

MINUTES OF THE MEETING OF THE  
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION  
MAY 2, 2018

This is the second meeting of the 2017–2018 Interim.

A meeting of the Audit Subcommittee of the Legislative Commission (NRS 218E.240) was called to order by Chair Benitez-Thompson, at 9:14 a.m., Wednesday, May 2, 2018, 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.

The agenda, minutes, meeting materials, and video or audio recording of the meeting are available on the Subcommittee's [meeting page](#). In addition, copies of the audio or video record are available through the Legislative Counsel Bureau's Publications Office (e-mail: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775/684-6835 and may also be available at <http://www.leg.state.nv.us/Granicus/>.

**AUDIT SUBCOMMITTEE MEMBERS PRESENT:**

Carson City:

Assemblywoman Teresa Benitez-Thompson, Chair  
Senator Ben Kieckhefer  
Assemblyman Jim Wheeler

Las Vegas:

Senator David R. Parks, Vice Chair  
Assemblywoman Maggie Carlton

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

Carson City:

Rocky Cooper, Legislative Auditor  
Daniel L. Crossman, Chief Deputy Legislative Auditor  
Jane E. Giovacchini, Audit Supervisor  
Tammy A. Goetze, Audit Supervisor  
Richard A. Neil, Audit Supervisor  
Shannon Ryan, Audit Supervisor  
Eugene Allara, Deputy Legislative Auditor  
Jordan Anderson, Deputy Legislative Auditor  
Drew Fodor, Deputy Legislative Auditor  
Zack Fourgis, Deputy Legislative Auditor  
Katrina Humlick, Deputy Legislative Auditor  
Sandra T. McGuirk, Deputy Legislative Auditor  
Susan M. Young, Office Manager

***Item 1 — Opening Remarks***

Chair Benitez-Thompson called the meeting to order. The roll was taken and a quorum was present. Chair Benitez-Thompson provided opening remarks and commented that under Agenda Item IV, the accounting firms who submitted proposals and state agency representatives would have an opportunity to make remarks.

***Item 2 — Public Comment***

Chair Benitez-Thompson called for public comment.

Curtis Stuckey, Owner, Genesis, commented he was at the meeting since his agency was reviewed in the children's facilities report.

Chair Benitez-Thompson called for further public comment and there was none.

***Item 3 — Approval of minutes from January 17, 2018***

Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO APPROVE THE AUDIT SUBCOMMITTEE MINUTES OF JANUARY 17, 2018, MEETING. THE MOTION WAS SECONDED BY ASSEMBLYMAN WHEELER AND CARRIED UNANIMOUSLY.

***Item 4 — Awarding of Contract for Single Audit for the State of Nevada for Fiscal Years 2018 Through 2021 (NRS 218G.350)***

Chair Benitez-Thompson stated Audit Division staff would provide an overview of the request for proposal (RFP) process, the proposal evaluations, and respond to questions from the Subcommittee members. The accounting firms' and state agencies' representatives would be invited to make remarks prior to the awarding of the Single Audit contract.

Rocky Cooper, Legislative Auditor, stated the Single Audit is important to provide the public with assurance that the state's financial statements are presented fairly and consistently with government auditing standards. Additionally, the Single Audit provides assurances that the state is following federal requirements while utilizing those federal funds within state agencies. Nevada Revised Statutes (NRS) 218G.340 requires the Legislative Auditor to maintain a list of qualified firms to perform the Single Audit. To ensure equal opportunity, a listing of all registered firms was obtained from the Nevada State Board for Accountancy in order to invite qualified firms to participate. He noted that information relating to awarding the Single Audit contract was included in the meeting packet.

Mr. Cooper explained the 2017 Single Audit report, being presented later in the meeting, is required by law to ensure the State continues to receive federal funds. In fiscal year 2017, the amount of Nevada's expenditure of federal funds was just over \$5 billion. Furthermore, the Single Audit has been contracted out for over 25 years. The Audit Division staff has taken extensive measures to help ensure open competition and

to receive proposals from qualified firms from which the Audit Subcommittee will select. The process resulted in five firms to be considered. After a firm is selected, contract documents will be submitted to the Legal Division in the Legislative Counsel Bureau (LCB), for review. The contract period is for 1 year with three automatic renewals for a total of 4 years. Pursuant to NRS 218G.350, the Legislative Auditor will sign the contract and can terminate the contract with written notice. He introduced Daniel L. Crossman, Chief Deputy Legislative Auditor, who provided an overview of the RFP and evaluation process.

Daniel L. Crossman, Chief Deputy Legislative Auditor, provided an overview of the RFP process. The process for identifying qualified firms to present to the Subcommittee did not change significantly from the RFP issued in 2014. At that time, the Audit Division performed research on contract procurement methods, best practices, and identified topics relevant to the Single Audit. The Audit Division solicited and reviewed information from states that contract for all, or a portion of, its Single Audit services. Audit staff reviewed RFPs, methods, evaluations, and documentation other states used in the awarding of its contracts. The authoritative guidance audit staff reviewed encouraged broad based solicitation of bidders to obtain the highest number of and most competent bids at a competitive price.

The Audit Division's request for proposals timeline was as follows:

- In November 2017, an email was sent to all accounting firms registered with the Nevada State Board of Accountancy notifying them that an RFP would be issued for the statewide uniform guidance single audit.
- On January 10, 2018, the Audit Division notified all 726 registered public accounting firms of the RFP's issuance and provided a link to the RFP, which was available on the LCB's website.
- As part of the RFP process, the Audit Division accepted written questions until February 2, 2018, and posted on LCB's website all questions and answers on February 6, 2018.
- All proposals were due to the Legislative Auditor on February 28, 2018.

The RFP required for the firms to submit two proposals. The first proposal was a technical proposal, which included the firm's qualifications and descriptions of how they would complete the audit. The second proposal was a separate cost proposal, which included the firm's price for the 4-year term. Technical proposals were received through email; however, the cost proposals were required to be sealed and submitted separately to the Legislative Auditor.

Continuing his presentation, Mr. Crossman stated that five of the Audit Division's staff reviewed and scored each firm's technical proposals. The technical proposals were scored in four weighted areas that included:

- Firm capability and qualifications (10%);

- Staff qualifications (25%);
- Governmental auditing experience (15%); and
- Technical approach (20%).

Once technical scores were calculated and finalized, the cost proposals were opened and incorporated into the overall scores. The scoring was based on a 100-point scale. The results of the overall scores were detailed in the meeting packet behind Tab IV, titled, the "Proposal Evaluation Summary." The Proposal Evaluation Summary (PES) depicts the proposals received from five firms: (1) CliftonLarsonAllen; (2) Eide Bailly; (3) Grant Thornton; (4) Piercy Bowler Taylor and Kern; and (5) Wipfli. Included with the PES is each of the firm's estimated number of hours in which they anticipate to complete the audit each year. The technical proposal and cost proposal from each firm was also included in the packet under Tab IV.

Mr. Crossman noted that these firms demonstrated sufficient expertise to be considered qualified to perform the Single Audit; however, based on the proposals, certain firms scored higher than others. The evaluation summary shows technical proposals were reviewed in the four areas with different weights applied based on the significance of the area. The technical evaluation, the staff's qualifications, and the technical approach to the audit had the most weight. Also important was the firm's governmental auditing experience and its capability to complete the Single Audit. The cost proposal was incorporated at 30% of the overall score. Based on the Audit staff's technical evaluations, the firm of Eide Bailly, LLP, received the highest score. When the cost proposals were included, the firm of CliftonLarsonAllen, LLP, received the overall highest score. Concluding his presentation, Mr. Crossman offered to answer questions and stated representatives from the firms were present at the meeting if the Subcommittee had any questions.

Chair Benitez-Thompson called for questions of and invited the firm of CliftonLarsonAllen LLP to make remarks.

Paul Niedermuller, CPA, Principal; Allison Slife, CPA, Principal; and Eric Miller, CPA, Manager, from the accounting firm of CliftonLarsonAllen LLP, introduced themselves.

Mr. Niedermuller thanked the Subcommittee members for the opportunity and emphasized CliftonLarsonAllen's focus is on state and local government. He pointed out the firm conducts single audits in 13 states, which is more than any other firm in the United States. He is proud of the firm's dedication and commitment to the industry. CliftonLarsonAllen would utilize its experience with other states to see how other governments are looking at things and how that will affect Nevada and offer a fresh prospective. He was of the opinion CliftonLarsonAllen would have a collaborative partnership with the Subcommittee and provide an understanding to better aide the legislators when making decisions for the citizens of Nevada.

Chair Benitez-Thompson called for questions.

Senator Kieckhefer complimented Mr. Niedermuller on the firm's proposal. He asked

Mr. Niedermuller why the pricing structure had changed significantly from the proposal submitted 4 years prior for that single audit contract and where the higher pricing structure changed that would allow the firm to perform the same function for significantly reduced cost.

Mr. Niedermuller replied one of the things the firm did differently this time to better understand the State was to work to understand the unique challenges in Nevada versus the other states. The firm spent time working with the State Controller's Office to better understand some of the processes, risk areas, other information to evaluate in much more detail. The hours needed to perform the work were consistent; however, the firm was confident it could leverage the abilities from other clients and other states this time.

Responding to Senator Kieckhefer's question if the proposal allowed for change orders or if it was a fixed cost, Mr. Niedermuller stated it was a fixed cost.

Assemblyman Wheeler queried as to the firm's single audit experience with the other 13 states and if there were any specific examples of irregularities found during those single audits, which allowed the states to apply for more federal grant funding.

Mr. Niedermuller replied he did not have specific examples. It is the firm's intent to reduce cost structure surrounding the need for grants and other components to increase maximization of revenue.

Chair Benitez-Thompson referred to Item K. in the proposal and asked if there were any significant changes to the professional standards plan changes how would the proposed fee for future engagements change.

Mr. Niedermuller remarked the firm would discuss changes prior to each year's audit. Any additional charges not discussed in the proposal would be mutually agreed upon up front to avoid any surprises.

A discussion ensued among Chair Benitez-Thompson, Senator Kieckhefer, and Mr. Niedermuller regarding the upcoming changes to the Governing Audit Standards Board (GASB) and how those changes were accounted for in the proposal. Any significant changes would require a discussion to address actions that may need to be taken.

Chair Benitez-Thompson called for questions of and invited the firm of Eide Bailly, LLP, to make remarks.

Felicia O'Carroll, CPA, Partner; Daniel Carter, CPA, Partner; Nielsine Sherk, CPA, Manager; and Kurt Schlicker, CPA, Manager, from the firm of Eide Bailly, LLP, introduced themselves.

Ms. O'Carroll stated all staff included in the proposal live in Nevada and was of the opinion Eide Bailly has done an exemplary job performing the single audit. She expressed that the landscape of governmental auditing in the last 8 years has changed considerably. The GASB issued a tremendous number of statements many of which have a significant impact on the State of Nevada, including the pension standards and postemployment benefits standards. There have also been significant changes to the

audits of federal programs under the Uniform Guidance.

Ms. O'Carroll commented that the firm is well versed in NRS, NAC and Nevada's economic climate. She was of the opinion that Eide Bailly's experience with local government audits and the State is of value. The close proximity of Eide Bailly's Reno office has allowed for greater in person discussions when needed.

Ms. O'Carroll explained the firm's estimate of hours and the cost per hour being higher than the other firms was due in part to the Single Audit being a difficult audit under the time constraints and majority of the hours is at the manager and partner level in the firm. The Single Audit can be performed in fewer hours, but at a higher rate per hour. In the proposal, the firm included everything that could affect the single audit over the next 4 years, including changes to the GASB and the potential for the State to receive a new financial reporting package; however, there is room to negotiate.

