly Bill 87 further centralized the State's debt collection process with the Controller's Office and required agencies to turn over debts for collection when 60-days past due.

Mr. Crossman stated the objectives of the audit were to determine if the statewide accounts receivable report is reliable and to determine whether the debt collection procedures of the Office help ensure the collection of state receivables.

Mr. Crossman reported the findings and recommendations section of the report found that improvements are needed to the accounts receivable reporting process. The Office's June 30, 2008, accounts receivable report was not reliable because some agencies reported inaccurate or unsupported amounts, did not report accounts receivable information, or reported untimely.

Mr. Crossman stated a review of three large agencies' supporting documentation for their accounts receivable reports submitted to the Office for June 30, 2008, found all three were not accurate or complete because certain subsidiary ledgers were either not maintained or were not reliable. For example accounts receivable ledgers contained formula and mathematical errors. An agency reported for a certain receivable type accounts receivable of \$1.2 million to the Controller. However, formula errors failed to capture an additional \$3.5 million that should have been reported to the Office. More needs to be done to help ensure that agencies are reporting accurate and complete information.

Auditors found some agencies did not have adequate processes in place to ensure all receivables were properly captured and reported to the Office. For example, an agency did not report all of its receivables because those responsible for submitting the report to the Controller's Office were not made aware by another division of more than \$900,000 in receivables.

Mr. Crossman stated the Office could improve its process to identify inaccuracies in the receivable reports submitted to the Controller.

The Office can improve its process to document when changes are made to agencies' receivable reports that are submitted with errors. For the June 30, 2008 report, the Office made changes to 25 of 45 agencies' reports to correct various types of reporting errors. While the changes by the Office may be reasonable, they were not sufficiently documented or supported.

Some agencies turned over debts for collection but did not routinely report receivables as required by statute. Exhibit 3 shows five such agencies. The Office can improve its process to ensure that it identifies and works with agencies to encourage them to report their receivables.

Mr. Crossman reported auditors found that agencies did not submit accounts receivable reports timely to the Office. Exhibit 4 shows that 33% of the agencies had not submitted their reports 4 months after the due-date for the quarter ended September 2008. The Office can help agencies by formalizing procedures to contact and inform them of impending due dates and follow up with non-reporters.

Mr. Crossman stated auditors found that agencies' estimations of collectability of accounts receivable were often unreasonable, and assumptions and methodologies were not adequately defined or documented. In one example, an agency indicated certain receivables were all collectible even though about 12% of the amounts were more than 5 years old. Exhibit 5 shows the total receivables per the Controller's Office at June 30, 2008, accounts receivable report and agencies' estimates of collectability. Considering that 55% of receivables reported to the Office were more than 60 days past due, agencies estimation that 85% of receivables are collectable is not reasonable. Mr. Crossman stated auditors found the Office can do more to inform and instruct agencies on best practices for preparing and documenting their estimates of collectability.

Mr. Crossman reported seven recommendations were made to improve the accounts receivable reporting process.

Mr. Crossman stated the next section identified enhancements needed to the debt collection process. Auditors found that reconciliations between the Office and collection company records were not always completed timely and when performed, were not always adequately documented or reviewed. Improvements are needed in the Office's record keeping of debts submitted for collections.

Agencies turned debts over for collection when they were significantly aged. As shown in Exhibit 7 the average age of outstanding debts as of October 2008 in the Office's records, was about 2 years old when sent to the Office. Exhibit 8 shows the collectability of debts at intervals after the debts are due. With the passage of AB 87, agencies will now be required to send debts to the Office when they have aged 60 days. As a result, the Office will need to establish procedures to monitor agencies and ensure debts are remitted timely.

Mr. Crossman stated the collections through the debt offset program have not been significant. Auditors identified more than \$20,000 in potential offsets at two agencies that did not voluntarily participate in the offset process. Both expressed interest in future participation.

Mr. Crossman reported six recommendations to improve the accuracy of debt collection records and improve the effectiveness of related processes.

Mr. Crossman stated auditors identified steps that the Office is taking to improve its processes over the collection and monitoring of the State's accounts receivable. He noted changes to statute through AB 87 which the Office introduced in the 2009 Legislative Session to centralize the collection efforts within the Office for most state agencies and requires that debts be turned over once they have aged 60 days.

The Office is in the process of developing and implementing a new information system using XBRL technology to manage the collection, collation, and workflow processes related to the Office's debt collection efforts. If successfully implemented, the system should improve the accuracy of records by reducing manual entry and increasing efficiencies.

The Office is developing a training course to assist state employees involved in accounts receivable to improve agencies' understanding of reporting requirements, improve accuracy of records, and enhance collection efforts.

Mr. Crossman reported the Office accepted all 13 recommendations. He offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee for Audit staff. She asked the State Controller to testify before the Committee.

Ms. Kim Wallin, State Controller, introduced herself.

Chair Leslie thanked Ms. Wallin for her attendance at the meeting. She called for questions from the Committee. Chair Leslie noted that all 13 audit recommendations had been accepted by the Controller.

Chair Leslie appreciated the Controller's response to the audit recommendations as it had outlined the completed recommendations and the timeframe was given for

implementation of the remaining recommendations. She asked if all the dates in the response letter were still their target dates for implementation of the audit recommendations. Chair Leslie asked about the two audit recommendations that were to be fully implemented by March 31, 2010. She asked if the recommendations had been fully implemented.

Ms. Wallin provided an explanation of the implementation status of all of the recommendations.

Chair Leslie stated the Office sounded like they were on target to implement the audit recommendations. She asked for comment on the issue of the need to give guidance to agencies located on page 20 of the report.

Ms. Wallin replied monthly classes were being held and as of June 1, 2010, an online class would also be available. She stated the class addressed how to calculate estimated uncollectables. Ms. Wallin added their accounts receivable manual procedures also contains information on how to calculate the estimated uncollectables.

Chair Leslie asked if this was a formula.

Ms. Wallin replied yes.

Senator Coffin reported that Assemblyman Mo Denis had to leave the meeting for a short time.

Senator Coffin asked a question on behalf of Assemblyman Denis. He stated Assemblyman Denis wanted to ask if the Controller still held to her opinion of recommending Kafoury, Armstrong & Co.

Ms. Wallin replied yes. She added the two positions that will not be filled were her assistant controller who was going to be laid off in September 2010 and the Chief Accountant of Operations who was retiring in April 2010, leaving the Chief Deputy to do that job in addition to her preset job duties.

Senator Coffin stated the intent was obviously for the Office to be able to do their work and at the same time to make sure that Kafoury, Armstrong, & Co., staff would be able to pick up the slack for the Office.

Ms. Wallin clarified that it was not that Kafoury, Armstrong, & Co., would have to pick up the slack for the Office, it was that the Office staff would not have to teach a new firm to do the Single Audit.

Chair Leslie interjected this line of questioning was out of order. She asked that the questions be confined to the audit at hand.

Senator Coffin said he did not know that any question would be out of order. He thought that his questions were related to the audit because some of these things relate to Ms. Wallin's shortage of personnel. He stated the Legislature had not provided the Controller with enough money to do the job. Senator Coffin stated in thinking of where to grab people to help her he was going to look first to Kafoury, Armstrong & Co. He stated they were good, they were on the spot, and they are on the scene. So it would

make sense to try to get what we could out of these people. He stated that questioning should be in order. He added that Ms. Wallin had answered the question.

Chair Leslie called for additional questions from the Committee.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON OFFICE OF STATE CONTROLLER. THE MOTION WAS SECONDED BY SENATOR WASHINGTON AND CARRIED UNANIMOUSLY.

Chair Leslie noted that Assemblyman Denis was absent from the vote.

B. State of Nevada, Single Audit Report

Mr. Townsend introduced Shannon Ryan, Audit Supervisor, to present the report.

Ms. Ryan presented the Single Audit Report for fiscal year 2009. The Single Audit of the State of Nevada for the year ended June 30, 2009, was completed by the CPA firm of Kafoury, Armstrong & Co. The auditor issued an unqualified opinion on the state's financial statements dated January 26, 2010.

The auditor's report on compliance and internal control over financial reporting disclosed no material weaknesses or noncompliance with financial reporting and applicable laws, regulations, contracts, and grants. The auditor's report on compliance with requirements applicable to each major program, and internal control over compliance in accordance with OMB Circular A-133, dated March 19, 2010, disclosed no material weaknesses or noncompliance with applicable laws, regulations, contracts, and grants.

The auditor reports that the Schedule of Expenditures of Federal Awards for the year ended June 30, 2009, is fairly stated in all material respects in relation to the basic financial statements as a whole. The schedule shows total federal financial assistance expenditures of \$3.8 billion. This year's Single Audit Report includes 41 findings, and \$284,772 in questioned costs. The majority of the questioned costs are related to finding 09-10 due to an error in the payment processing system which caused duplicate payments at DETR for federal additional compensation. The system error was detected by DETR staff in July 2009 and was corrected shortly thereafter.

Ms. Ryan concluded the presentation. She offered to answer questions from the Committee.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON THE STATE OF NEVADA, SINGLE AUDIT REPORT. THE MOTION WAS SECONDED BY SENATOR WASHINGTON AND CARRIED UNANIMOUSLY.

Chair Leslie noted that Assemblyman Denis was absent from the vote.

C. Department of Conservation and Natural Resources, Information Technology Security

Mr. Townsend stated auditors periodically go through and look at Information Technology Security Controls. He introduced Jeff Rauh, Deputy Legislative Auditor; and Doug Peterson, Information Systems Audit Supervisor, to present the report.

Mr. Rauh began the presentation with a brief overview of the Department of Conservation and Natural Resources. The Department is composed of a Director's Office and eight divisions. In fiscal year 2009, the Department had 739 full-time employees and expenditures of approximately \$87 million dollars.