Senator Kieckhefer mentioned the benefit for Eide Bailly having performed these audit for a number of years. He expressed concern for the number of estimated hours to perform the work was significantly lower than the other firms. He asked how many hours were actually required to perform the single audit.

Ms. O'Carroll explained the breakdown of the hours submitted to the LCB for that past year was 4,300. In prior years, it was higher than that because there was an increase in the number of major programs required to be audited than in prior years. She reiterated the firm primarily uses seasoned managers and partners for the audit to ensure the work product is correct, to meet the time constraints, and to ensure federal grant requirements are met.

Assemblywoman Carlton referred to the supplemental information provided by Eide Bailly ([Agenda Item IV](#)). She asked Ms. O'Carroll to expand upon No. 4 and the hidden costs of the State's employees training new auditors.

Ms. O'Carroll opined is it a hidden cost because of the learning curve there would be for new auditors whether it is on the Single Audit and the audits of the federal programs or whether it is for the financial audit. It does take a long time to learn how all of the State's computer systems work, how all of the reporting systems work, how the State's Medicaid plan is audited.

Chair Benitez-Thompson called for questions of and invited the firm of Grant Thornton, LLP, to make remarks.

Tiffany Williamson, Senior Manager, Grant Thornton, LLP, provided a brief overview the firm's proposal. The Reno office of Grant Thornton would primarily staff this engagement while having the ability to reach out nationally to bring in specialist as needed to accomplish the single audit. Grant Thornton has significant experience with other components and divisions of the State of Nevada when performing their audits. She highlighted the significantly higher hours in the proposal than some of the other firms; nevertheless, the intent was have a reasonable estimate of the hours needed to review the RFP, Comprehensive Annual Financial Report (CAFR) including the Chartered Financial Analyst (CFA), and the number of major programs from prior years.

Senator Kieckhefer commented on the heavy amount of associate hours listed in the proposal breakdown to complete the task and queried as to the management structure to complete the audit.

Ms. Williamson replied there was a significant amount of associate hours; however, there would be in addition to that senior and heavy manager involvement. Kimberly K. McCormack, Lead Engagement Partner, Grant Thornton, LLP, and Ms. Williamson would be onsite a significant amount, as well as multiple managers and senior experience, to supervise the work over the single audit as well the financial statement audit.

Chair Benitez-Thompson called for questions of and invited the firm of Piercy Bowler Taylor & Kern.

L. Ralph Piercy, CPA, CGMA, Founder and Principal; Richard H. Bowler, CPA, Founder and Principal; James A. Andrus, CPA, Principal; and Ryan C. Whitman, CPA, CFE, Principal, from the firm of Piercy Bowler Taylor and Kern, introduced themselves.

Mr. Piercy was of the opinion the firm of Piercy Bowler Taylor and Kern could perform the single audit. The firm also performs audits for other larger municipalities such as the City of Reno, Carson City, Douglas County, the City of Las Vegas, the City of Henderson, the City of North Las Vegas, as well as other agencies. He pointed out the firm was the qualified low bidder. He stated the firm's low price is due partly to the fact that handling this engagement requires managing the minutia. For example, the CAFR presentation is complex with the number of funds and programs and a high percentage of the single audit job relates to grant testing.

He noted the Nevada-owned firm was started as an alternative to the big firms. He opined the firm is technically as good as the big national firms, while providing better service. The necessary resources were gathered, such as a director of technical services who came from a large firm. The staffing model provides better service and more experience, because instead of a triangle-stacked model, the firm has a cylindrical model with the top 1/3 the principals, the middle 1/3 are the managers, and the bottom 1/3 are the mid-level managers. Mr. Piercy commented that the firm's audit approach allows the firm to be efficient and make money. This audit approach has been incorporated into practice aids and customized to the nature of the job. The trial balances could be uploaded into the firm's audit software, to test such items as the CAFR's financial presentation in a matter of hours. The firm has customized grant software that also builds in efficiencies when tested from the selection of major programs. Providing an example of the firm's capabilities, Mr. Piercy pointed out that he had recently signed a report on an entity that had over 100 entities with a majority as subsidiaries. He commented that there can be an added complexity to auditing government where the majorities have a non-controlling interest in majority of the owned subsidiaries. He was confident the firm was capable of doing the work within the budget provided in the proposal.

Chair Benitez-Thompson called for questions from Subcommittee members.

Senator Kieckhefer commented on the amount of municipal work conducted by the firm and queried as to if the firm had done State work and if the firm saw a difference between the two.

Mr. Piercy opined municipal and state work would be very similar. He commented there are no State examples in the technical pronouncements, because states are a little different. The technical literature contains analogous examples and the firm does have a tremendous amount of experience. This firm would also provide a new perspective to the single audit process.

Assemblyman Wheeler complimented the firm on the work provided to Douglas County. He voiced concerns over staffing levels where 3,500 of the 5,000 hours proposed for the single audit would be done at the lower level and the small amount of Medicaid experience. He asked how much supervision would be involved with lower level staff.

Mr. Piercy replied Angela K. Go, CPA, CFE, Principal, from the firm's Las Vegas office, would be involved with the single audit and is in charge of grant compliance. Of the 3,500, would come from two managers and Mr. Piercy. Ms. Go would have a little less time than that.

Assemblyman Wheeler surmised the firm would have high-level supervision over the lower level.

Mr. Bowler commented the proposal process involved some guess work. Nonetheless, the firm would use the necessary staff to complete the single audit properly regardless of what the estimates provided in the proposal. The firm would not be requesting additional fees if the firm came across something that was unanticipated unless it was catastrophic.

Mr. Piercy addressed a question posed to another firm regarding the potential to find additional money during the course of the single audit. One of the techniques used by the firm to audit revenue is to find billing errors with what could be billed on a grant or the fact something was not billed.

Chair Benitez-Thompson called for further questions.

Senator Parks requested the firm to comment on the issue of the new regulatory mandates and how the firm would handle those mandates over the 4-year term.

Mr. Piercy replied that unless it was a catastrophic kind of change from the original proposal, there would be no additional costs. There was a slight possibility the cost could go down.

Mr. Andrus commented that while another firm had mentioned it would be burdensome and costly to train the staff if a new firm was selected, it would also be beneficial to have a fresh set of eyes as long as there was not a great amount of turnover with the staff.

Chair Benitez-Thompson called for questions of and invited representatives from Wipfli, LLP, and no representatives were present. She then called for questions of and invited representatives from the Office of the State Controller to make remarks.



James Smack, Chief Deputy Controller, Office of the State Controller, introduced Brenda Laird, CAFR Accountant, Financial Reporting, Office of the State Controller. He stated the Office's biggest concern had to do with the change factor as Assemblywoman Carlton brought to attention when she asked questions of Eide Bailly, LLP. If the firm was to change, there is potential for an increase in overtime and things of that nature for the Office. He has been pleased with the work done by Eide Bailly, LLP.

Mr. Smack stated the Office was in the process of implementing a new CAFR software system. He expressed concern for the potential for an increase in overtime component and putting together the CAFR. The Office had anticipated 100s of hours of overtime to produce the CAFR, the Single Audit, and the CFA. He was familiar with all of the firms who submitted proposals and was of the opinion anyone of those firms was capable of handling the single audit; however there was an element of apprehension when it comes to change and how that would affect the implementation of the new CAFR software system.

Assemblyman Wheeler queried as to the amount of overtime the Office would anticipate using if there was a change of the firm used for the single audit. One proposal showed a charge of \$140 per hour and another \$70 per hour. He asked what would be the average rate for the Office.

Mr. Smack commented that the overtime was generally related to putting together the CAFR and he could not speak to the amount of overtime the firm might incur. For the Office, the overtime component for putting together the CAFR can be anywhere between 600 and 1000 hours between and also dependent upon the number of Governmental Accounting Standards Board (GASB) Pronouncements to be implemented. The number of pronouncements for the Office to implement this year was four. He was of the opinion there would be a learning curve if the Office was to work with a new firm.

He opined that Eide Bailly, LLP, provided value for the GASB updates in June not only for the Office, but for every participating financial agency in the state. The Office has engaged the firm of CliftonLarsonAllen, LLP for the GASB 68 audit, which provided some familiarity with that firm. He was of the opinion that any of the firms present at the meeting would be capable of handling the single audit.

Mr. Smack noted the cost proposals at those related to overtime. He surmised that that the average overtime per hour would be about \$75 hour for one of the Office's CAFR accountants.

Chair Benitez-Thompson thanked Mr. Smack for his comments and insight. She also thanked the firms for the presentations. Chair Benitez-Thompson then called for comments from the Subcommittee members.

Senator Parks commented he has worked in government finance for 2 decades, has had working relationships with external auditors, and worked with nonprofits. He stated he has worked with the firm of Piercy Bowler and that would not influence his vote. He

was in favor of a new firm being selected to offer a fresh perspective.

Assemblyman Wheeler was in agreement with Senator Parks to select a new firm. He expressed concern over the amount of the cost if Eide Bailly was selected given the increase in cost from the last proposal. Furthermore, Mr. Wheeler recommended the firm of Piercy Bowler and expressed confidence in the quality of the firm's work.

Senator Kieckhefer opined that the work product received from Eide Bailly, LLP, was excellent and proved to be helpful with his legislating. He acknowledged the substantive costs; however, the firm's professional services utilization of experienced senior staff would be beneficial.

Chair Benitez-Thompson pointed to the proposals of the top two ranked firms by the Audit Division. She acknowledged the costs difference between the two firms. Nonetheless, she commented how Eide Bailly, LLP, did not raise its cost over the 8-year period when the state was in a recession.

Chair Benitez-Thompson called for a brief recess.

The meeting was called back to order. Chair Benitez-Thompson remarked there were additional questions regarding cost from the Subcommittee members for the firms in which interest was expressed. She called for representative from Eide Bailly, LLP.

Chair Benitez-Thompson referred specifically to Question No. 4 regarding the potential for the implementation of a new financial package and the rankings developed by the Legislative Auditor and the supplemental information submitted by Eide Bailly, LLP, (Exhibit A). She asked for specificity of timing and efficiencies that would allow for the firm to lower its quoted fee.

Ms. O'Carroll replied there was potential for a new accounting package with the actual preparation of the CAFR and potential for greater change should the State replace its entire system. She commented the firm tried to include everything in its proposal that might affect the fees in order to avoid change orders to adjust the fees. She stated the fee is partly dependent upon the component units and the information to be able to prepare the financial statements with the Office's timeframe.

Continuing, Ms. O'Carroll noted that to determine which programs have to be audited for federal grant auditing is dependent on the preparation and completion of the schedule of expenditures of federal awards. The firm will not receive a final copy of that until close to the end of the 2018 and if the date was moved back more work could possibly be done without the condensed timeframe.

Chair Benitez-Thompson asked what work and coordination would be required and of the Office in order to get that schedule of expenditures sooner.

Ms. O'Carroll replied more coordination would be required with all of the departments that receive federal grant money, because the departments have to provide certain information to the Office in order to compile that schedule. She spoke to the recurring comment regarding having a new firm for the single audit to bring fresh perspective and that the last contract was awarded to Kafoury Armstrong Inc., who audited far differently

than Eide Bailly, LLP. She was part of Kafoury and brought her experience to Eide Bailly. The firm was of the opinion a Partner should be the project manager for the single audit.

Chair Benitez-Thompson thanked Ms. O'Carroll and called for a representative from the firm of CliftonLasonAllen, LLP.

Chair Benitez-Thompson asked if the firm could speak more about if the travel costs were taken into consideration for the number of hours for associates, around 800 to 1000 depending on the compliance or the financial statement audit, and then for the principles and managers.

Mr. Niedermuller affirmed that travel costs were taken into consideration. He pointed out the associates and seniors have over 2,000 hours of working with state government, and that the firm has the ability to bring in industry expertise from all of the country. The experience throughout the entire process is such and the cost are all imbedded in terms of what are internal costs of travel and that is an all-inclusive price put forth to the State of Nevada by the firm.

Chair Benitez-Thompson thanked Mr. Niedermuller called for specific questions from the Subcommittee members.

Mr. Piercy was of the opinion his firm could complete the CAFR for less than 1,000 hours.

Chair Benitez-Thompson cautioned the representatives that the comments and questions posed should not be used the purpose of creating a bidding situation during the meeting.

Assemblywoman Carlton expressed concern for the ranking the firm Piercy Bowler Taylor and Kern received and the lack of state experience. She asked Mr. Piercy if his firm had performed any audit work with the Medicaid program.

Mr. Piercy and Mr. Bowler chimed in that the firm does not have direct experience with Medicaid; however, the firm has extensive experience auditing in the healthcare industry, which includes hospitals. The firm has been the auditors of the Southern Nevada Memorial Hospital and with that process has had experience with Medicare and Medicaid.

Chair Benitez-Thompson called for a motion to approve the selection of Eide Bailly, LLP, for the Single Audit contract. There was discussion on the motion.

Assemblywoman Carlton expressed appreciation for the work done by the Audit Division in preparing the information. In her opinion, selecting a new firm would provide a fresh perspective. However, with the many changes taking place with the federal government, using a seasoned firm could be valuable down the road. She expressed concern regarding the high contract cost associated with Eide Bailly, LLP. Nonetheless, historical and institutional knowledge was valuable.

Senator Parks echoed Assemblywoman Carlton's comments regarding selecting a new firm for a fresh prospective and her concerns regarding a more expensive contract.

There being no further discussion.

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE THE AWARDED OF THE SINGLE AUDIT CONTRACT FOR FISCAL YEARS 2018 THROUGH 2021, TO EIDE BAILLY, LLP. THE MOTION WAS SECONDED BY SENATOR KIECKHEFER. ASSEMBLYMAN WHEELER VOTED NAY. THE MOTION CARRIED.

Chair Benitez-Thompson thanked the accounting firms.

***Item 5 — Presentation of audit report (NRS 218G.240)***

Mr. Cooper stated there were five audit reports. He noted that the audit reports remain confidential until presented to the Audit Subcommittee.

**a. State of Nevada, Single Audit Report**

Daniel L. Crossman, Chief Deputy Legislative Auditor, began his presentation with a brief overview and background information on the Single Audit Report for the year ended June 30, 2017. The Single Audit was performed under contract with the firm of Eide Bailly, LLP. The Single Audit is required by the federal government for state agencies who accept and expend federal funds. The statewide single audit incorporates audits of the financial statements and compliance with requirements related to federal funds. The audit of federal funds is an audit of certain programs and related requirements established by the federal government for use and management of those funds. The financial statements are comprised of the independent auditor's report, management's discussion and analysis, the financial statements, notes to the financial statements, required supplemental information and related notes, and the independent auditors report on financial reporting.

The independent auditors report in the Single Audit Report, notes the financial statements received an unmodified opinion. This means the auditors have been able to access all financial information and that the information conformed to accounting principles generally accepted in the United States of America. Managements discussion and analysis provides a narrative overview, written by the State Controller of the financial statements and highlights information for readers. The actual financial statements and notes to the financial statements provide further detail and information and should be read in conjunction with the financial statements.

Continuing, Mr. Crossman stated that the auditor's report on federal compliance for each major program for the state had 37 findings related to federal compliance. The most significant findings are those considered material weaknesses with material non-compliance. A material weakness is defined as a deficiency in internal controls, which is significant and results in noncompliance with a requirement of a federal program, which will not be detected or corrected on a timely basis. There were seven of these findings in this report. For reference purposes, there were 16 such findings in 2016 and 8 in 2015. The auditors' report on federal compliance also noted that the schedule of expenditures of federal awards is accurately stated. The schedule of expenditures of federal awards that identifies the \$5.4 billion in federal awards was expended by the

State in fiscal year 2017.

The first two findings related to the financial statement audit relate to accounting errors that resulted in inaccurate payroll expense and investment income. Payroll expense of \$4.8 million should have been recorded in 2016; however, it was recorded in 2017. Furthermore, interest and investment income of \$3 million was incorrectly recorded in 2017 when it should have been recorded in 2016. It is Audit staff's understanding that these issues were corrected upon identification.

The third finding related to the financial statement audit relates to a \$19 million unreconciled difference between the State's accounting records and the bank's books. Based on the auditors most recent communication with the Office of the State Controller, the unreconciled balance was still being investigated. Mr. Crossman pointed out that the Audit Division performs the annual Report on Count of Money in State Treasury for the state through which the Audit Division obtains confirmation from the financial institutions of the proper cash and investment balances at year-end. The errors noted indicated the state's records were not in agreement with the confirmed banks' balances. The remaining findings relate to federal awards. The number of findings is relatively consistent with prior years. There were 48 in fiscal year 2016 and 43 findings in fiscal year 2015. There were 16 programs audited in fiscal year 2017.

In addition, the Single Audit reports contains management's response to auditor findings including the prior audit findings and corrective action plans prepared by the agencies who received the findings. As part of the audit process, Eide Bailly, LLP, confirmed the status of these findings related to any programs audited in the current year. Furthermore, federal entities are supposed to issue management decisions regarding state agency corrective actions for any current year findings, essentially approving or denying the corrective action plans.

Concluding his presentation, Mr. Crossman expressed the Audit Division's appreciation for the professionalism of Eide Bailly, LLP, in completing the single audit this year and in prior years. He offered to answer any questions and noted that representatives from Eide Bailly, LLP, were present to also answer any questions.

Chair Benitez-Thompson called for questions.

Senator Kieckhefer pointed to one of the findings related to the bank reconciliation and noted the year-end accounting report received had indicated everything was balanced. He queried as to if the discrepancy is in the same fiscal year as the report.

Mr. Crossman replied the discrepancy was in the same fiscal year.

Senator Kieckhefer asked if it was still under investigation and if the discrepancy was on the state's end or the bank's end.

Mr. Crossman replied based on conversations with the auditors and with the Controller's Office, the issue is within the books of the state. The balance confirmed by the financial institutions was accurate and they were in the process of determining the difference.

Assemblywoman Carlton referred to the prior audit finding 2015-005, U.S. Department of Labor Unemployment Insurance, Special Tests and Provisions – UI Program Integrity, Overpayments Material Weakness and its status as “Not Corrected.” She queried as to why the status was still “Not Corrected,” because it was not common in other audit reports to see a recommendation not be corrected. Furthermore, Assemblywoman Carlton requested follow-up to find out why the finding was not corrected and if any other findings were not corrected.

Mr. Crossman responded he would need to review further to provide a concise answer; however, staff would be able to provide follow-up. He commented these findings will often repeat for a couple of years even when corrective actions have taken place due to the timing of the work that was performed. When an issue is identified, often that issue has already occurred throughout that existing year.

Assemblywoman Carlton requested to have the findings that have not been corrected to be tracked to assist the Legislators when examining budgets and resources needed for the agencies next session.

Senator Kieckhefer commented generally about the financial analysis and the reduction in the state's deficit. The state's net position can be reflective as an indicator of financial health as well as the percentage of per capita number based on median income. He asked if analyses were performed to detect trends terms of the state's overall financial health based.

Mr. Crossman replied that the Audit Division does not perform that type of analysis; however, it might be part of the audit process performed by the auditors.

Felicia O'Carroll, Partner, Eide Bailly, LLP, replied that the single audit is an audit of the financial statements as well the federal grants audits. The auditors examine for trend analysis to ensure the numbers make sense and it is something that is in the work papers as a means of ensuring that the audited numbers look correct and are supported.

There being no further questions, Chair Benitez-Thompson called for a motion.

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

**b. Department of Business and Industry, Division of Financial Institutions**

Tammy A. Goetze, Audit Supervisor, began her presentation with a brief overview and background information on the Department of Business and Industry, Division of Financial Institutions (Division). The Division's mission is to maintain a financial institutions system for the citizens of Nevada that is safe and sound, protects consumers, and defends the overall public interest. The Division's primary responsibilities include reviewing applications for licensing, issuing new and renewal licenses, examining licensees on an annual basis, processing written complaints, and conducting investigations of violations.

As of June 1, 2017, the Division had 2,666 licensees. The types of licensees are detailed in Ex. 1 in the audit report and descriptions of the types of non-depository licensees are defined in the audit report. As of June 30, 2017, the Division had 30 filled positions located in Carson City, Las Vegas, and Reno. The Division is self-funded with revenues consisting primarily of assessments on depository and non-depository licensees, and license and examination fees. Ex. 2 shows assessments, fees, and other revenues during fiscal year 2017.

In the audit report, auditors indicated the scope of the audit focused on the Division's regulatory and financial activities for fiscal year 2017. Auditors included information in certain areas from prior years. The audit objective was to determine whether the Division's oversight of non-depository financial institutions effectively ensures regulatory compliance.

The auditors found the Division's oversight of non-depository financial institutions effectively ensured regulatory compliance; although, enhancements could be made to strengthen certain processes. The Division has adequately administered state laws and regulations concerning non-depository licensees. The Division completed required annual examinations, ensured licensees submit required fees and reports timely, and took prompt action regarding examination violations and consumer complaints. Auditors tested 75 non-depository licensees and found all institutions were examined in fiscal year 2017. Examinations were promptly billed, billings were mathematically accurate, and hourly examination fees agreed with state law. Most annual reports were also submitted on time, and violations were promptly addressed with the submittal of a 30-day violation response letter. Furthermore, 27% of the 75 non-depository licensees had consumer complaints filed against them during the year, and auditors found that the Division monitored the licensees' response to each complaint ensuring they were addressed within the statutorily defined timeframe.

Auditors found that improvements were needed in the examination process. The Division could improve its documentation of the work performed during an examination. Documentation issues included undocumented loan populations and various review periods. The auditors' testing also found all 53 of the 75 non-depository licensees requiring a loan and/or check-cashing review lacked documentation of the methodology used by the examiner to choose their sample. Insufficient policies and procedures led to the documentation issues noted. Adequate documentation should provide support for the work performed and to assist management with their review in ensuring examinations were being completed adequately and consistently. Requiring examiners to document their sample selection methodology also enables management to effectively review and ensure examiners are identifying appropriate loans and check-cashing transactions, which may lead to potential violations. Furthermore, comparing licensee-provided loan and check-cashing listings to originating documents would enable the Division to verify the accuracy and completeness of loan lists provided by its licensees.

Examination reports did not always accurately reflect the scope of work performed. Upon completion of an examination, staff use a report template to assist with the writing

of the report. Auditors' testing found instances where the standard language in the Division's report template was not revised to reflect the actual work performed. In addition, the Division stated in each examination report the total number of licensee loans by type and the number of loans reviewed, if applicable. Auditors' testing revealed 19% of the examination reports, which stated the loan population and sample size reviewed, were inaccurate and did not agree with the reviewed loans documented in the examination work papers. These inaccuracies indicate examination reports lacked a thorough review.

The auditors explained that examination policies and procedures needed enhancing. Current procedures could be enhanced to provide additional guidance to assist staff with performing examinations. Examples of Division practices not addressed in existing policies and procedures are included in the audit report.

The examination follow-up process needed to be documented. The Division needs to formalize in policies and procedures the follow-up process for licensees receiving a less-than-satisfactory examination. The Division considers licensees' violation response letters and other factors when deciding whether its staff will conduct a follow-up examination to verify corrective actions were properly implemented. Considering approximately 33% of licensed payday lenders received a less-than-satisfactory examination rating annually over the last 5 years, performing adequate follow-up on licensees with noted violations of state laws and regulations is important for ensuring consumers are adequately protected against unfair or unlawful financial practices. Furthermore, documenting this process is important, because licensees receiving less-than-satisfactory examinations should receive close regulatory supervision due to their increased risk of non-compliance.