The Department substantially complied with State Information Security Standards. In addition, auditors noted that the Department corrected most deficiencies prior to the completion of this audit.

Mr. Rauh reported the audit addressed two findings related to the storage of social security numbers (SSNs) on Department computers. Four Forestry Division conservation camps stored inmate SSNs as part of their inmate payroll systems. In addition, two Division level human resources sections stored employee SSNs on their local computers. Local storage of these SSNs increases the risk of unauthorized access of the information which would require that all affected persons be located and informed of the breach. Mr. Rauh stated a report by the Department indicated both of the situations had since been corrected.

Mr. Rauh addressed a problem with critical information systems equipment being periodically unavailable. Four server rooms in the Bryan Building have had five instances where the heating, ventilating, and air conditioning (HVAC) systems have shut down causing the computer hardware in those rooms to overheat and shut down. This rendered the network resources serving several hundred employees unavailable. While the cause of the HVAC systems' periodic failure is still being examined, the HVAC's automated warning system could have minimized the impact of these occurrences if it had been operating correctly. That system sends out text messages to Buildings and Grounds on-call staff who should immediately respond and reset the HVAC system. However, auditors found the automated system had not been updated with new text message addresses when Buildings and Grounds changed its cellular service provider over 16 months earlier. He understood that the on-call system had been updated since the issue had been identified.

Mr. Rauh discussed two weaknesses with managing network users. Auditors identified five former employees who still retained current network access and six IT staff with access to sensitive information and systems that had not had background investigations conducted. Mr. Rauh added that auditors were informed that the five former employee accounts had been disabled and the background investigations had since been initiated.

Mr. Rauh discussed two areas where routine network maintenance could be improved. The first involved 11 computers without current virus protection and the second involved 5 computers missing Windows Operating System security updates.

Mr. Rauh reported three more minor issues which included three Divisions that did not conduct annual security awareness training for their employees; one Division that did not store backup data offsite; and one Division that did not ensure password controls met state security standards.

Mr. Rauh noted that most of these deficiencies were corrected prior to completion of the audit.

The Department accepted all ten of the audit recommendations.

Mr. Rauh offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee. She called for agency staff to testify.

Chair Leslie noted Mr. Allen Biaggi was present. She recognized his upcoming retirement, noting that one of his last appearances would be before the Audit Subcommittee.

Mr. Allen Biaggi, Director, Department of Conservation and Natural Resources, noted this was one of his last formal appearances before the legislative body, noting it was a pleasure to be here today. He stated the Department accepted all of the audit recommendations. He noted that all of the recommendations had been implemented and deficiencies had been corrected. He thanked the Audit staff for the professionalism in conducting the audit as they have done in all of the audits conducted by Audit staff throughout the years. Mr. Biaggi offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee.

Assemblyman Grady thanked Mr. Biaggi for all he had done for the rural communities.

Senator Coffin asked about the problems with security, particularly those individuals who had access to the Department computer network for over one year. He stated he was aware that the Department agreed to make corrections. He asked if the future Department Director would be aware of and ensure that policies would be in place to address the issue.

Mr. Biaggi stated a systematic change had been made.

Senator Washington thanked Mr. Biaggi for his state service.

Chair Leslie thanked Mr. Biaggi as well. She appreciated his long years of state service.

Mr. Biaggi thanked Chair Leslie for being a champion of the environment and particularly of water resources. He stated they may have had professional differences of opinion but they always had the interest of the State at heart.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, INFORMATION TECHNOLOGY SECURITY. THE MOTION WAS SECONDED BY SENATOR WASHINGTON AND CARRIED UNANIMOUSLY.

Chair Leslie noted that Assemblyman Denis was absent from the vote.

Chair Leslie called for a short recess for the Committee.

Chair Leslie called the Committee back to order at 11:39 am.

D. Department of Personnel - Statewide Payroll System

Mr. Townsend introduced Gary Kulikowski, Deputy Legislative Auditor; and Doug Peterson, Information Systems Audit Supervisor, to present the report.

Mr. Kulikowski began the presentation by reviewing background information. The Department is established and governed by Chapter 284 of the Nevada Revised Statutes. It is comprised of the Director's Office and four divisions. Responsibility for administering the central payroll system resides with the Administrative Services Division. The central payroll system serves all state employees except those working for the Public Employee's Retirement System, Nevada System of Higher Education, and the Legislative Counsel Bureau. In fiscal year 2009, agencies served by the central payroll system were approved by the Legislature to expend \$1.5 billion in personnel costs.

The audit objective was to determine whether the statewide payroll system has sufficient controls to provide reasonable assurance that payroll transactions are correct, properly authorized, and supported. The audit covered fiscal year 2008 transactions.

Mr. Kulikowski reported the overall conclusion is that internal controls associated with the statewide payroll system are sufficient to provide reasonable assurance that payroll transactions are correct, properly authorized, and supported. However, auditors noted some payroll and information technology controls could be improved.

Mr. Kulikowski stated that payroll transactions were not always correct or properly documented. Nine of 80 payments tested contained minor errors including incorrect reporting of pay transactions, payment at incorrect rates, and errors in applying shift differential and overtime. The auditors found that overtime and leave approval could be improved. He stated 23 of 80 test items lacked evidence of advance approval of overtime and annual leave as required by law. Mr. Kulikowski added that variable workday agreements were not always on file.

Mr. Kulikowski reported that 9 of 49 employees who were subject to the Fair Labor Standards Act (FLSA) overtime requirements, and who worked variable schedules, did not have variable workday agreements on file. Auditors stated that enhanced training could improve controls. Not all employees who were authorized to sign key records section and payroll section forms received the required training and certification to do so.

Mr. Kulikowski reported that 49 of 64 employees tested did not have appropriate and timely certification for preparing Records Section forms. In addition, 52 of 70 employees tested did not have appropriate and timely certification for preparing Payroll Section forms. Without appropriate and timely training, there is an increased risk that payroll and personnel actions may be incomplete and inaccurate.

Mr. Kulikowski stated four recommendations were made to address payroll control issues.

Mr. Kulikowski continued the report stating auditors addressed two weaknesses in information technology controls. Required background investigations were not always done. The Department did not conduct background investigations for 26 of 32 employees and 4 of 5 contractors who auditors determined were in sensitive positions. State information technology standards require that employees and contractors who hold sensitive positions must have background investigations. He added that security awareness documents were not signed. Auditors found no evidence that any of the five contractors who had access to the state human resources information systems received security awareness training as required by state information technology standards. Security awareness training helps ensure that employees and contractors are aware of their responsibilities to protect the state's information systems and the information processed through them.

Mr. Kulikowski stated two recommendations were made to improve information technology controls.

The Department accepted all six of the audit recommendations. Mr. Kulikowski offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee.

Senator Coffin asked for a more thorough explanation from the agency on why people had access to payroll information and did not have background checks as required.

Chair Leslie called for the agency representative to testify.

Ms. Teresa Thienhaus, Director, Department of Personnel, replied the question had to do with background investigations and that historically these positions had not been either considered in the same category as requiring the background investigations that DoIT has recognized in their policies that is required by statute. That was her understanding of the issue as she had come into the position in November 2008. She was unsure when the audit process began but was approximately around that time period.

Mr. Peterson stated these are not in statute. They are state standards which is part of the information technology standards. They have been around for a while and they do define what those sensitive positions are and they allow for a couple of different phases. He reiterated they had been around for a few years but are not in statute.

Senator Coffin stated this audit was done last year.

Mr. Kulikowski stated the audit covered fiscal year 2008.

Senator Coffin asked if all of the background investigations been completed.

Ms. Thienhaus replied they were in the process of completing the investigations through the Department of Public Safety.

Senator Coffin stated the Department was advised 9-months ago of the deficiency. He was sure that the staff was made aware of the issue from the auditors during the testing period.

Mr. Thienhaus replied yes. She added they had been meeting with the auditors regarding the issue. Ms. Thienhaus explained the Department was aware of the issue, but had to figure out the type of background investigation that needed to be done and then had to determine a budget issue in regard to the funds to pay for the background checks and whether or not to require the employees to carry some of the cost or all of the cost. She stated there was a certain amount of decision making that needed to be done on these current employees that required the background checks. She reiterated the Department was in the process of completing the background checks.

Senator Coffin stated that as the administrator she would just have to order them to be done because a deficiency like this is critical even if employees would be required to take time off without pay. He stated there would be no reasons not to get the background checks done immediately upon hearing about it. Senator Coffin stated the issue stood out to him as a serious breach.

Chair Leslie agreed the background checks needed to be done expeditiously.

Chair Leslie asked for comments about NEATS in regard to how come it was not mandatory and asked if it was because some employees did have access to a computer. She asked for comments on the issue.

Mr. Kulikowski replied he believed she was referring to the overtime approval.

Chair Leslie agreed.

Mr. Kulikowski stated it was being implemented in stages at the time of the audit. The recommendation was that as other departments are brought online, it would be advised to require them to use the electronic approval system. He stated it was another tool to improve the control system.

Chair Leslie stated she was interpreting that correctly. She asked if the Department had plans to implement the process.

Ms. Thienhaus replied yes. She added the Department had gradually been bringing on more and more agencies. One of the concerns was getting the larger agencies on board and part of the problem with that was that some of the larger agencies have staff in remote locations without access to computers. She stated it becomes a problem of dealing with bringing the entire agency on board and a question of how to deal with staff located in remote locations.

Chair Leslie commented it seems like they could make exceptions and asked what percentage of the State staff that would apply to.