Ms. Goetze stated that management indicated a follow-up examination is performed in 3 months for licensees that receive an unsatisfactory examination rating, in 6 months for licensees that receive a needs improvement examination rating, and in 12 months for licensees that receive a satisfactory examination rating. During the audit, auditors found the Division does not follow the process described for follow-up examinations. According to management, the practice to conduct follow-up examinations of less-than-satisfactory licensees is not statutorily required. The frequency of less-than-satisfactory follow-up examinations was previously documented in Division policies and procedures. However, current procedures do not adequately describe the follow-up process on examinations with a less-than-satisfactory rating.

In the report, the auditors state the Division can improve its performance measures by reporting an outcome-based measure detailing the results of examinations to the Legislature. Over the last 5 years, on average, only 67% of licensees providing loan and check-cashing services were in satisfactory compliance with state laws and regulations based on the Division's examinations. Current performance measures provide examination output and workload statistics, but do not show the impact examinations are having on licensees' overall compliance with state laws and regulations.



Ex. 3 in the audit report shows the percentage of satisfactory examinations by license type. Outcome measures provide the results or impact of an agency's efforts. Being that the Division's primary responsibilities include examining licensees for compliance with financial institution and consumer laws, reporting overall compliance rates would help provide the Division and other state officials important information regarding the Division's regulation of non-depository licensees.

Continuing her presentation, Ms. Goetze stated the auditors conveyed that a centralized tracking system for payday loans could be of significant value to the Division, its licensees, and Legislators. During the 2017 Legislative Session, a payday loan database was considered through various bills; however, none of the proposed legislation passed. Appendix B in the audit report shows a summary of the legislative bills relating to a payday loan database.

Some of the issues described in the audit report can be addressed with better information provided to the Division through a centralized database. For example, examinations could be improved with real-time availability of licensee data, including loan inventories and check cashing logs. This would also assist the Division with planning and identifying potential violations prior to performing the on-site examination, which would allow for more efficient and targeted examinations. A payday loan database has many benefits relating to regulatory compliance and statistical information. Examples of some of these benefits are listed in the audit report. Out of 36 states that offer payday loans, 14 states are using a centralized database tracking system. Auditors surveyed these 14 states and received 8 responses regarding the benefits and uses a database provides. Appendix C in the audit report shows the states' individual responses to our survey. A common benefit indicated by the states that responded to the auditors' survey included statistical information used for preparing internal and external reports. Appendix D in the audit report contains excerpts of an external report prepared by the Washington State Department of Financial Institutions.

Concluding her presentation, Ms. Goetze stated that auditors made five recommendations to enhance the Division's regulatory processes. The remainder of the report includes supplemental information previously discussed in Appendix A through D, the Audit Methodology is in Appendix E, and the Division's Response is in Appendix F. The Division accepted the five audit recommendations.

Chair Benitez-Thompson called for questions. She then queried as the follow-up process by the audit staff to the response provided by the agency regarding enhancing written policies and procedures over the examination process.

Ms. Goetze replied audit staff would be looking at the 60-day corrective action and at the 6-month report. Auditors would be looking for the types of procedures noted in the audit report that were lacking and some of the major processes.

Chair Benitez-Thompson called for agency representatives.

George Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry, thanked the audit staff for their work and the recommendations.

Assemblywoman Carlton referenced Ex. 3 in the audit report. She expressed concern about the "Check Cashing/Deferred Deposit, High-Interest, and Title Loan Services." She was of the opinion that if 1/3 are not complying it could be a systemic issue with certain companies. She requested Mr. Burns to expand on that issue.

Mr. Burns replied that there is a main licensee for the non-depository licenses, and each of their branches are licensed. The Division has some very large payday lending and title loan companies that may have up to 50 branches. When a particular violation of law or regulation is found, the Division will determine if it is not an anomaly or if it is systemic throughout the entire organization. The Division rates every one of those branches as either needs improvement or unsatisfactory. The statistics can be skewed due to the fact there might be a company with 45 unsatisfactory ratings. The majority of the licensees are very cooperative when being brought into compliance.

When the Division has identified a particular violation, the organization has responded quickly to remedy it. However, the Division does have major licensees that fight the Division every step of the way, which results in the Division having to issue a cease and desist order. A complaint is issued and taken to an administrative law hearing. The organization then takes the Division to district court. Often times, this can end up at the Supreme Court. Year after year, these same issues reoccur, because the organization refuses to make corrections and are still tied up in litigation. The Division cannot fine or withdraw the licenses until the litigation has been completed. That statistic carries over. There are limited tools available to the Division through NRS and resources available through the Office of the Attorney General, which can make the picture look worse than it is. Approximately 90% of the licensees want to comply and comply quickly. Nonetheless, there is a small percentage that have large operations that fight compliance constantly.

Continuing, Mr. Burns commented on the audit tracking system and noted it would be beneficial, proactive, and determine and require compliance on the front-end when the loan is originated. Thus, the Division would not be reactive when the violation is discovered on the back-end. The loan could have potentially been paid off for 6 months and the consumers might not realize they had been ripped off. He was of the opinion that the Nevada Legislature would be responsible to make the determination that the tracking system should be authorized. Mr. Burns worked with legislators during the 2017 Session on the proposed bill related to tracking. Assembly Bill 115 contained considerations for a tracking system, but did not pass. He was optimistic the 2019 Session could accomplish this goal.

Assemblywoman Carlton requested the Division provide to the Chair, members, and staff of the Audit Subcommittee an overview the number of licensees, the number of licensees not in compliance, and the number of branches. She noted it would be beneficial to try to determine where the problem exists.

Senator Kieckhefer referenced Appendix A in the audit report regarding the common non-depository licensee violations, particularly the 137 examination violations in 2017

under NRS 604A.450. He queried as to the total number of title loans originated and the percentage of total transactions examined.

Mr. Burns replied the Division has an examination protocol. An audit standard is not followed in which a statistical percentage of total population is examined. Instead, an examination process is followed. The four major areas in which violations can occur are examined. The Division examines five active loans, five delinquent loans, five denied loans, and five paid loans ("5-5-5-5"), which are the major statutory areas where there needs to be compliance. Regardless of the total volume number of loans, a minimum of 20 loans in every location are examined. In this case with title loans, the total number could be in the 1000s amongst large licensees.

Following up to his previous question, Senator Kieckhefer asked if an individual violation of the 137 would be one of those 20 within any individual location.

Mr. Burns stated Senator Kieckhefer was correct.

Senator Kieckhefer referenced Ex. 1 in the audit report. He noted there are 524 licenses for check cashing/deferred deposit, high-interest, and title loan services. He queried if that number was the number of locations or part of a bigger parent company licensee.

Mr. Burns replied the number is the total number of locations. The correlation of the actual percentage of violations to the total number of loans is relatively low. However, it still is a violation and a major problem for those who are affected.

Chair Benitez-Thompson referenced the review period and undocumented loan populations in the audit report where "Division management indicated that examinations did not always include the total number of licensing loans because of the length and availability of certain licensee loans inventory listings." She asked if her interpretation that the number of loans is so large that it is difficult to examine all of the loans.

Mr. Burns was of the opinion the audit report pointed out the Division asks an entire loan listing for the examination period. Some of the loan agencies are sophisticated with automation and other agencies use handwritten letters. He opined there was a philosophical difference. The actual population is not as important in the examination process, because the Division will not find the statistical percentage of numbers of loans. The Division has a protocol for the "5-5-5-5" that needs to be placed into the written policies and procedures, which the audit report points out. To be able to determine or validate the entire population where the Division would go to the agencies and request all loan files be pulled in order to determine if the information supplied by the agencies was correct is not what the Division has done in the past. When the Division has used the "5-5-5-5," the random sampling has given the Division the ability to utilize the "5-5-5-5" and expand the sampling when needed to identify potential violations.

Chair Benitez-Thompson thanked Mr. Burns for his explanation.

Mr. Burns added that the validity of those listing is dependent upon the licensee being honest with the information supplied to the Division. He was of the opinion that having a system where every loan application needs to be entered to ensure compliance is met would give validity to information received by the Division. With the system, a loan would not be originated without entering the necessary information, which would stop the agencies from hiding information from the Division.

There being no further questions, Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE DEPARTMENT OF BUSINESS AND INDUSTRY, DIVISION OF FINANCIAL INSTITUTIONS. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

**c. State Department of Conservation and Natural Resources, Division of Environmental Protection, Bureau of Safe Drinking Water**

Drew Fodor, Deputy Legislative Auditor, began his presentation with a brief overview and background information on the State Department of Conservation and Natural Resources, Division of Environmental Protection, Bureau of Safe Drinking Water (Bureau). The mission of the Bureau is to protect the health of the citizens and visitors of Nevada by ensuring that public water systems provide safe and reliable drinking water. The Bureau enforces national standards set by United States Environmental Protection Agency (EPA) to protect against particular contaminants shown to cause health problems. Public water systems are responsible for ensuring that contaminants in drinking water do not exceed these standards, by treating their water, and having it frequently tested by water quality testing laboratories. The Bureau licensed and regulated 598 public water systems and 97 water quality testing laboratories in fiscal year 2017. The large majority of Nevadans are served by the largest five public water systems. In fiscal year 2017, the Bureau had expenditures of about \$3.4 million, and was primarily funded by federal grants and fees.

Mr. Fodor stated the objective of the audit was to determine whether the Bureau effectively regulated public water systems and water quality testing laboratories to help ensure safe and reliable drinking water. The Bureau is effectively supervising public water systems. The auditors found the Bureau's monitoring of water quality sample results, water facility inspections, and water system permitting, provide assurance for drinking water safety and reliability.

Water system operators take samples for numerous contaminants frequently, in some cases hundreds every month, and the Bureau conducts several systematic reviews of water testing data. Staff review results for indications of problems which may develop over time, and questionable results which could indicate mistakes or fraud. Further, the Bureau coordinates with public water systems when results exceed drinking water standards. Measures to protect public health in these instances could include notifications, boil water orders, or do not drink orders. Auditors found that the Bureau

effectively monitored water quality results and ensured any problems were resolved timely.

The Bureau conducts regular inspections, which involves a physical assessment of water facilities and a review of system records as part of regulating public water systems. The auditors reviewed inspection reports for 25 randomly selected public water systems and for the 5 largest systems in terms of the population they serve. Auditors found inspections were thoroughly conducted, and were supported by appropriate documentation. Furthermore, auditors found that inspections were generally timely for all active systems. However, the auditors did identify two systems that had not submitted corrective action plans after Bureau inspections had found deficiencies. One system submitted a corrective action plan almost two years late. The 3 systems that had missing or late plans were for very small public water systems, serving an average of 48 persons. Although the Bureau used a system to track inspection deficiencies, staff did not adequately follow up on reports generated from that system. Though problems affecting smaller public water systems potentially pose risk to a fewer number of people, auditors recommended the Bureau develop additional controls to ensure deficiencies noted on all water system inspections are resolved.

Continuing his presentation, Mr. Fodor stated public water systems must be permitted by the Bureau before beginning to provide drinking water. The permitting process includes reviews of water quality, water facilities, system plans, and system personnel qualifications. Additionally, water facility reviews are conducted when there are proposed changes to public water system infrastructure. Auditors tested 10 randomly selected water facility reviews for existing public water systems, and found those to be complete and comprehensive.

The Bureau also effectively supervised water quality testing laboratories. Auditors found the Bureau's monitoring of laboratory proficiency, as well as the laboratory inspections and certification, provides assurance for drinking water safety and reliability. The Bureau's proficiency testing program allows the Bureau to assess and ensure the accuracy of water quality testing conducted by certified laboratories. Water quality testing laboratories are certified in various methods, which are specific types of tests used to assess contaminants. Labs must demonstrate to the Bureau that they are proficient in each certified method by accurately testing a water sample provided by an independent third party every 6 months. Auditors reviewed proficiency testing for 10 labs, and found complete, acceptable, and timely results for the labs' 300 certified methods.

The Bureau's onsite inspections provide assurance that labs have sufficient expertise and procedures to assess accurately water samples. In our review of 28 labs, inspections were comprehensive and any issues noted were resolved quickly. However, auditors found that inspections were not always timely. Specifically, only 41% of labs were inspected within the required 2 years. The remaining 59% were late an average of 5 months. Personnel believing they could conduct inspections every 3 years, in accordance with federal standards, caused the untimely inspections. However, state regulation specifies a 2-year schedule, and further explains that stricter standards

should be followed when conflicts arise. Auditors recommended that the Bureau clarify policies and procedures on the frequency for conducting laboratory inspections. The Bureau has an extensive process for certifying labs. Labs must apply for certification to test water quality samples by submitting: the methods for which the lab is seeking certification; successful proficiency testing results for each of those methods, policies, procedures; and personnel qualifications.

Concluding his presentation with information on school lead testing, Mr. Fodor stated the Bureau has provided information to school districts regarding a new voluntary project to test for lead in school drinking water. However, at the time of the audit most school districts had not taken advantage of this project, which was funded by a 2-year federal grant.

The source of lead in drinking water is different from most contaminants. Its most common source is corrosion, or wearing away, of plumbing equipment containing lead. Importantly, this corrosion can occur both in water distribution systems operated by public water systems, and in service lines connecting those distribution systems to individual homes, schools, and businesses as shown in Appendix A of the audit report. While systems may treat water to control corrosion, drinking water can still sometimes break down lead-containing service lines, resulting in high levels of lead in plumbing fixtures.

Events prior to the audit brought attention to issues lead can present in drinking water. For example, nearly 100,000 residents of Flint, Michigan, were exposed to lead when the city switched its water source in April 2014 without implementing corrosion control treatment. Furthermore, in a subdivision in Mt. Charleston in southern Nevada, a few homes were exposed to lead after a road-deicing agent introduced chloride into groundwater, which increased water corrosivity. Corrosion control treatment was subsequently enhanced to reduce corrosivity and resulting excessive lead.

The Division pursued an EPA grant to investigate lead exposure in elementary schools, and federal funds were made available in October 2016. This grant provided money for testing elementary school water fixtures, including drinking fountains, kitchen sinks, and nurse's office sinks. Furthermore, the grant provided money for replacing water fixtures, if the fixtures had high levels of lead. The Bureau reached out to school district superintendents on a few occasions in 2017. Federal funding for the project expires in September 2018.

The auditors reviewed the Bureau's records for the project in January 2018 after the end of the program's first year. Auditors reviewed testing data for Nevada school districts and state-sponsored charter schools. Lead testing had only been conducted in six districts, with many other districts committing to the project. As of January 2018, about half of the 391 eligible schools had undergone testing as shown in Appendix B of the audit report. The auditors noted the Division's written response included in the audit report indicated an additional 120 schools were tested since the audit. For the schools tested, water samples from eight nurse's office and kitchen sinks showed unhealthy levels of lead. The problem water fixtures were either replaced or taken out of service.

Auditors recommended the Bureau continue to work with school districts and public water systems to advance lead testing efforts.

The audit methodology is in Appendix C and the response from the Division is in Appendix D of the audit report. The Division accepted the three recommendations.

Chair Benitez-Thompson called for questions and for agency representatives.

Assemblyman Wheeler referenced Appendix B and the status of lead testing in the urban areas. He queried as to if lead test was being conducted in rural areas.

Greg Lovato, Administrator, Division of Environmental Protection, State Department of Conservation and Natural Resources (SDCNR), noted the Division's appreciation for the opportunity to reach out to all school districts with presentations and follow-up letters to all school districts' superintendents in early 2017. The Division will continue to reach out to the schools. As noted in the response to the audit report, the Division has received better responses throughout the state. Mr. Lovato reported that all lead detections that had shown were mostly in unused parts of the system or dead ends, rather than drinking fountains. Humboldt and Pershing Counties have not responded; however, the Division is planning to present the results so the remaining schools that have not participated will learn how it can be done in a timely manner. The goal is 100% participation. Since this is a voluntary program, once the school district takes on the responsibility of participating, a plan needs to be developed on how to handle results, informing parents, and taking action.

Continuing, Mr. Lovato expressed the Division plans to apply to the U.S. EPA to have the grant extended an additional year. If all funding is not exhausted by testing at the elementary schools, the Division has planned to expand the testing to middle schools and high schools. He introduced Jennifer Carr, PE, Deputy Administrator, Administrative Services, Water Programs, and Mining Regulation and Reclamation, Division of Environmental Protection, SDCNR, and noted she was the previous Bureau Chief and that the Division was pleased with the results in the audit report. He complimented Mr. Cooper and the Audit Division staff for a thorough, detailed, and quantitative assessment.

Chair Benitez-Thompson expressed concern if the unused federal dollars would be lost; however, she was relieved when it was determined those grant dollars could be used for other available awardees.

Responding to Chair Benitez-Thompson, Ms. Carr stated the Division has applied to the U.S. EPA to extend the grant program and had received verbal concurrence. Because the Division had found few issues when the schools were tested, a significant portion of the grant funding remains available that had been set aside to purchase such items as fountains. Nonetheless, the Division will apply to amend the program to obtain U.S. EPA concurrence to expand beyond elementary to cover as many schools. She noted Washoe County School District has already embarked on its own initiative to sample beyond the Division's programs to test all taps in all schools.

Senator Parks queried as the coordination and tracking of the U.S. EPA grant funding by the Division with Office of Grants Management.

Mr. Lovato was of the understanding the use of these funds is tracked through the Legislative Counsel Bureau's Fiscal Analysis Division and the Governor's Office of Finance when notified by the Division.

There being no further questions, Chair Benitez-Thompson called for a motion.

ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, DIVISION OF ENVIRONMENTAL PROTECTION, BUREAU OF SAFE DRINKING WATER. THE MOTION WAS SECONDED BY SENATOR KIECKHEFER AND CARRIED UNANIMOUSLY.

**d. Department of Health and Human Services, Director's Office**

Shannon Ryan, Audit Supervisor, began her presentation with a brief overview and background information on the Department of Health and Human Services (Department), Director's Office. The Department promotes the health and well-being of Nevadans through the delivery of essential services to ensure families are strengthened, public health is protected and individuals achieve their highest level of self-sufficiency. The Director's Office is responsible for administering all provisions of law related to the functions of the divisions of the Department.

Ex. 1 in the audit report shows the budget for the Director's Office for fiscal year 2017. One of the larger expenditures is for grant program administration and awards of nearly \$26 million. An administrative unit within the Director's Office generally known as the Grants Management Unit administers these grants. Its mission is to help families reach their highest level of self-sufficiency by supporting community agencies that provide service through engagement, advocacy and resource development. Ex. 2 in the audit report shows details of grant expenditures administered by the unit, which reflects nearly \$10 million in state funding and \$16 million in federal funds.

Ms. Ryan stated the scope of the audit was fiscal years 2016 and 2017. The objective was to determine if the Director's Office had sufficient controls to ensure grant awards and payments were appropriate. The auditors' found the Director's Office needs to improve controls over grant awards and payments. Grantees overstated personnel costs by \$870,000. Of this, overpayments were made in the amount of \$176,000 and \$682,000 was improperly categorized as federal cost share to obtain funding. Overpayments occurred partially because grantees were awarded funding for the same position across multiple grants that exceeded 100% of the employees' time and effort.

Provisions in grant agreements authorize the Department to recover these overpayments; however, recovery may not be cost effective. Based on the auditors testing, it is likely overpayments occurred for other grant recipients not noted in the audit report. Because identifying overpayments requires a detailed comparison of each payment request for multiple grants, a significant commitment of resources would be



necessary to determine all overpayments. The auditors are of the opinion the Department's resources would be better spent taking action to correct the issues causing the overpayments than recovering past overpayments.

Continuing her presentation, Ms. Ryan stated 4 of 10 grantees selected received additional funding because personnel performing program services were dedicated to multiple grant programs. Specifically, 33 of 134 or 25% of positions noted on applications were for personnel whose time, when aggregated, exceeded a full-time equivalent position, which is shown in Ex. 3 in the audit report. Ex. 4 in the audit report details the overpayments and the amounts improperly categorized as cost share for four grant recipients.

Department guidelines indicated each program will only be charged for the percentage of the service used by the program and federal regulations limit compensated activities to 100% of the actual cost. However, the Director's Office did not have a process in place to verify allocations on grant applications and payment requests were reasonable and appropriate since each grant was reviewed individually. Furthermore, auditors indicated in the report that grantees requested funding from a federal program for personnel who were dedicated to providing service to state funded programs. These activities were marginally related for some personnel and not related for others. Even though grantees indicated personnel performed services on federal activities through employee timesheets, personnel could not reasonably provide service to state funded programs and the federal programs that grantees indicated. The Director's Office had not determined the appropriate level of personnel time and effort regarding activities that interrelate.

Auditors found grant applications were not sufficiently detailed. Seventy-eight of the 170 grant applications reviewed did not provide enough information, such as the name of the individual or a position number, to determine if grantees were requesting more than necessary to recover costs. Because position titles across grants were similar for health related programs, the auditors could not match specific positions or employees for 6 of the 10 grantees. Details are important for determining the adequacy of requests. Auditors noted one grantee received over \$2 million in funding for salaries; however, only minimal detail regarding the positions or employees being funded was provided. The Director's Office will be unable to adequately determine if grantees are requesting excess funding in the future, unless adequate information is requested and obtained from grantees. Details must be consistent in order to compare the information and make appropriate decisions regarding funding awards and payments.

In the audit report, the auditors discussed the overpayments that occurred related to year-end adjustments. In total, two of four grantees received overpayments of nearly \$12,000 when amounts requested on June 2016 payment requests were also included on July 2016 requests. Costs were duplicated in both fiscal years since personnel reviewing payment requests did not completely understand year-end accruals. The auditors made eight recommendations to assist with the grant process.

Concluding her presentation, Ms. Ryan stated Appendix A in the audit report contains a description of the major grant programs for the Department, Appendix B contains the audit methodology, and Appendix C contains the response from the Director's Office. The Director's Office accepted all eight recommendations.

Chair Benitez-Thompson called for questions.

Senator Kieckhefer referenced Ex. 4 in the audit report and asked if all of the overpayments were contained with four grantees.

Ms. Ryan replied that when the auditors examined the applications, they selected 10 grantees; however, six of those grantees did not contain enough detail for the auditors to move forward to the payment request portion. The four grantees in Ex. 4 were those who the auditors could determine through the application process had personnel whose time was over 100% across multiple grants. The auditors then examined payments for those grants as shown in Ex. 4.

Senator Kieckhefer commented of the four grantees who provided adequate information to evaluate, all had issues. He asked if there was any federal clawback for these any of the grants.

Ms. Ryan responded it would be difficult to make the determination if a federal clawback would apply for an overpayment since some of the grants utilized state and federal funds.

Chair Benitez-Thompson queried if her assumption was correct that grantees or awardees were to state programs and state employees or if it is a mix of state programs, community programs, and nonprofit programs.

Ms. Ryan replied the grantees in the audit report were typically nonprofit programs, some school districts and universities, not state-run grants.

Chair Benitez-Thompson referred to the Director's Office response to Recommendation No. 1 and queried as what would be the acceptable standard when the auditors review the 6-month report and if part of that is the agencies complying by listing specific employees using the grant funding. In addition, she asked if compliance could be mandated.