Ms. Thienhaus replied she was unsure, adding it would apply to several hundred employees. She stated the issue was a matter of determining if their access could come from a central location, for example if Department of Transportation rural staff could have access to a laptop computer at a maintenance station.

Chair Leslie stated she was aware that some remote employees travel with laptops. She asked what percentage of the agencies or employees are using the NEATS system for overtime.

Ms. Thienhaus replied about 30%.

Chair Leslie asked if that was 30% of agencies or employees.

Ms. Thienhaus replied employees.

Chair Leslie noted they really had a long way to go. She stated the Committee would want to keep track of the issue as the Department prepares their six-month report.

Chair Leslie called for any additional questions.

Chair Leslie called for a motion.

SENATOR WASHINGTON MOVED TO ACCEPT THE REPORT ON THE
DEPARTMENT OF PERSONNEL – STATEWIDE PAYROLL. THE
MOTION WAS SECONDED BY ASSEMBLYMAN GRADY AND
CARRIED UNANIMOUSLY.

Chair Leslie noted that Assemblyman Denis was absent from the vote.

E. Department of Administration, Purchasing Division

Mr. Townsend introduced Lee Pierson, Deputy Legislative Auditor to present the report.

Mr. Pierson stated the Purchasing Division is responsible for all functions related to purchasing including obtaining supplies, materials, and equipment needed by state agencies. Purchasing either performs these functions directly or delegates these functions to state agencies. Under the Procurement Card Program (P-Card) the State began a pilot P-Card program in 1998, with nine participating agencies. Currently, the P-Card is a VISA card issued by U.S. Bank. The card operates similarly to a personal credit card, but the State pays the bill. Cards have several built in controls including a credit limit and single transaction limit. Also, cards can be restricted for use at certain vendors. He stated P-cards provide an efficient method for making purchases including: savings from reduced paperwork compared to the traditional purchasing process, and a check does not need to be issued and mailed to each vendor. Additionally, the Bank pays a rebate to the State based on the total dollar purchases and also on the timeliness of payments.

Exhibit 1 shows the rebate amount the State has received from the P-Card from August 2006 through December 2009.

Exhibit 2 shows P-Card purchases by agency from March through December 2009. The exhibit shows most purchases were made by three departments: Transportation; Health and Human Services; and Administration. Mr. Pierson explained most state agencies have not taken advantage of the P-Card program. However, Purchasing has recently taken several steps to increase the use of P-Cards.

Mr. Pierson stated the two audit objectives were to determine if adequate controls are in place to administer and to monitor the State's Procurement Card program, and if performance measure results are reliable

The findings and recommendations portion of the report found that procurement card controls can be strengthened by improving Division internal controls designed to assist staff with overseeing the P-Card program, and also by improving statewide policies and procedures to assist state agencies in managing their P-Card programs.

Mr. Pierson reported in regard to internal controls, Purchasing can make improvements in two areas. The Division has not developed internal policies and procedures to guide Purchasing staff. Policies and procedures are important to help ensure staff receive adequate guidance and staff responsibilities are clearly defined. Also, a monitoring process for P-Cards has not been established.

Mr. Pierson continued, the Division needs to revise statewide policies and procedures designed to assist agencies with managing their P-Card programs. Current procedures have several weaknesses which include key provisions addressing unauthorized use, how to handle disputed transactions, and limiting where cards can be used were missing from current procedures. Procedures do not provide agencies with sufficient guidance to help ensure payments are timely.

Mr. Pierson stated three recommendations were made to address the P-Card issue.

Mr. Pierson continued, the Division can improve its performance measures, reported in the Executive Budget and to management, by ensuring that results are reliable and by updating policies and procedures. Performance measure results were not always reliable. For three of seven measures, the Division used flawed methods to determine results. Therefore, reported results do not accurately reflect the benefits Purchasing achieved for State agencies. In some cases auditors found incorrect results were reported due to math errors. Documentation supporting performance measure results were not retained for three of seven measures.

Mr. Pierson reported three recommendations were made to address performance measures.

The Division accepted all six audit recommendations. Mr. Pierson offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee.

Assemblyman Grady asked how long the State had been using the P-Card.

Mr. Pierson replied the pilot program began in 1998 with nine agencies. That is how long we have been doing it, but until the last few years it was not encouraged. The agencies that were interested started using it and others chose not to use the program.

Assemblyman Grady stated the audit reported \$5 million charged with the P-card program in 2009, and without tight controls could result in abuse.

Mr. Pierson noted auditors were concerned when they began looking at the issue. They had spoken to several other states with similar processes and noted the State had a

good process in place. Mr. Pierson stated a review at some state agencies revealed the need to make immediate changes or improvements and for State Purchasing to better define their oversight role. At the state agency level there is a procurement card administrator (PCA) who is responsible for the program at their agency. For an agency to participate that person must be approved by State Purchasing. They have to develop policies and procedures based on certain guidelines which are submitted to the financial management section of the Division of Internal Audits for review and approval. Mr. Pierson stated the State had established good controls at the agency level but Purchasing needed to clarify and give agencies better guidance.

Chair Leslie called for comments from Mr. Greg Smith.

Mr. Greg Smith, Administrator, Purchasing Division, agreed with the comments from Mr. Pierson. He explained traditionally the Purchasing Division had not provided oversight on the contracts that they had put together for agency use. However, approximately eight years ago the Division began performing that role on the travel card program, formerly called Diners Club, now called U.S. Bank. The Division virtually eliminated delinquencies which, as a result, increased rebate amounts.

Chair Leslie agreed that it was important because the last thing they wanted to read about was a scandal in Nevada.

Chair Leslie stated the P-Card should not be used in hotels, casinos, and liquor stores, and additionally the state should not pay sales tax on purchases. She asked for comments on how this worked with the P-Card.

Mr. Pierson replied auditors reviewed some of U.S. Bank's reports and noted that sales tax was included. However, in working with Purchasing staff, bank staff, and by looking in more detail auditors found that sales tax was not being paid. He explained sometimes a report from the bank may incorrectly show sales tax. He reiterated the auditors found no instances that the State had paid sales tax.

Chair Leslie asked if the Division was monitoring that very carefully.

Mr. Smith stated the Division was doing pretty good in that regard. He stated in his own office they had tax exempt letters from the Department of Taxation, the merchant keeps it on file, and the tax is deducted out of the sale.

Chair Leslie stated her experience was just the opposite at the county level. People do not know that government is exempt from paying sales tax. She was reassured that on the state level that vendors are aware that the State does not pay sales tax. She related examples of using a tax exempt letter for government purchases.

Mr. Smith commented about the program in regard to tax exempt purchases.

Chair Leslie appreciated that the Division had accepted the recommendations but noted the letter contained a lot of future tense. She asked if there were more specific data on implementation dates and asked to be reassured that some of the recommendations are currently being implemented.

Mr. Smith assured the Committee that every one of the recommendations were being implemented and all would be completely implemented by the six-month review.

Chair Leslie asked for comments about the staff who is responsible for performance measures.

Mr. Smith replied they had already reassigned the individual who used to be responsible for the performance measures to a new individual who will consolidate that.

Chair Leslie called for further questions.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON THE DEPARTMENT OF ADMINISTRATION, PURCHASING DIVISION. THE MOTION WAS SECONDED BY SENATOR WASHINGTON AND CARRIED UNANIMOUSLY.

Chair Leslie noted that Assemblyman Denis was absent from the vote.

F. Alcoholic Beverage Awareness Program Fines

Mr. Townsend stated this audit was required by legislation. He introduced Diana Giovannoni, Deputy Legislative Auditor; and Jane Bailey, Audit Supervisor, to present the report.

Ms. Giovannoni began the presentation with background information. The requirement for alcoholic beverage awareness programs pursuant to NRS 369.630 applies to counties with at least 100,000 residents. Effective July 1, 2007, employees at certain establishments in Clark and Washoe Counties must complete an alcoholic beverage awareness program. These establishments include businesses that serve alcoholic beverages for consumption on the premises and those that sell alcohol for consumption off the premises.

Ms. Giovannoni explained that rural counties are excluded from these requirements, however they may choose to comply with the statute or adopt their own requirements for alcoholic beverage awareness training. Exhibit 1 shows three counties, Lincoln, Lyon, and Carson City, that voluntarily adopted local requirements for alcoholic beverage awareness programs.

Ms. Giovannoni explained to sell or serve alcohol, employees must complete a specific program of training every four years and hold a valid alcohol education card. Until its revision in 2009, NRS 369.630 stated law enforcement officers should report violations they discover to the Department of Taxation. The Department is required to levy and collect an administrative fine of \$500 upon the establishment for a first offense and higher fine amounts for repeat offenses.

The 2009 Legislature was informed the Department had not received any reports of violations from law enforcement since July 2007, and no fines were imposed. This prompted passage of Assembly Bill 432, which revised and clarified the requirements for enforcement of alcoholic beverage awareness programs effective October 1, 2009.

Ms. Giovannoni explained this audit is required by Section 4 of AB 432. The objective was to determine if any fines were imposed, and if so, the disposition of those fines. This included determining if the Department of Taxation has financial and administrative

controls in place to ensure alcoholic beverage awareness program fines are properly imposed, collected, and recorded. The audit focused on fines imposed from July 2007, through November 2009, and included activities through January 2010, for certain areas.

Auditors found the Department of Taxation imposed one fine upon an establishment between July 2007, and November 2009, for a violation detected by staff. In December 2009, the Department informed us staff reported four more violations, and imposed fines totaled \$2,500. Further, law enforcement agencies in Clark and Washoe Counties did not report any violations of the statute during the 29-month period. Then, in December 2009, the Department received two reports of violations from the Washoe County Sheriff.

Ms. Giovannoni explained law enforcement officers need training for effective local enforcement of the statute. With proper training, officers can check for valid employee training cards during underage drinking stings at liquor establishments. She noted many law enforcement agencies periodically perform these operations.

The Department can increase the likelihood officers will enforce the statute by monitoring agencies' violation reporting activity. For example, by periodically reviewing logs of infraction reports received, the Department can identify agencies with infrequent or no enforcement activities and follow up to encourage enforcement.

Ms. Giovannoni noted six of ten law enforcement agencies surveyed reported they were not aware that a form for reporting violations existed. By including the Notice of Infraction form and instructions on its website, the Department can assure the form is readily accessible to officials authorized to enforce the statute. Auditors understand the Department has since posted this form on its website.

Ms. Giovannoni explained with thousands of liquor licensees in wide geographic areas in two counties, the Department has severe limitations with its own enforcement staff of three. She noted the Department can enhance enforcement activities by authorizing certain local officials to enforce the statute. For example, Las Vegas business license officials require liquor establishment employees hold work permits, and the Southern Nevada Health District requires that these employees possess health cards.

Ms. Giovannoni reported neither the Department nor law enforcement in Clark and Washoe Counties have procedures to assure required reports are submitted timely to the Director of the Legislative Counsel Bureau.

Ms. Giovannoni reported that six recommendations were made to help ensure alcoholic beverage awareness program fines are properly imposed, collected, and recorded.

The Department of Taxation accepted all 6 audit recommendations.

Ms. Giovannoni concluded the presentation. She offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee.

Assemblyman Grady commented he was pleased to see that two of his counties, both Carson City and Lyon County are included. He noted the sheriffs' take the issue

seriously and stated that business licenses had been taken away because of this requirement to get the businesses attention.

Chair Leslie asked if any fines had been reported. She clarified this was not the under age alcohol sting, it was the alcohol education card she was referring to.

Ms. Giovannoni replied the rural counties voluntarily adopted their own statutes and ordinances and do not need to comply with this requirement or fine according to this.

Chair Leslie stated the urban areas do not seem to be taking this issue quite as seriously. She stated she was sure law enforcement feels that they have more important things to do and this is probably pretty low on their priority list of things to do.

Chair Leslie called for Department representatives to testify. She asked for comments on this issue and how to make it more effective.

Mr. Dino DiCianno, Director, Department of Taxation, appreciated the work the audit staff had done on this audit. He stated the Department accepted and was in agreement with the audit findings. He added that all six audit recommendations would be fully implemented before the end of April 2010.

Mr. DiCianno stated 12 fines had been issued which equaled approximately \$6,500. He gave an explanation of the fines levied, stating that the fines are appealable which involves a due-process that must be followed. Mr. DiCianno stated with respect to the training of law enforcement agencies, there was no question that a better job was needed to communicate the program with law enforcement agencies. The Department was preparing a presentation on their website. He added that agencies would be informed of the availability of the information. Mr. DiCianno added that the success of the program would benefit from the training and from the awareness. The Department takes this issue seriously for vendor staff to be trained and have the cards on site where liquor is dispensed. He offered to answer questions from the Committee.

Chair Leslie asked for comments about the viability of authorizing agencies such as the Health Division to go into these establishments.

Mr. DiCianno replied he viewed this as viable. If they do not issue the fine they could inform the entity and inform the Department for follow-up by the Department or by law enforcement.

Chair Leslie stated it seemed like a health inspector might have more time than law enforcement personnel to look at this kind of detail. She asked if they found a violation, what would a health officer do.

Mr. DiCianno replied they would contact the Department of Taxation or law enforcement.

Chair Leslie asked if the Department had done outreach with two major health entities.

Mr. DiCianno replied not at this time.

Chair Leslie stated it seems like an area that could be improved.

Chair Leslie called for comments or questions from the Committee.

Chair Leslie called for a motion.

SENATOR WASHINGTON MOVED TO ACCEPT THE REPORT ON THE ALCOHOLIC BEVERAGE AWARENESS PROGRAM FINES. THE MOTION WAS SECONDED BY ASSEMBLYMAN GRADY AND CARRIED UNANIMOUSLY.

Chair Leslie noted that Assemblyman Denis was absent from the vote.

G. Report on Count of Money in the State Treasury

Mr. Townsend stated this report is done annually. He introduced Eugene Allara, Deputy Legislative Auditor; and Shannon Ryan, Audit Supervisor, to present the report.

Mr. Allara stated in accordance with the provisions of NRS 353.060, the money and securities in the State Treasury were counted on Tuesday, June 30, 2009. The count included physical examination, direct confirmation with financial institutions, and other procedures considered necessary to fulfill statutory obligations. In accordance with NRS 353.075, this report was filed with the Secretary of State on November 20, 2009.

On June 30, 2009, there was zero cash on hand, \$53.8 million on deposit with financial institutions, \$2.6 billion of state-owned securities, and \$1.1 billion of securities held for safekeeping, for a grand total of \$3.8 billion.

Mr. Allara concluded the presentation and offered to answer questions from the Committee.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON COUNT OF MONEY IN STATE TREASURY. THE MOTION WAS SECONDED BY SENATOR WASHINGTON AND CARRIED UNANIMOUSLY.

Chair Leslie noted that Assemblyman Denis had returned and was included in the vote.

H. Office of State Treasurer, Unclaimed Property Program

Mr. Townsend introduced Dennis Klenczar, Deputy Legislative Auditor; and Doug Peterson, Information Systems Audit Supervisor, to present the report.

Mr. Klenczar began the presentation with background information by explaining the Unclaimed Property Program has the responsibility to collect, safeguard, and distribute unclaimed property for current and past residents and businesses of the State. It is the goal of the Program to reunite property with the rightful owners or heirs. Per NRS 120A.025, the State Treasurer is the Administrator of Unclaimed Property. Exhibit 1 lists some of the common types of unclaimed property and their holding periods. He explained that upon payment or delivery of property to the Administrator, the State assumes custody and responsibility for the safekeeping of the property. The person or entity entitled to receive the property never loses their right to make a claim. Mr. Klenczar noted that the Program has experienced significant growth in recent years.

Mr. Klenczar explained Exhibit 2 shows the increase in collections and paid claims for fiscal years 2005 to 2009. The next section on budget and staffing revealed funding for operating costs is provided by a transfer from the Abandoned Property Trust Account. Exhibit 3 provides data about operating expenditures and transfers to the General Fund and Millennium Scholarship Fund for fiscal years 2005 to 2009. The next section provides an overview of the Program's website, which allows rightful owners to identify property and begin the claim process.

Mr. Klenczar stated the Program substantially complied with state laws, regulations, and policies significant to its activities. However, the Program could improve its practices for identifying unclaimed property and making timely deposits. Also, the Program needs stronger controls over administrative functions related to the sale of securities, various reconciliations and access to data in the Unclaimed Property database.

Mr. Klenczar reported the Program did not fully utilize its audit function or implement other methods to identify unclaimed property. When audit coverage is not adequate, rightful owners may be denied their property. Auditors found 40 staff audits were completed during the 18-month period ended December 31, 2008. The Program has a performance measure of 55 annual staff audits. In addition to performing an adequate number of audits, a risk-based approach for scheduling audits is needed to ensure audit resources are used effectively. The report explained that the Program needs a risk-based approach because it has a staff of four auditors and more than 1,000 Nevada companies that are potential auditees.

Mr. Klenczar stated analysis of the 40 staff audits did not find sufficient evidence that a risk-based approach was consistently used. Details of testing results are included in the report. Auditor analysis also included a calculation of the amount in findings on a daily basis. Because the length of time to complete an audit can vary significantly, this calculation can help measure how effectively resources were used. Exhibit 4 is a summary of the 40 audits reviewed. The Program has taken steps to help identify unclaimed property by contracting with companies that specialize in these types of audits. Mr. Klenczar noted these contractors primarily perform out-of-state audits. For the 18-month period ended December 31, 2008, there was almost \$5.6 million in findings by contract auditors. Mr. Klenczar noted that other methods to identify property and improve reporting are available. Auditors contacted unclaimed property personnel in nine states and found all nine have implemented additional methods to identify unclaimed property. The use of other methods could help the Program meet its goal to reunite rightful owners with their property. The report includes information on methods utilized by other states.

Mr. Klenczar stated the next section of the report involves the process for the sale of securities. The Program had custodian responsibilities for about \$27 million in securities as of December 31, 2008. However, the Program has not established a timeframe for when securities are to be sold. As a result, additional staff resources are needed to account for the securities. Also, the longer shares are held, interest income is lost for the State.

Mr. Klenczar stated the next section of the report noted that deposit procedures need revision. The Program did not always make timely deposits. Untimely deposits ranged from 1 to 26 days late. Failure to follow statutory deposit requirements increases the risk of theft or loss and interest income is not maximized.

The next section of the report involved reconciliations of property records. The Program did not consistently perform accurate and timely reconciliations of various property records. Without accurate records, the Program cannot ensure its safekeeping responsibilities are met. Mr. Klenczar stated three areas of concern are: reconciling program records to state records for property collected and paid claims; reconciling program records to vendor records for securities; and maintaining an accurate inventory list.

Mr. Klenczar continued, the next section addressed auction items were not always sold timely. Auditors found 11 of 40 items were not sold timely. Additional information in the report provides detail of testing of these items.

The final section of the report dealt with security controls over sensitive data in the Program's database that could be strengthened. Auditor review found the Program does not review computer logs showing who has edited data in the system. He explained there are two groups of users with access to the Program's system. For both groups, methods are available that would provide management a means to review changes to data and determine if they were appropriate.

Mr. Klenczar reported that nine audit recommendations were made to improve practices for identifying, collecting, and administering unclaimed property.

The agency accepted all nine audit recommendations.