Ms. Ryan responded as far as Recommendation No. 1, the auditors are asking the agency to coordinate grant-awarding activities across all of its divisions. The current process was each division had its own money and was awarding its own grants. Then, the Director's Office had its own grants that were also being awarded. When applicants submitted for those grant awards, it was not known what each division had awarded to specific grantees. In this particular instance, the auditors are looking for the Director's Office to have some sort of process to be able to coordinate those grants and to identify if a specific nonprofit was requesting funding from different divisions exceeding actual costs.

Assemblywoman Carlton queried about the personnel reports and whose responsibility was what in the Office. She noted the 11 different budget accounts asked if the Office had the necessary personnel resources to perform its functions

Ms. Ryan was of the opinion that within the Grants Management Unit in the Director's Office there was only a manager and an auditor to monitor the grants; however, she was not certain of the total number of personnel who monitor grants throughout the Department.

Assemblywoman Carlton expressed that if the Director's Office was to be accountable that they need to have the appropriate personnel.

Responding to Assemblywoman Carlton's comments, Chair Benitez-Thompson commented the Subcommittee could have the agency speak to the staffing.

Chair Benitez-Thompson asked what would be the gold standard for tracking the grantees when coming from an auditing standpoint. She was of the opinion it would be useful to have a system that could show where and to whom the money was being awarded to the grantees.

Ms. Ryan replied the auditors gathered and entered the information into Microsoft Excel, to determine whether some of these personnel were receiving more than 100% of their salary. In addition, the Department has some monitoring activities they perform; however, it would be beneficial to monitor each grantee both fiscally and programmatically to be able to determine the actions of the nonprofit entities and the grantees use of funding for all grants at once, which is currently not being done. Each program was only monitoring its own portion. Coordination of those activities with the different programs and the agency could be beneficial.

Chair Benitez-Thompson called for agency representatives.

Buddy Milazzo, Administrative Services Officer IV, Director's Office, Department of Health and Human Services, thanked the auditors for their professionalism and stated the Director's Office accepted the eight recommendations. As part of the response, the Director's Office indicated all recommendations are intended to be fully implemented by July 1, 2018.

Chair Benitez-Thompson referred back to the Director's Office response in the audit report to Recommendation No. 1 and asked what was being done to ensure grantees are not being over awarded actual costs and if there were any stumbling blocks that would prevent the Department from knowing if over awarding was occurring.

Mr. Milazzo replied that as part of the implementation process, the Department has planned to have a department-wide overview as opposed to a division-wide overview. The Department now has a grants management committee that involves all of the divisions to have template forms for everything to be similar. Furthermore, there will be a consolidated review process where the Department can see who the subgrantees are across all divisions.

Responding to the Chair's reference to the six-month audit follow-up process and any potential complications for the Director's Office to collect data through the granting process to avoid overfunding, Mr. Milazzo affirmed that there should not be any issues.

There being no further questions, Chair Benitez-Thompson called for a motion.

ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIRECTOR'S OFFICE. THE MOTION WAS SECONDED BY SENATOR KIECKHEFER AND CARRIED UNANIMOUSLY.

**e. Department of Business and Industry, Division of Industrial Relations**

Shannon Ryan, Audit Supervisor, began her presentation with a brief overview and background information on the Department of Business and Industry, Division of Industrial Relations (Division). The mission of the Division is to promote the health and safety of Nevada employees and the public by providing workplace safety and conducting inspections to ensure proper procedures related to health and safety are followed, and that injured workers receive proper care. Ex. 1 in the audit report shows the Division operates with 4 budget accounts and over \$20 million dollars in revenues and expenditures. Another six special purpose accounts record workers' compensation assessments and refunds, and other fees, fines, and claims related to injured workers.

The Mechanical Compliance Section is dedicated to promoting the safe operation of elevators, boilers, pressure vessels, and related equipment by identifying hazards and code violations. The Division has stated that this was done through a comprehensive and thorough inspection and quality control process that promotes safety through a firm, yet fair application of code standards. Ex. 2 in the audit report shows the total number of active objects subject to regulation that the Mechanical Compliance Section oversees for both elevators at 11,373 objects and boilers and pressure vessels at 14,203 objects as of September 2017. The Mine Safety and Training section was created to establish a safe work place for Nevada's miners. The Division is required by NRS to visit each mining county in the State and thoroughly inspect and investigate all mines.

The scope of the audit focused on fiscal year 2017 and the objective was to determine the adequacy of the Division's regulatory processes related to elevators, boilers, and mines. The auditors found the Division does not have adequate processes over regulatory activities for elevators and boilers. Specifically, about 5,500 elevators and boilers were operating without safety operating certificates as of June 30, 2017. Because operating certificates were not issued, the Division did not collect an estimated \$1.4 million in fees over several years.

The auditors also found operating certificates were not issued for one of three reasons: 1) a routine inspection was not performed; 2) violations were not cleared; or 3) fees were not paid. Ex. 3 shows the 50 objects auditors tested and the reason why each object did not have a certificate. NRS and regulations require owners of objects to obtain an operating certificate, including a safety inspection, in order to operate an

elevator or boiler. While objects tested had varying renewal periods, from 6 months to 4 years, no mechanism existed at the Division to identify those with expired, or soon to be expired certificates. Of the 50 test items, 19 or 38% had multiple inspection years where certificates and fees went unissued and unassessed.

Continuing her presentation, Ms. Ryan stated similar issues with newly installed and modified objects was found. The auditors' reviews of information showed at least 90 installations or modifications back to calendar year 2005 were not inspected. Ex. 4 in the audit report shows the detail of these objects and the related year as of June 30, 2017. Regulations require inspections upon installation or modification of an elevator or boiler and do not allow for the operation of the object under a construction certificate. These policies exist to protect the public from substandard materials and workmanship. This occurred because the Division relied on owners to notify the Division when an object is complete and the Division did not monitor, review, or follow up on construction and modification certificates issued.

The Division did not always ensure code violations related to object operating safety were fixed and cleared in a timely manner. Violations are a clear warning these objects are not operating within normally accepted standards and may be unsafe. The auditors review of 130 inspection violations found the Division performed limited, if any, procedures to confirm violations were addressed. Ex. 5 in the audit report on page 10 shows the results of the auditors' testing related to violations and follow-up work done. As demonstrated in Ex. 5, little follow-up was done for elevator violations, regardless of whether they were open or closed. Additionally, the average time outstanding was significant for both elevators and boilers. The Division had not established a process to ensure follow-up was conducted. Best practices recommend agencies follow up as needed to determine whether violations have been corrected or whether additional enforcement is needed.

The oversight of third-party inspectors was lacking. The Division transferred inspection and certain other regulatory responsibilities to third-party agencies, but did not develop sufficient guidance or provide oversight of these activities. Responsibilities were transferred in July 2015 in an effort to reduce the backlog of inspections for elevators and boilers.

Auditors found the Division relied heavily on third-party agencies to perform activities adequately. In addition, there were no guidelines and the Division performed limited supervision. Examples of noted deficiencies were provided in the audit report. Without adequate supervision, regulatory duties may not be performed as needed and public safety may be compromised.

Finally, management information was not adequate for mine safety. Although the Division had an inspection process, management information to monitor inspections was cumbersome and inefficient. Management reports did not provide sufficient detail to readily identify whether required annual inspections were completed. Additionally, the Division was not monitoring whether violations from mine inspections were resolved appropriately and timely. Management indicated the Division did not have a uniform

process for identifying open violations with past-due deadlines. Three of 20 mine files showed no evidence of corrective measures being taken by mine operations regarding violations.

Concluding her presentation, Ms. Ryan stated the auditors made 9 recommendations to assist with the object and mine inspection processes. Appendix A in the audit report contains the audit methodology and Appendix B contains the Division's response. The Division accepted all of our recommendations.

Chair Benitez-Thompson called for questions.

Assemblywoman Carlton referenced Ex. 4 in the audit report and queried as to the time lag between 2009 and 2014 and the note where no exceptions were identified. She asked if there were no problems or documents to show that there was a problem in that timeframe.

Ms. Ryan replied that the information provided in Ex. 4 was based on information supplied by the Division's database. Each of the years listed in which the certificate was issued was based upon the information from that database. There is a specific process number to identify it as a construction permit. The auditors did not find any construction permits issued for the years noted in Ex. 4 for 2010 through 2013 and 2017 that did not receive inspections.

Assemblywoman Carlton queried as to if no construction permits were issued due to the economic downturn or if those permits were not recorded.

Ms. Ryan surmised construction and modification permits were issued; however, inspections were completed and received a normal number under the normal inspection process. The auditors did not observe where objects had not been inspected but were put into the normal cycle. As of June 30, 2017, the Division had inspected them and put them into service.

Chair Benitez-Thompson asked about \$1.4 million in revenue that was not collected, and whether the audit was just a review of whether the inspections were being completed. She also queried as to if there was a financial component with the third-party contractors fees paid to perform inspections.

Ms. Ryan explained the third-party inspectors inspect the object. Then, the Division collects a fee when a certificate is issued on the object. For elevators, the fee is at least \$200 and for boilers the fee is \$20. Auditors determined the \$1.4 million of uncollected fees was based on the auditors' sample of 50 objects where the auditors examined each object without an operating certificate. The auditors tried to determine how many years in which that operating certificate had not been issued. Next, the auditors had to determine the total amount of those fees over those multiple years and then projected that the total number of objects to the population of 5,500 as of June 30, 2017, from the Division's database information.

Chair Benitez-Thompson called for additional questions from Subcommittee members. There were none. She called for agency representatives.

Joseph (JD) Decker, Former Administrator, Division of Industrial Relations, Department of Business and Industry, stated the Division was pleased with the audit findings. He stated the Division accepted the nine recommendations.

Chair Benitez-Thompson called for questions.

Assemblywoman Carlton queried as to effectiveness in reducing the backlog with the use of third-party inspectors.

Mr. Decker responded in 2015, the Legislature authorized for the Division to use third-party inspectors to augment the Division's backlog of inspecting new items and existing items. In lieu of it augmenting the inspection process, the Division spent significant effort in attempting to review permits and regulate the authorized inspection agencies. The Division has developed a working relationship and guidelines with the inspection agencies and Division staff in order to process their work. The Division has developed an audit process so the third-party inspections can be sampled instead of reviewing 100% of the items, which the Division had done in the past. In 2015, there was some difficulty in processing the volume of work. There was some difficulty in permitting and obtaining third-party inspectors to assist the market by all of the owners. Moreover, there was difficulty for the Division in processing the work volume that was received from the third-party inspectors.

Assemblywoman Carlton commented that one of the problems has been the Division has spent time and resources to train these inspectors. It seemed as soon as the inspectors had been trained, they were hired away from the State. She expressed concern over the outsourcing to third-party inspectors. She was of the opinion sampling should not be done when it comes to public safety on elevators or boilers.

Chair Benitez-Thompson stated even though the Division in its response claimed the amount in lost revenue was \$770,000 rather than the \$1.4 million the auditors found, that amount was still a large amount of money for an agency to go without. She asked how the Division has managed without that revenue and if funds were pulled other resources to supplement.

Mr. Decker replied the Division is funded in part through the workers' compensation safety fund, which assessed against workers' compensation carriers that operate in Nevada. The Division's portion is used to fund an operating budget, which is then offset by any revenues that the Division receives from licensing. Funding is also offset by United States Department of Labor grants and federal mining grants. The Division draws from the safety fund based on whatever remainder is left to fund the Division's operating budget.

Chair Benitez-Thompson segued to the Division's response to mine safety issues and asked Mr. Decker if the Division is now where it needed to be with respect to mine safety issues after the audit.