Mr. Klenczar offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee. She noted that agency personnel were present at the meeting.

Mr. Steve George, Chief of Staff, Office of the State Treasurer, introduced staff present at the meeting. He appreciated the Audit staff for the thorough review. He stated many of the processes outlined in the report had already been implemented and as their response indicated all nine audit recommendations were accepted, and they were going forward with the recommendations.

Assemblyman Grady commented on the sale of securities after one year as discussed on pages 14 to 15 of the report. He asked if it was the Treasurer's intent to have a bill drafted for the 2011 Legislative Session to reinstate some policy.

Mr. George asked for the Deputy Treasurer to answer the question.

Ms. Mary McElhone, Deputy Treasurer, Unclaimed Property, replied the agency did not have plans for any statutory changes. She explained that procedures are in place to sell the securities at the 2-year mark.

Chair Leslie found the risk based approach very interesting. It seems like focusing more on the higher dollar value could result in additional funds for the State. She noted

the response to the audit recommendations indicated the Office had been doing that without a formal policy in place. She asked for comments on the issue.

Mr. George deferred the question to Ms. McElhone.

Ms. McElhone replied the Office had always utilized a risk-based approach to the audits but are getting more detailed in their approach. They are looking at different businesses which report to the agency, what they are reporting, when they are reporting, how often they are reporting. Also, they have attempted to audit in a much smarter manner than they have before. A new voluntary disclosure agreement is in place which waives interest and penalties for first time reporters or individual businesses that would like to be in compliance. That program has been hugely successful. This program has brought in about \$8.4 million this year. She noted about \$6.4 million had come from one particular business. The other \$2 million is something the auditors and staff accomplished.

Chair Leslie congratulated the Office on the great job they had done in recent years in increasing the amount of unclaimed property recovered.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON THE OFFICE OF THE STATE TREASURER, UNCLAIMED PROPERTY PROGRAM. THE MOTION WAS SECONDED BY SENATOR WASHINGTON AND CARRIED UNANIMOUSLY.

Chair Leslie called for a lunch break.

Chair Leslie called the meeting to order at 1:21 p.m.

Item 4—Presentation of Review of Governmental and Private Facilities for Children (AB 103)

Mr. Townsend introduced the members of the report team as Jane Bailey, Audit Supervisor, who has been with the Division for 16 years; Sandra McGuirk, Deputy Legislative Auditor, who has been with the Division for 13 years and has been working on the report since its inception; and the newest member is Michael Herenick, Deputy Legislative Auditor, who has been with the Audit Division for 2.5 years and has a Masters in Public Administration from the University of Nevada at Las Vegas. He explained the team of Sandra McGuirk and Michael Herenick have been traveling to the entities listed on the map in the report. He stated this review is now required pursuant to AB 103 from the 2009 Legislative Session. He added that Audit staff would be doing these reports on an ongoing basis. He stated Jane Bailey, Audit Supervisor, would begin the report presentation.

Ms. Bailey stated this report includes the results of work required by Assembly Bill 629 Section 6 from the 2007 Legislative Session and Assembly Bill 103 from the 2009 Legislative Session. These two bills are presented in Appendix A of the report. The report includes the results of reviews of 13 children's facilities, unannounced site visits to 14 facilities, and surveys of 50 facilities.

Statutes require the Legislative Auditor to conduct reviews, audits, and unannounced site visits of governmental and private facilities for children. Auditors identified a total of 50 governmental and private facilities in Nevada that meet the requirements of AB 629 and AB 103. This includes 22 governmental and 28 private facilities. Exhibit 1 shows the types of facilities in Nevada, their maximum capacity and average population, and their staffing levels for calendar year 2008. In addition, 157 Nevada children were placed in 31 facilities in 16 different states outside of Nevada as of December 31, 2008. Exhibit 2 shows the number of children placed in out-of-state facilities and the placing agencies.

Ms. Bailey continued, AB 629 and AB 103 require facilities to forward to the Legislative Auditor copies of any complaint filed by a child under their custody or by any other person on behalf of such a child concerning the health, safety, welfare, and civil or other rights of the child. During the period from August 1, 2008, through June 30, 2009, 960 complaints were received from Nevada facilities.

The results of reviews begins with information on background check requirements for the facilities. All of the 13 facilities reviewed could improve their background check processes. Many of the facilities' processes do not ensure staff have appropriate backgrounds.

Exhibit 3 describes some of the most common or serious weaknesses found at the 13 facilities reviewed. Some of these issues include not conducting periodic post-employment background checks, policies not addressing hiring employees with prior criminal histories, files not containing the results of background checks, and obtaining background checks based on social security numbers instead of fingerprints. In addition, facilities do not always follow-up when the results of background checks are not received or the results show an arrest, but no conviction information. As a result, one facility had four employees with felony convictions; however, as a substance abuse treatment facility, it was not required to obtain background checks on all employees.

Ms. Bailey stated requirements for background checks vary between different types of facilities, depending on the type of license and the licensing agency. Six of the 13 facilities reviewed were not required by state law or regulation to obtain background checks on all employees. This includes four correction/detention and two substance abuse treatment facilities. Even though not required, all six did obtain background checks of newly hired employees. However, two facilities used background checks based on social security numbers and names instead of fingerprints, or obtained only local background checks. Background checks based on social security numbers and local background checks may not be as complete or accurate as state and federal background checks based on fingerprints. Different types of facilities also have different timeframes for obtaining background checks and different requirements for periodic post-employment background checks.

Exhibit 4 lists the types of facilities included in our review, the statutory or regulatory requirements for background checks, a brief description of those requirements, and the licensing agency. For example, the exhibit shows that Group Foster Homes' background check requirements can be found in NRS and NAC Chapters 424 and

applicants must submit fingerprints to the licensing agency, but the NRS and NAC do not contain a list of convictions that would exclude a person from employment. However, NRS 432A lists convictions that would exclude a person from working at a licensed child care facility. Exhibit 5 shows the types of licenses and licensing agencies, and provides examples of the facilities that are licensed.

In order to ensure all children in Nevada facilities are afforded equal protection, the Legislature may wish to consider enacting legislation to make background check requirements consistent for all types of residential facilities that serve children.

Ms. Bailey stated one recommendation was made for the Legislature to consider enacting legislation to require all facilities that provide residential services to children to obtain state and federal fingerprint background checks of all employees prior to allowing the employees to have unsupervised access to the children in those facilities. The legislation may also include a list of the offenses for which a conviction would exclude a person from obtaining employment at a facility; require facilities to maintain the results of the background check for each employee for as long as that person remains employed by the facility; and require background checks be obtained periodically for persons remaining employed at a facility for a specified time.

Ms. Bailey concluded the first portion of the report presentation. She added that Ms. McGuirk would continue the report presentation.

Ms. Bailey offered to answer questions from the Committee.

Chair Leslie stated the charts on pages 8 and 9 were very helpful. She asked if background checks needed to have a more streamlined approach to be clear for all types of facilities, even though some are substance abuse facilities, some are treatment facilities, some are detention facilities, etc. She asked if a single process outlining how to do a background check and then what to do if the check reveals something would be helpful.

Ms. Bailey replied the facilities' background check requirements need to be consistent even if they are for different types of facilities that have different licensing agencies.

Chair Leslie stated maybe it would be consistency that should be addressed.

Chair Leslie stated reading through the reports on the reviewed facilities and how each was handled made her aware that there is a lot more work that the Legislature, as policymakers, need to do in this particular area.

Chair Leslie called for questions from the Committee on this section of the report.

Ms. Bailey turned the presentation over to Ms. McGuirk.

Ms. McGuirk continued the presentation of the report. She stated during the course of the reviews, policies and procedures, youth files, and management information were examined. Auditors discussed related issues and observed related processes in place.

Based on the procedures performed and except as otherwise noted, the policies, procedures, and processes in place at the facilities reviewed provided reasonable assurance that they adequately protected the health, safety, and welfare of the youths

at the facilities, and respect the civil and other rights of youths in their care. However, during their visit, auditors were unable to obtain assurance that Briarwood South adequately protects the health of the youth residing at the facility because of significant medication documentation and administration issues. Subsequent to the visit, Briarwood South revised its medication administration policies and procedures. In addition, during the 14 unannounced facility visits conducted, auditors did not note anything that caused them to question the health, safety, welfare, or protection of the children in the facilities.

Ms. McGuirk stated the report discussed the review of policies and procedures. It was noted that policies were not developed or needed to be updated at all 13 facilities. The types of policies and procedures that were missing, unclear, or outdated ranged from suicide risk to privileges.

Ms. McGuirk reported the review of youth files included medication administered, evidence of a youth's right to file a complaint, treatment plans, and emergency contacts. The report noted medication administration processes and procedures need improvement at all 13 facilities. The medication administration process includes documentation of medications administered to youth, controls over prescribed medications, and the process used to ensure the accuracy of medical files and records.

Ms. McGuirk stated youth medical files did not contain complete or clear documentation of dispensed, prescribed medication at 10 of 13 facilities. At one facility, five youth files were missing medication administration records for up to 4 months, the records were blank for entire months, or the records did not include all the medications the youths were prescribed. In addition, there was no evidence of physicians' orders or pharmacy instructions at 4 of 13 facilities. For example, at one of the facilities, five youth files were missing physician orders or physician's orders were not followed. Also, medical files and records were not reviewed by someone independent of the medication process at 10 of 13 facilities to identify errors, fraud, or abuse by staff or management.

Medication administration procedures include procedures used to ensure youths take medications administered. For example, auditors noted staff did not check to ensure youths did not conceal medication administered at 6 of 13 facilities. In addition, there was no approved, non-prescription medication list at 6 of 13 facilities.

The report discussed complaint processes which need improvement. For example, youth files did not contain evidence of a youth's acknowledgement of his right to file a complaint at 6 of 13 facilities.

Ms. McGuirk stated mandatory reporting of allegations of abuse or neglect need improvement. Auditors noted instances where youths disclosed an allegation of abuse or neglect. However, auditors were unable to locate evidence that the allegations were reported to child welfare services or law enforcement within 24 hours, as required by statute, at 2 of 13 facilities.

The report also contains an update on West Hills Hospital. Auditors completed an initial review of the facility in July 2008. One of the issues reported was that the facility needed to improve its supervision of youths. Subsequent to review and the facility's

response, the Bureau of Health Care Quality and Compliance noted similar deficiencies. Based on the Bureau's review, West Hills' license was temporarily suspended and the facility was subject to an independent monitor to ensure patient safety. The focus of a follow-up visit to West Hills Hospital in November 2009 was to review actions taken by the hospital to correct deficiencies related to the supervision of youths. It was found that the hospital has made improvements; however, auditors will continue to monitor their progress.

Ms. McGuirk noted Exhibit 6 includes a map of the 13 facilities reviewed. The report provides details on issues noted at each facility, as well as each facility's response. The review included background information, followed by the purpose of the auditor review, results in brief, observations, and the facility's response to each observation.

Ms. McGuirk concluded the presentation. She offered to answer questions from the Committee.

Chair Leslie thanked the audit staff for a great job on the report, adding it was an amazing piece of work.

Chair Leslie stated there were some real training issues in regard to medication management. She asked for the auditors to comment on their impression of reasons for these problems and asked why this continues to be a problem in the facilities.

Ms. McGuirk replied some facilities are better than others at medication administration. She reported there is a lack of policies and procedures or inadequate policies and procedures. And where policies and procedures exist there is inadequate training on the responsibilities of the staff to administer medications appropriately as directed by physicians. She stated if staff followed the policies and procedures and had a true understanding of the issues, she thought that significant changes might be seen. To answer the question on training, she noted that auditors had been to 26 facilities so far and it appeared that there was no individual body they were initially aware of that provided training. However, recently they came across an agency that provides training. Although not all of the facilities would fall under their purview, she felt this training would highlight the issues auditors had reported.

Chair Leslie asked for the name of the agency.

Ms. McGuirk stated the Bureau of Healthcare Quality and Compliance has a consultant who provides training under NRS 449. Although the NRS relates to elderly persons and persons with some mental retardation she believed that the issues addressed in the training could be used at the children's facilities because some of the issues are similar.

Chair Leslie replied she would question the Department on the issue of sponsoring training. She stated if these facilities where children are placed could receive training and were aware that the auditors would review their progress, the medication administration issue might see improvement.

Chair Leslie was disturbed by Briarwood Souths' suggestion that adopting new medication documentation and policies and procedures would remedy all of the issues. She stated that was not enough of an explanation for her to feel like the children were

being protected. She emphasized the need to continue to pay a lot of attention in that area.

Chair Leslie stated another area that was unsettling was to find out that reports of abuse and neglect were not reported to the proper authorities as noted by the auditors. She asked if the agencies stated they had reported the incidents, that they did not have documentation, or did they state they did not report them.

Ms. McGuirk replied there was a misunderstanding at some of the facilities of their responsibilities. She certainly thought that was one of the issues. In the cases auditors reviewed, several sources were checked to verify if the allegations had been reported. Unfortunately evidence that it had been reported was not located. Ms. McGuirk added, that it was not to say that it did not get reported.

Chair Leslie asked if auditors had asked the facilities if they had reported the incidents.

Ms. McGuirk replied yes, they discussed the allegations with the facilities and auditors also had contact through an audit staff member with access to Unity, which is the database utilized to verify if the allegations had been reported. Ms. McGuirk reported beyond that database there is no other source to access for the information. Ms. McGuirk stated she was not aware if those incidents were reported.

Chair Leslie was disturbed that a facility where children are placed by the courts would not be crystal clear on their reporting and documenting responsibilities. She did not understand how a facility would report an incident and not have any documentation of that incident. Chair Leslie appreciated the status update on West Hills Hospital. She knew that a number of inspections had been done and that their license had been suspended for serious problems. She asked for comments on the issue.

Ms. McGuirk replied auditors initially reported issues on West Hills Hospital in December 2008. At that point the information became public. Auditors did not have any direct interaction with the Bureau of Health Care Quality Compliance which licenses West Hills Hospital. Auditors assessed the situation and determined when it would be prudent to return and take another look at the facility.

Chair Leslie stated West Hills Hospital had made some dramatic changes and children are being better protected. She commended the audit staff for the work done on the report.

Chair Leslie commented it was interesting that some of these facilities she had never heard of before. She asked how auditors were able to locate some of these facilities that were smaller and more obscure that children were being sent to.

Ms. McGuirk stated auditors initially started with a list of 28 facilities from a project that was initially contracted out. Because there are so many youths in different facilities they determined it prudent to conduct additional searches. Some of the facilities were identified through the state's financial system by noting who money was being paid to. She stated auditors also looked at the website of the licensing agencies. Ms. McGuirk stated some other facilities they heard about when they were out in the field, which is the benefit of great communication between the facilities and the Audit staff.

Chair Leslie was concerned that the courts were placing children in facilities that may be operating with very minimal oversight. She asked Ms. McGuirk if she saw a role for the state in licensing, regulating, and at least knowing about these facilities to avoid hearing about issues from the research by the auditors or through word of mouth. She asked for comments on the issue.

Ms. McGuirk replied fortunately the two ranches they had identified and reviewed in the report are licensed by the State by the Division of Child and Family Services (DCFS).

Chair Leslie asked if auditors had found any programs that were not licensed.

Ms. McGuirk replied no. She added that detention and correction facilities and resource centers were not necessarily licensed by the State, but under the purview of the county.

Chair Leslie stated that would be the county commissioners. She added at least there is an entity in the state that is responsible for the children.

Chair Leslie called for additional questions of the auditors from the Committee.

Chair Leslie called for the representation from DCFS to come forward to testify. She noted there were people in attendance that had indicated they would like to offer comments on the issue. She stated public testimony would follow.

Ms. Diane Comeaux, Administrator, Division of Child and Family Services, noted representatives were also present at the meeting in Las Vegas.

Chair Leslie asked for comments on the report. She asked if there were any particular areas that caused her concern.

Ms. Comeaux commended Division staff for a really good job in quickly responding to concerns raised by Audit staff. She stated all of their policies and procedures had been updated and training had begun. She was relieved to hear that there were not any actual medication errors found with the exception of the one at ATC which they had self disclosed. Ms. Comeaux stated appropriate action was taken by the Division.

Ms. Comeaux agreed with the finding that background checks are an issue. She explained that different licensing entities look at different issues. She gave examples of some of the background check requirements at facilities in the State. Ms. Comeaux agreed that it would be very helpful if they had some standardization of the requirements for the background checks.

Chair Leslie asked if the Division would work to make recommendations to the 2011 Legislative Session in regard to the standardization issue. She noted it is very complicated and someone in her position would be able to advise the Legislature from a knowledgeable perspective.

Ms. Comeaux stated the Division would be able to do that.

Chair Leslie recognized Senator Washington.

Senator Washington stated they talked about standardization for the industry as a whole relating to child care, foster care, etc., and that there are some differences between the two larger counties. He asked if there was a possibility through regulation, as opposed

to legislation, to set the parameters for the counties or for the state that each county would be within those parameters to ensure that certain requirements are met in regard to background checks, prior convictions, etc.

Ms. Comeaux replied as they go through and work with the other entities they would look toward making regulatory changes in those areas that they could prior to making a recommendation for a statutory change. She stated again these licensing entities are people who the Division works with on a regular basis and she did not think they would have a problem talking with them about those things. She related the only problem the Division might have is if the entities did not have any statutory language that permits them to do that.

Senator Washington stated currently within statute language exists that addresses certain requirements for background checks, prior convictions, etc. The two larger counties could then actually handle the issue within their own respective counties. He was aware that the rural counties would have difficulty in attempting to implement some of those standards or regulations. He asked if it was not possible or was the Division prohibited.

Ms. Comeaux replied the Division has responsibility for child care licensing which has specific standards in statute that require background checks every six years and includes very specific rules in statute that cannot be waived. She added for child welfare licensees the Division could make some regulatory changes. Ms. Comeaux explained background checks are required, however follow-up background checks are not required. She explained ASPA requirements at the federal level also have requirements that cannot be waived. She stated the Division has some processes in place but they are not specific in regulation. She offered to address the issue.

Senator Washington stated that would be expeditious if the Division began the process to incorporate changes into regulations as opposed to waiting for another legislative session to propose changes. He stated if the Division had the statutory authority to standardize the overall employment background checks of those individuals he encouraged the Division to take action.

Chair Leslie agreed with comments from Senator Washington.

Ms. Comeaux added the Division had good collaboration with the other entities to work with them to make changes in the regulations.

Chair Leslie asked for comments in regard to medication management. She was disturbed, noting that Ms. Comeaux had stated that there were no medical errors. She asked how it could be known if the facilities did not fill out the appropriate paperwork. She stated there were a lot of cases where they were not maintaining logs and physician orders were outdated or did not exist so we do not really know if there were any medical errors. She was aware that the Division did not have jurisdiction over all of these facilities but the Division had seen this problem in our state institutions for years. She asked if there was a way to work with the Bureau of Health to sponsor some kind of a training on the subject of medication management in a residential facility.

Ms. Comeaux replied they would be willing to co-sponsor such a program with the Health Division. She agreed that it was a priority.

Chair Leslie called for additional questions from the Committee.