Mr. Decker was of the opinion the Division was effectively managing the mines. The mine section tracks a relatively small number of items approximately 700 items between mine operators, vendors, and contractors. The Division transferred the existing

database in another Microsoft product, which allows the Division to track by mine district and by type of mine actor, whether it be operator, contractor, or vendor. In addition, the mines can be tracked by site. Since the audit, the Division completely revamped the database so that information can be sorted. Of importance to the Division, the database now has a calendaring function that will automatically notify inspectors and managers of nearing inspection dates and abatement dates.

Chair Benitez-Thompson referred to the Division's response to Recommendation No. 5 to notify owners and operators who are not current and the second notices that were sent. She asked if the Division calls a property owner to schedule and inspection or does the Division proactively setup a time for the inspection.

Mr. Decker pointed out the Division had completely revamped the process for collecting the fees and inspection reports and certifying elevators. Previously the onus was in the item owner to recognize their inspection date, hire a third-party vendor to inspect the item, submit the inspection to the Division, and then pay the fee. The Division changed the notification process to increase compliance efforts to a graduated process to give item owners notice the inspection date is approaching and their permit is going expire. The owners can begin to work on the recertification process prior to the expiration date.

Ray Fierro, Interim Administrator, Division of Industrial Relations, Department of Business and Industry, noted the Division used to send an invoice at the end of the inspection process, which did not follow Nevada Administrative Code 455C. The Division has started to issue invoices 60 days prior to the expiration notifying the owners that their objects are almost due for an inspection. Part of this process is to have a better relationship with the owners and to provide information regarding the owners' responsibilities.

Chair Benitez-Thompson referenced the Division's response that "this change in process will significantly impact the number of compliant items over time." She asked if the Division had started to see significant impact on the compliance rate.

Mr. Fierro stated he reviewed statistics from last fiscal year to this fiscal year. In March and April 2017, there was a total of 1,137 invoices and the Division received \$448,704 in fees. Now that the notification process has changed, 1,919 invoices have been sent, an increase of 69%. The Division received \$696,345 in fees from those invoices, an increase in \$247,641.

Chair Benitez-Thompson and Mr. Fierro both commented that the Division was trending in the right direction with the new process.

Following up to Mr. Fierro's statement, Mr. Decker added that those notices are sent out with a document developed by the Division, which outlines the item owner's responsibilities and a checklist of all of the things that need to be done for an item to be in compliance.

Senator Parks queried as to the private authorized inspection agencies (AIAs) and the challenges faced by the Division to find third-party individuals. He opined it is a possibility inspections were not done partly due to the lack of available staff.



Mr. Decker replied the item owner hires the AIAs. The item owner will hire and pay for the inspection agency who is then responsible on behalf of the owner to submit to the Division the required inspection paperwork. The Division has had some difficulties when establishing expectations of submitting paperwork and fee submission with the AIAs. As a remedy, the Division started notifying owners directly of their responsibilities, which includes: hiring the AIA; ensuring the vendor has submitted the paperwork on time; the fee is paid for the recertification; and verifying the permit has been received. Previously, the Division worked directly with the AIAs; however, the item owner was often not aware of what the responsibilities were.

There being no further questions, Chair Benitez-Thompson called for a motion.

SENATOR PARKS MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE DEPARTMENT OF BUSINESS AND INDUSTRY, DIVISION OF INDUSTRIAL RELATIONS. THE MOTION WAS SECONDED BY ASSEMBLYMAN WHEELER AND CARRIED UNANIMOUSLY.

***Item 6 — Presentation of Review of Governmental and Private Facilities for Children, April 2018 (NRS 218G.575)***

Rocky Cooper, Legislative Auditor, stated the reviews of governmental and private facilities for children became a permanent responsibility of the Audit Division in 2009. The role of the Audit Division is to review the children's facilities in an ongoing basis to help ensure adequate protection of children at the facilities and to provide information to assist in legislative oversight. The report includes the results of the auditors' review of four facilities and responses from the facilities. The responses indicate agreement with the issues identified during the review and action facilities are taking to improve their processes. Due to the length of the report, audit staff will provide a summary of the issues identified.

Jane Giovacchini, Audit Supervisor, began the presentation on Review of Governmental and Private Facilities for Children with an introduction to the report. She stated the report includes the results of the auditors' reviews of 4 children's facilities, unannounced site visits to 4 children's facilities, and a survey of 55 children's facilities, in accordance with NRS 218G. The statutes require reviews of both governmental and private facilities for children. Auditors have identified 20 governmental and 35 private facilities in Nevada. Ex. 1 in the report shows the number of different types of facilities, the facilities' maximum capacity, average population, and staffing levels as of June 30, 2017.

An additional 119 youths were placed in out-of-state facilities by District Courts or the State as of June 30, 2017. These youths were placed in 26 different facilities in 11 different states across the United States. Ex. 2 in the report shows the number of youths placed out of state by the different placing entities over the past 3 years.

NRS require children's facilities to forward to the Legislative Auditor copies of complaints filed by children in their custody or on behalf of those children. Auditors reported receiving 1,457 complaints from 29 facilities in Nevada for the year ended June

30, 2017. Twenty-six facilities reported no complaints were filed during the year. Generally, the reason a facility may report no complaints is due to the type of facility or the age of the youths served. For example, younger youths in a residential setting are more likely to discuss complaints than write a formal complaint.

She noted the scope, purpose, and methodology are explained in the report. The reviews included an examination of policies, procedures, processes, and complaints. In addition, auditors discussed related issues and observed related processes during their visits.

Sandra McGuirk, Deputy Legislative Auditor, continued the presentation with an overall conclusion in the report. Based on the procedures performed and except as otherwise noted, the policies, procedures, and processes in place at two of the four facilities reviewed provide reasonable assurance that the facilities adequately protect the health, safety, and welfare of the youths at the facilities, and they respect the civil and other rights of the youths in their care.

Auditors concluded that the policies, procedures, and processes in place at two of the four facilities reviewed, Nevada Homes for Youth and Genesis, provided minimal assurance that they protect the health, safety, and welfare of the youths at the facility and they respect the civil and other rights of the youths in their care. The auditors reported their observations to the respective licensing agencies, as required by Senate Bill 189 from the 2017 Legislative Session.

In the report, auditors provide a brief summary of Nevada Homes for Youth, which is a privately operated facility for the treatment of abuse of alcohol or drugs. The facility is licensed by the State's Bureau of Health Care Quality and Compliance (HCQC). The policies and procedures at Nevada Homes for Youth were outdated, incomplete, and did not contain a table of contents, making it difficult for staff to locate key policies and procedures when needed. Medication policies did not establish adequate controls over prescription medication or provide assurance that youths receive their medications. In addition, policies related to treatment plans, safety, and youths' rights were not sufficient to ensure youths receive the services they need.

Auditors summarized the issues at Genesis, which is a privately operated foster care agency located in Las Vegas and is licensed by the Clark County Department of Family Services. Genesis's policies, procedures, and processes do not ensure that youths receive their medication as prescribed or that the administration of medication was properly recorded. Policies and procedures regarding client rights, including the right to file a grievance, were not complete, were not consistent, and were not followed. In addition, policies and procedures related to treatment plans, maintaining complete records of required employee training, and safety issues were not complete. Furthermore, the foster care agency's computer was not password protected.

Ms. McGuirk stated many of the facilities had common weaknesses. For example, improvements to medication administration processes and procedures were needed at all four facilities reviewed. This included three facilities that did not have comprehensive policies and procedures for the administration of medication or the policies and

procedures did not have sufficient detail. In addition, three facilities were either missing documentation of some consent forms from the persons legally responsible for the psychiatric care of the youths for the administration of psychotropic medications, or the consent forms were incomplete.

In addition, auditors conducted unannounced site visits as part of their review activities. During the four unannounced visits conducted, the auditors did not note anything that caused them to question the health, safety, welfare, or protection of the rights of the children in the facilities.

Auditors noted statutes do not require facilities that provide treatment to children for abuse of alcohol or drugs to have specific policies and procedures for the administration of medication. Other types of children's facilities are required to have specific policies and procedures for the administration of medication. During the 2011 Legislative Session, the Legislature passed Senate Bill 246. The bill, effective January 1, 2012, required certain children's facilities to adopt policies to: document the orders of a treating physician of a child; administer medication to a child; store, handle, and dispose of medication; document, minimize, and address errors in the administration of medication; and ensure each employee who administers medication receives a copy of and understand the policies. S.B. 246 resulted in statutory changes for governmental and private medical facilities, detention centers, specialized foster homes and group homes, and child welfare facilities, but not for facilities that provide residential treatment for abuse of alcohol or drugs to children.

The 2018 report, Review of Guidelines for Licensing Children's Facilities ([LA18-15](#)), the auditors clarified that the HCQC licenses the residential aspects of drug and alcohol abuse treatment facilities. Additionally, the Substance Abuse Prevention and Treatment Agency licenses the program aspects of programs for the treatment of abuse of alcohol or drugs, not the residential aspects. For the fiscal year ended June 30, 2017, there were four HCQC licensed facilities that provided residential services to children pursuant to an order of a court.

HCQC uses the requirements found in the Nevada Administrative Code (NAC) to license drug and alcohol treatment facilities. However, the requirements of the NAC are not as specific as the requirements of S.B. 246 from the 2011 Legislative Session. The auditors recommended the Legislature consider enacting legislation to require facilities for the treatment of abuse of alcohol or drugs and that provide residential treatment to children, who have been placed in the facility pursuant to an order of a court, to adopt policies similar to those adopted for other children's facilities.

Ex. 3 in the reports contains a map showing the location of the four facilities reviewed by the auditors. Greater detail on issues noted at each of the four facilities, as well as the four facilities responses, is provided in the report.

Concluding her presentation, Ms. McGuirk pointed out the numerous appendices in the report. For example, Appendix C provides a summary of observations at the four facilities reviewed. The procedures to ensure controls over medications received were not adequate at two facilities. In addition, initial and updated treatment plans were not

prepared timely as required by the facilities policies and procedures, or auditors could not determine when the plans were required at two facilities. Also, policies and procedures for background investigations were not complete or were outdated at two facilities. Finally, Appendix D provides some background, population, and staffing information on 55 Nevada facilities.

Chair Benitez-Thompson called for questions.

Responding to Senator Kieckhefer's question regarding the referral of two facilities in the report to HCQC and interaction with the licensing agency to work towards compliance, Ms. McGuirk replied the auditors' observations were reported to the two licensing agencies. One facility was reported to HCQC and the second facility was reported to DFS, because the facilities are two different types. The auditors do not follow-up with the agencies, with the exception of child care facilities.

Furthermore, the 2017 Legislative Session passed a law, which required the auditors to notify the licensing agency of the auditors' observations. If the auditors have not received reasonable assurance with respect to child care facilities, including child care institutions, then the licensing agency is required inspect the facility and provide information to the auditors to determine whether the issues have been addressed. The two facilities where the auditors found minimal assurance did not require any additional work other than the response received to ensure the facilities have addressed each of the auditors concerns communicated to the facilities in a letter.

Senator Kieckhefer queried as to if the problems the auditors observed were direct problems with individuals at the facilities or if the issues were just related to policies and procedures.

Ms. McGuirk replied that the review of the facilities included a review of the policies and procedures. The report also included a discussion of the policies and procedures with management and staff to make sure the expectations were understood. Through that process, the auditors could identify whether the staff needed additional training or if there was a policy staff was unaware was available. Auditors also made observations of the facilities for cleanliness, contraband type items, and youths' files were examined for completeness, including treatment plans, to help ensure the youths have received proper services. For safety purposes, the auditors examined staff personnel files to if background checks had been completed following requirements in NRS. In addition, auditors check to see if staff have been trained in the administration of medication and other requirements set forth in NRS.

Assemblywoman Carlton commented she was please to read in the report the improvement at Summit View Youth Center. She noted that over the years, medication administration and documentation has continued to be an issue in the reports. She asked if the auditors have had conversations with staff at the facilities to try to pinpoint where the problem is with medication administration and documentation. She opined it was important to determine if youths were being properly medicated and not over/under medicated.