Chair Leslie stated page 3 of the report states that Audit staff identified 157 youths were placed in out-of-state facilities by county or state as of December 31, 2008. She asked if Ms. Comeaux was aware of the number of youths placed out-of-state.

Ms. Comeaux stated the only children they are aware of in out-of-state facilities are those that are placed by the Division and/or by either of the child welfare entities. She stated the youth that are placed by juvenile services sometimes notifies the Division but they do not have to request prior authorization from the Division.

Chair Leslie asked how the auditors came up with that number.

Ms. McGuirk replied during the process of their reviews they asked the county facilities to inform the auditors on a regular basis. Also, prior to issuing the report auditors had sent out a letter to each of the counties or the district court in the county and requested they confirm the number of youth out-of-state. Auditors also receive information from the DCFS youth parole bureau.

Chair Leslie asked if that was a number the auditors would continue to maintain so the Legislature could compare from year-to-year.

Ms. McGuirk replied that auditors had not made a decision but offered to track the numbers if requested by the Committee.

Chair Leslie stated it was an issue the legislature has taken up for a long time now. Questions include: how many youths are sent out of state; what are they being sent there for; and are there facilities that the state should be developing so kids can stay closer to their families and their communities. She stated the information would be valuable. She asked for comments from Ms. Comeaux.

Ms. Comeaux agreed and suggested another good resource is Medicaid which is paying for the majority of the youths maintained out of state. They have the ability to pull from their records the number of youths in out-of-state placement which would include their county of origin but not specifically who worked to place them out of state.

Chair Leslie stated that was a good point.

Chair Leslie stated the issue is in the forefront because of the CRIPPA investigation by the Department of Justice in Elko. The State is determined to never be in a position again with such severe problems that the Legislature was not aware of. She noted this report gave the Committee a heads up about problem areas that need to be addressed and problem programs that need close review to ensure that children are protected. She added that facilities do not want to have a bad report made public, which encourages facilities to keep up-to-date with how children should be protected.

Chair Leslie opened the meeting to public comment. There was none.

Chair Leslie stated this report would also be presented to Child Welfare and Juvenile Justice Committee which would meet on April 14, 2010.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON THE REVIEW OF GOVERNMENTAL AND PRIVATE FACILITIES FOR CHILDREN (AB103). THE MOTION WAS SECONDED BY SENATOR WASHINGTON AND CARRIED UNANIMOUSLY.

Item 5—Presentation of six-month reports (NRS 218G.270)

Mr. Townsend stated two six-month reports would be presented. He explained six-month reports, issued by the Department of Administration, are status reports on how audit recommendations are being implemented. He explained the Audit Division receives the reports, reviews them, and develops questions to ask the agencies in regard to the implementation status of the audit recommendations.

A. Peace Officers' Standards and Training Commission

Mr. Townsend requested that the representatives from the agency come forward to testify.

Mr. Townsend stated in April 2009, auditors issued an audit report on the Peace Officers' Standards and Training Commission. The six-month report prepared by the Department of Administration which updated the status of the nine audit recommendations contained in the report indicated that six audit recommendations were fully implemented and three were partially recommended. Mr. Townsend indicated the three partially implemented recommendations included: establish a properly executed written contract for services; develop inter-local agreements for the collection of academy registration fees; and prepare work performance standards and probationary evaluations for all classified employees .

Mr. Townsend had three questions for the agency and asked for agency input on their status of implementing the audit recommendations. First, are contract and master service agreements currently established and executed; second, have signatures been obtained for the interlocal agreements; and third, is POST now current on all required probationary employee evaluations.

Mr. Tim Bunting, Deputy Director, POST, replied the audit recommendation for written contracts was ongoing with two outstanding contracts; one was for their software Crownpoint Technologies and the other was for Scantron, which is a testing software they are still working on.

Mr. Bunting explained the interlocal agreements involved 132 criminal justice agencies in the state and had determined that 82 agencies would use the academy services. Out of the 82 agencies, 62 had been completed with 20 in process. He explained some tribal agencies had to wait for the tribal counsel to meet to get it signed. Another example was that the UNR Police Department rejected it at first and then decided they wanted it and sent it to their legal advisors for review. He stated it takes a while to receive approvals from all of the entities.

Mr. Bunting stated the third audit recommendation in regard to probationary employee performance evaluations was completed.

Mr. Townsend stated that two of the audit recommendations remain partially implemented. He stated auditors would communicate with the agency to follow up on the remaining partially implemented recommendations. He suggested the agency could be requested to return to a future Committee meeting.

Chair Leslie agreed.

Mr. Bunting agreed.

Chair Leslie called for questions from the Committee.

Assemblyman Denis made comments on performance standards for the agency to consider when developing their standards.

Mr. Bunting stated the agency would take the comments into consideration.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE PEACE OFFICERS' STANDARDS AND TRAINING COMMISSION WITH THE UNDERSTANDING THAT THE AUDIT DIVISION WOULD CONTINUE TO FOLLOW UP WITH THE AGENCY. THE MOTION WAS SECONDED BY ASSEMBLYMAN DENIS AND CARRIED UNANIMOUSLY.

B. Department of Employment, Training and Rehabilitation, Information Technology Security

Mr. Townsend introduced Doug Peterson, Information Systems Audit Supervisor, to present the report.

Mr. Peterson stated in May 2009, auditors issued an audit report on the Department of Employment, Training and Rehabilitation, Information Technology Security. The six-month report prepared by the Department of Administration updating the status of the 17 audit recommendations contained in the report indicated that 13 audit recommendations were fully implemented and 4 were partially recommended. Mr. Peterson summarized the four recommendations. The first recommendation dealt with the security of new-hire directory information.

Mr. Peterson stated the first item is the Department processes and mails computer tapes containing unencrypted personal information including names and social security numbers. The six-month report indicated that the Department had made progress in securing this new hire information but most companies had not yet been converted over to the secured transfer protocol. He suggested the Committee ask if the Department developed procedures to ensure the security of new hire directory information and does the Department expect to convert all companies by September 2010.

Mr. Dave Haws, Administrator, Information, Development, and Processing Division, DETR, replied in response to the first question the Department has a procedure in place. He explained that approximately 19 employers were sending in the tapes to the Department. He stated the process today is that the Department processes the tapes and ensures they are erased before returning them to the employers. He stated

procedures were located in their operations run book. In addition the Department had also been working diligently to move them completely off of tape. He reported that 17 out of the 19 are now using the Department's secure FTP protocol. He stated accounts are set up for the remaining two but are waiting for them to essentially get rid of the tape process and move to the electronic file method.

Mr. Peterson proceeded to the next recommendation. He stated this dealt with background investigations. Auditors found that none of the 50 information technology staff had had background investigations. Mr. Peterson reported the six-month report revealed that policies and procedures were in place for new hires but they had not fully implemented background checks on existing staff. The question was when does the Department anticipate completing the background checks on existing staff.

Mr. Haws replied the Department had implemented a procedure for new hires and for those that have been promoted as the Department requires them to have a background check. In addition, the Department had been working through a process to have permanent employees obtain background checks. He stated that 21 of 38 employees that need a background check have completed the process, adding 17 have received the paperwork and are completing their fingerprints at this time. He believed they are on target to fully implement this audit recommendation in May 2010.

Mr. Peterson proceeded to the next recommendation. He stated auditors found that the Department's firewall could be improved in both configuration and management. The six month report indicated the Department had developed a procedure for the periodic review of the firewall rules but that the review had not been done. The Department had indicated that the audit recommendation would be fully implemented by May 2010. Auditors would ask if the Department anticipated the recommendation would be fully implemented by May 2010.

Mr. Haws replied for this particular recommendation a procedure has been put in place to complete this process. He stated reasons why the review did not occur on time. The Department anticipated and have scheduled that review to be completed by May 2010.

Mr. Peterson proceeded to the last recommendation. He stated auditors had found that some of the Department's network servers did not have proper physical security. The six-month report indicated that most of DETR's servers are secure but some still require the procurement of some locks in the equipment. The report indicated the audit recommendation would be fully implemented by September 2010. Auditors would ask if the Department still anticipated the recommendation would be fully implemented by September 2010.

Mr. Doug Wells, IT Manager, DETR, replied during the audit there were four sites identified as needing additional security. Since that time they have secured two sites by installing a locking door on the site in Elko and a locking rack was installed to secure the servers on the site in North Las Vegas. They are in the process of evaluating how to address the security of the other two sites and anticipated that the audit recommendation would be fully implemented by September 2010.

Chair Leslie asked for comments on the implementation of the two sites.

Mr. Wells replied it was a backlog in working with their operations bureau. He indicated DETR had been growing so fast that they had been adding new office space. He indicated they needed to get prioritized to ensure the audit recommendation is fully implemented by September 2010.

Chair Leslie stated it would seem that they could get it done prior to September 2010.

Mr. Wells replied they would attempt to implement the recommendation prior to September 2010. He indicated they were hoping to get it done in the next 30 days.

Chair Leslie stated that would be acceptable.

Mr. Peterson stated the Department indicated they had made pretty good progress.

Mr. Peterson stated auditors would continue to monitor the status of the partially implemented audit recommendations and request the Department return to a future Committee meeting if indicated.

Chair Leslie agreed the Department had made good progress and did not hear any barriers to ensuring these audit recommendations were fully implemented.

Chair Leslie called for questions from the Committee.

Chair Leslie called for a motion.

SENATOR WASHINGTON MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, INFORMATION TECHNOLOGY SECURITY WITH THE UNDERSTANDING THAT THE AUDIT DIVISION WOULD CONTINUE TO FOLLOW UP WITH THE AGENCY. THE MOTION WAS SECONDED BY ASSEMBLYMAN GRADY AND CARRIED UNANIMOUSLY.

Item 6—Follow-up on six month report from prior meeting (NRS 218G.270)

B. Department of Administration, Hearings Division and Victims of Crime Program

Mr. Townsend stated when auditors talk about agencies coming back to a Committee meeting, this is an example of such an audit. He stated this audit goes all the way back to November 2007. The Division has one lingering audit recommendation. He understood that staff were present in Las Vegas to testify. Mr. Townsend introduced Daniel Crossman, Deputy Legislative Auditor, to present the report.

Mr. Crossman stated in November 2007, auditors issued an audit report on the Department of Administration's Hearing Division, Victims of Crime Program. In September 2008, the status of the 11 audit recommendations was presented to the Committee. Eight of the 11 audit recommendations were fully implemented at that time. It was determined that auditors would do a follow up on the partially implemented recommendations. Auditors had since determined that two of the three recommendations had been fully implemented. Auditors suggested the Committee obtain additional information on the one partially implemented recommendation.

Mr. Crossman stated the relevant finding was that despite insufficient funding to cover the victim's claims, which should have resulted in payment of all claims, at a percentage of less than 100 percent, some claims were paid at 100 percent, while others were deferred during fiscal year 2006 and into fiscal year 2007. Hospitals and select medical service providers were given lowest payment priority. Consequently \$2.4 million of the \$3.8 million in unpaid claims, as of December 31, 2006, pertained to three large medical service providers. Mr. Crossman stated NRS 217.260 requires that all victim's claims, paid in a quarter, be reduced in the same proportion as expenses exceed funding. The recommendation in the report in regard to this finding was to pay victim's claims in accordance with NRS 217.260, and the Board of Examiner's policy.

Mr. Crossman indicated in April 2008, auditors received a legal opinion from the Legislative Counsel indicating that the Program's practice was not consistent with statute. The legal opinion was included in the Committee packet. Auditors also included an excerpt from NRS 217.260, the last sentence which reads:

"If the estimated expenses for the quarter exceed the available revenue, all claims paid in that quarter must be reduced in the same proportion as the expenses exceeded the revenue."

Mr. Crossman indicated the Department of Administration reported in August 2008, that the Division was seeking to amend the statute by submitting a bill draft request. However, no bill draft request was officially recorded and an attempt to amend statute in the 2009 Legislative Session was unsuccessful.

Mr. Crossman stated recently the Program has had sufficient funds to pay claims. Therefore the payment of claims has not been subjected to the statutory requirement to reduce payment percentages.

Mr. Crossman stated in response to auditor inquiry in regard to the implementation status of the audit recommendation for this meeting, the Program's coordinator indicated that the policies adopted by the Board of Examiners on August 11, 2009, resolved any real or perceived conflict in statute. However, according to the Board of Examiners policy, a claim payment priority system has been established through which at certain times claims are paid upon approval while some claim types are held until the end of the quarter and paid ratably with the remaining available funds. He stated if sufficient funds are not available to pay these held claims they are paid at a lower percentage than other claims paid in the same quarter. Mr. Crossman stated the intent of the Program's claim payment policy is to pay the total allowable amount for certain types of claims such as lost wages and prescriptions at times when the Program's revenues are insufficient to pay all claims at 100 percent. However when sufficient funding is not available all claims approved are not reduced in the same proportion as expenses exceed revenue within each quarter as required by statute.

Mr. Crossman stated although auditors had received a response from the Program's coordinator, auditor questions for the record were: does the Program intend to submit a bill draft request for the 2011 Legislative Session to amend statute to resolve the conflict between the Board of Examiners Victim's claims payment policy and statute; and does the Program intend to revise the policy to be consistent with statute.

Ms. Rebecca Salazar, Victims of Crime Program, replied regarding the question do we intend to revise the Board of Examiners victim's claim policy to be consistent with the statute she answered no, the Program did not intend to revise their policy. She stated the Program is following NRS 217.130 and NRS 217.150, which allows the Board of Examiners to adopt policies that regulate their claim payments. She added that was what they followed and how they paid their claims. Ms. Salazar stated the Program believed they were in compliance.

Ms. Salazar stated in regard to the second question, the Program has submitted another bill draft request for the 2011 Legislative Session.

Chair Leslie asked if this was because the Program was not in compliance with the other statutes, otherwise why would the Program be submitting a bill draft.

Ms. Salazar replied the two statutes conflict in regard to how claims are to be paid. She stated NRS 217.260 does not allow the Program to assist the victims in the best way and that was why the Program did not follow that statute.

Chair Leslie stated, "Unfortunately you don't get to pick and choose like that."

Ms. Salazar stated she understood.

Chair Leslie stated she was not saying that the Program was not doing it the best way in which to help victims, but the problem from this Committee is that the Program is in conflict with the statute on the books. And they do not get to let you just ignore conflicts because the Program does not like them. Chair Leslie stated the Committee really needed Ms. Salazar's assurance that not only were they going to submit a bill draft request but that the Program was going to work to ensure that this issue gets resolved.

Ms. Salazar stated yes, the Program had made two attempts to submit bill draft requests in the last two legislative sessions and planned to submit another bill draft for the 2011 Legislative Session and would follow through.

Chair Leslie stated the last time they did it in the 2009 Legislative Session it did not even get on the bill draft list so the Legislature did not have the chance to review the request. She was unsure why the bill draft was not submitted but it did not even make the list was her understanding.

Ms. Salazar replied she was unsure exactly what happened. She did know that the Program submitted the bill draft requests but she was not aware of how far the requests went.

Chair Leslie stated the Committee needed to hear from someone who does know the answer to the question. She asked who that person would be.

Ms. Salazar replied that would be Bryan Nix, Coordinator (Sr. Appeals Officer), Victims, Hearings Division. She added that Mr. Nix had a conflict and was unable to attend the Committee meeting today.

Chair Leslie stated to Paul Townsend, Legislative Auditor, that she would like to put this on the next agenda of the Audit Subcommittee as she was not satisfied with the response from the Program representative.

Senator Coffin asked Ms. Salazar what the sequence of events was. Did you request to Bryan Nix or did Bryan Nix send a request to the administration. He was unsure if the Program had to go to the Department of Administration.

Ms. Salazar replied Mr. Nix had submitted one bill draft request with the Department of Administration and submitted another one through an Attorney General Victims of Crime Subcommittee for the 2009 Legislative Session.

Senator Coffin asked if they were drafted. He gathered they were not all introduced.

Ms. Salazar replied no.

Senator Coffin asked if they were drafted by somebody because bills can be drafted but not introduced.

Ms. Salazar believed that Mr. Nix did that. She was unsure of the details.

Senator Coffin asked what Mr. Nix did.

Ms. Salazar stated Mr. Nix drafted the bill.

Senator Coffin corrected that Mr. Nix would probably have asked someone to draft the bill. The drafted bills go to a central place and legislators need to know the process. He asked if the bills were being "short stopped" by somebody because this might not be the only agency this is happening to.

Ms. Salazar replied she did not know the answer to the question.

Senator Coffin asked that the Chair request that the Program provide a written answer prior to the next Audit Subcommittee meeting to provide information on just what had transpired with the bill draft requests.

Chair Leslie agreed. She asked if Audit staff had any additional information to provide the Committee.

Mr. Townsend replied that they did not have any additional information in regard to the issue.

Chair Leslie recognized Senator Coffin.

Senator Coffin stated Mr. Nix is an experienced administrator so he knows what goes on and we need to have that information from him.

Chair Leslie agreed. She recognized Assemblyman Grady.

Assemblyman Grady asked if the Subcommittee does not get an answer does the Subcommittee have the ability either through IFC or one of the committees to put the bill draft request in to get it done.

Chair Leslie asked Mr. Townsend if the Subcommittee had any bill draft requests.

Mr. Townsend stated there are instances when the Subcommittee can sponsor a bill draft request. However, if there is an audit finding that involves a departure from criteria the auditors do not want to be the ones changing the criteria to satisfy the audit finding. But that is a possibility for the Subcommittee to consider.

Chair Leslie agreed, adding she did not want this issue to go on as it needs to be resolved. Chair Leslie stated the Subcommittee would request a written response from the Program and put this back on the agenda for the next Audit Subcommittee meeting. And give Mr. Nix lots of notice about the date of the next Audit Subcommittee meeting and ask him to be present.

Chair Leslie called for any other comments or questions from the Subcommittee.

Chair Leslie asked if the Subcommittee should entertain a motion to accept the report.

Mr. Townsend stated that it was appropriate for the Subcommittee to accept the report and note that action was taken. He added that auditors would be communicating with the coordinator and requesting information on the process used in the last bill draft request and information regarding the current bill draft request.

Chair Leslie clarified the Program would be asked to provide information in regard to the process used in the last bill draft request, where it was, what happened, and what the Program intended to do about the next bill draft request for the 2011 Legislative Session.

Chair Leslie stated with that understanding she called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE FOLLOW-UP SIX-MONTH REPORT ON THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION AND VICTIMS OF CRIME PROGRAM. THE MOTION WAS SECONDED BY SENATOR WASHINGTON AND CARRIED UNANIMOUSLY.

Item 6—Public Comment

Chair Leslie asked for public comment. There was none.

Chair Leslie asked Mr. Townsend when he anticipated the next Committee meeting would be held.

Mr. Townsend stated the next meeting would be in late summer 2010.

Chair Leslie noted there were no further comments.

The meeting was adjourned at 2:27 p.m.

Respectfully Submitted,

Donna Wynott, Audit Secretary

Assemblywoman Sheila Leslie
Chair of the Audit Subcommittee
of the Legislative Commission

Paul V. Townsend, Legislative Auditor
and Secretary to the Audit Subcommittee
of the Legislative Commission