Ms. Giovacchini replied when the auditors performed a review of the licensing agencies' processes for licensing the facilities they found some omissions in what was being examined to license the facilities. Sometimes when the facilities were getting started, facility staff may not have been made aware of certain requirements in NRS by the licensing agency and the licensing agency may not have checked to determine if the requirements were being met. She commented that it was unlikely a facility would implement those types of policies and procedures when they were not aware of the requirements. The licensing agencies have begun to adjust checklists and policies for licensing the facilities.

Assemblywoman Carlton commented she was hopeful the issue with medication administration and documentation would be resolved, because it needed to be fixed.

Ms. McGuirk also replied to Ms. Carlton's question and noted in addition to the licensing agencies being responsible for certain issues, responsibility also lied with the individual facilities, because the facilities are responsible for administering the medication. It is important for the facilities to pass all the requirements to become licensed. Nonetheless, it is incumbent upon each facility to not only understand statute and what is required, but also to follow it up within their own policies and procedures, including holding staff accountable for what they are supposed to be doing.

The most effective way to ensure part of that, after the medication has been administered, is for management to go back and determine or obtain some assurance that their staff were actually following the expectations in the policies and procedures. The auditors, licensing agencies, and facilities want to improve these processes and the documentation to ensure the youths are receiving the correct services and medications and any medications not administered are disposed of in accordance with federal guidelines.

Chair Benitez-Thompson called for further questions. There were none. She then called for representatives from the agencies.

Ross Armstrong, Administrator, Division of Child and Family Services (DCFS), Department of Health and Human Services (DHHS), pointed out that John Munoz, Deputy Administrator, Juvenile Justice Services, DCFS, DHHS, was present in Las Vegas to answer questions regarding the Summit View Youth Center and Cara Paoli, Deputy Administrator, Children's Mental Health, DCFS, DHHS, was present in Carson City to answer questions regarding Desert Willow Treatment Center. He thanked Ms. McGuirk and the auditors for their review of DCFS' facilities and for being valuable partners in managing some of the most vulnerable youth.

Mr. Armstrong noted the Division's goal is to provide the reasonable assurance that the health, safety, and welfare of the youth is protected and civil and other rights are respected.

Chair Benitez-Thompson queried as to the keeping track of how medications were administered and issues with obtaining the proper consent forms. She referred to page 14 in the report where the Director of Nursing reviewed NRS and then worked with the

contract psychiatrist to develop a best practice. She asked if the consent form used would be available for group homes and therapeutic group homes that have struggled to develop policies and procedures for medication administration

Mr. Armstrong replied the form was still being reviewed; however, it could be created with boilerplate language, utilized by HCQC's education efforts, and made available on the Division's website as a resource. Furthermore, the Director of Nursing for the Juvenile Justice facilities helped the Division with medication administration and documentation. The Director of Nursing has visited the three facilities and has oversight, which has helped the Division to improve and will help to maintain quality.

Chair Benitez-Thompson pointed to the Division's response concerning the Prison Rape Elimination Act of 2003 (PREA) and the rounding that needed to happen. She asked if the head group supervisor and assistant head group supervisor are being retrained in coaching and if the rounding was occurring with greater consistency.

Mr. Armstrong replied the Division did see an improvement in that rounding. In response to the audit, the Division reached out to the National PREA Resource Center for technical assistance and advice. PREA is still a relatively new item for the Division and there were questions about how the federal government interprets some of the regulations and what the Division needed to be doing. The Division's statewide PREA coordinator was working with the facility to get that on track.

Chair Benitez-Thompson called for questions from Subcommittee members. She then referred to page 21 and the medication and administration records for Desert Willow Treatment Center in comparison to Summit View Youth Center.

Mr. Armstrong noted the medication management policies at the juvenile justice facilities are consistent. The policy that was indicated in the Division's response was to be completed and approved in August of 2017. The Division has continued to conduct internal checks to improve. Both facilities were asked to prepare a report on any medication errors that resulted the youth receiving or needing medical assistance. Neither facility had any medical errors or incidences that caused actual harm to a child. The Division has continued to work on improving the documentation of medication management.

Chair Benitez-Thompson asked if the Division was reviewing if doses of medication were missed, frequency of missed doses, and if there were interaction with other drugs.

Mr. Armstrong replied yes that was correct. He referred back to Senator Kieckhefer's question regarding the HCQC referral. At the time the auditors notified HCQC, he was the deputy over at HCQC and the referral was treated as a complaint. The HCQC team went out to Nevada Homes for Youth and did an inspection and found some deficiencies. A plan of correction for HCQC purposes was being developed.

Chair Benitez-Thompson called for representatives from Genesis, a foster care agency in North Las Vegas.

Curtis Stuckey, Owner and Director, Genesis, stated he respected the review process

and was did not want to debate any deficiencies found at his agency. He noted Ms. McGuirk was very helpful and solution-focused through the entire process.

Mr. Stuckey gave an overview of the agency, which is not a traditional type of agency in the Las Vegas area. My Stuckey started this agency and he has worked with foster children for over 25 years. He admitted the feedback in the report was discouraging because it was not designed to discuss positives occurring in the agency, but he remained optimistic because of what he does day in and day out. He takes in the most challenging foster children in Las Vegas.

He stated he has two foster families and five staffed foster homes. He commented that it is difficult to hire staff in this line of work. He normally wears athletic gear due to the fact he often has to chase after kids, break up fights, find the children and take them back to school or appointments. He admitted Genesis may be deficient at some things and need to make changes.

Continuing, Mr. Stuckey expressed that Genesis does not have the funding nor staff it needs to properly run some of the programs; however, he makes best of what he can with what he has. Just because these children are the more difficult children in foster care, does not mean he receives an increase in funding. His agency consistently steps up to the challenge and takes these children that no one else will even give opportunity. He noted that his own health has suffered due to how hard he works and he works tirelessly on his own agency. These children are a population where no one else will step up to do what Mr. Stuckey does day in and day out. He does all of this with a smile on his face and passion in his heart.

Chair Benitez-Thompson noted Genesis had an average daily population of 35 youths. She asked if those youths were housed in one facility or multiple homes.

Mr. Stuckey replied there were five staffed foster homes and two families. The 18 full-time staff and 5 part-time staff that are listed work shifts in the homes with the children and were not included as part of the two families.

Chair Benitez-Thompson complimented Mr. Stuckey with moving in the right direction with policies on fingerprinting and background checks and with emergency contacts. She asked what was being done to the address issues with medications, including the complications associated with reorders.

Mr. Stuckey replied some of the complications were beyond his control. Some of the medications are filled electronically. There can be issues with the pharmacies and Medicaid sometimes will not cover certain items. He commented sometimes there was a breakdown in communication among staff and he was not informed when a child only had one dose of medication remaining. There can be many reason why there are issues with medications; however, Genesis will strive to improve on medication management.

He commented on the background checks and noted DFS was responsible to have fingerprints and background checks completed. Any employee at Genesis has a clearance letter on file informing Mr. Stuckey that the fingerprinting and background

check has been completed.

Chair Benitez-Thompson asked Mr. Stuckey what he thought would be more helpful to address medication issues, such as a child's caseworker being more proactive or a better system for knowing when a medication is about to run out.

Mr. Stuckey noted Genesis has systems in place. His wife has worked very closely with DFS, PRNs, PLRs, and agencies where the children go for medication management reviews to obtain proper documentation with the pharmacies. Normally, the psychotropic medication should arrive 3 days before a child arrives if there is a prescription. If no medication is received, then it is assumed there is no prescription. Unfortunately, sometimes a child has a prescription, but a doctor's office has forgotten to submit the prescription to the pharmacy.

Senator Kieckhefer agreed with Mr. Stuckey that these reports were designed to find issues. Audit reports are issued on state agencies to find and fix issues. He was understanding of Mr. Stuckey having received a difficult review and acknowledge Mr. Stuckey's passion. He queried as to if there were any findings in the report in which Mr. Stuckey did not agree.

Concluding, Mr. Stuckey commented there were a few items in which he was not in 100% agreement; however, he would rather fix those items than discuss at the meeting. He was receptive to receiving help with the policies and procedures, especially from other Las Vegas area colleagues and agencies. Agencies in Las Vegas are at an all-time high cooperating in assisting one another, which was appreciated.

Chair Benitez-Thompson called for representatives from Nevada Homes for Youth; however, no one was present.

There being no further questions, Chair Benitez-Thompson called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE PRESENTATION OF REVIEW OF GOVERNMENTAL AND PRIVATE FACILITIES FOR CHILDREN, APRIL 2018. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

***Item 7 — Presentation of Six-Month Reports (NRS 218G.270) — Department of Health and Human Services, Division of Public and Behavioral Health, Medical Marijuana Program***

Mr. Cooper stated the six-month reporting process was established to help ensure audit recommendations are fully implemented. The Governor's Finance Office prepares the six-month reports and copies of the reports are sent to the Audit Division for review. Audit staff then prepares a letter for presentation to the Legislature.

Daniel L. Crossman, Chief Deputy Legislative Auditor, stated that in April 2017, the auditors issued an audit report on the Medical Marijuana Program of the Division of Public and Behavioral Health (Division), Department of Health and Human Services. The Division filed its plan for corrective action in May 2017. NRS 218G.270 requires the



Governor's Finance Office to issue a report within 6 months after the plan for corrective action is due, outlining the implementation status of the audit recommendations.

As of January 11, 2018, the Finance Office indicated that six recommendations were fully implemented and two recommendations were partially implemented. The remaining recommendation was deemed no longer applicable, as the Division no longer provides services to medical marijuana establishments. This function was transferred to the Department of Taxation during the 2017 Legislative Session. Regarding the two partially implemented recommendations, Recommendation Nos. 2 and 4, the Audit Division received additional information prior to the meeting that regarding additional actions that had been taken by the Division. Based on the auditors' review of this information, it has been determined that those recommendations are now fully implemented. As a result, the Audit Division did not have any questions for the agency.

Chair Benitez-Thompson called for questions.

Chair Benitez-Thompson called for a motion.

ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, MEDICAL MARIJUANA PROGRAM. THE MOTION WAS SECONDED BY SENATOR KIECKHEFER AND CARRIED UNANIMOUSLY.

***Item 8 — Update Regarding the Audit of Community-Based Living Arrangement Homes (LA18-13)***

Julie Kotchevar, PhD, Administrator, Division of Public and Behavioral Health, Department of Health and Human Services, provided a brief update regarding the audit of community-based living arrangement homes and the progress that has been made to correct the conditions in the homes. She stated the most significant actions taken thus far was to take the responsibility of licensing and certifying the homes away from the direct support staff and to transfer it to HCQC. The Division asked for and obtained approval for certain positions to be reclassified. New inspectors were hired. Currently, complaints and anything to do with the homes was now being investigated by HCQC. Informational cards were created for direct support staff to know when to file a complaint with the HCQC if they see something so HCQC can go out and perform an inspection.

Secondly, there have been big cultural changes to try to get people to understand that it is their responsibility to ensure people are in safe housing. Dr. Kotchevar asked staff to examine all 7,000 people who are served in the mental health system to determine if people are safe and if they were in need of help. Getting staff to understand their responsibility is to help people to become independent in a safe and suitable environment, whether the Division is paying for it or not.

An updated 60-day plan regarding the recommendations was submitted since HCQC has its own policies and procedures. Many recommendations were completed with the transfer. Some of the other recommendations were no longer applicable due to the transfer to HCQC and the Division was no longer reliant on direct support staff to help

an individual and regulate housing at the same time. Dr. Kotchevar was pleased with the progress that has been made. All of the clients were now in regulated homes that are in good condition, which are now reviewed quarterly.

Chair Benitez-Thompson asked if there has been a qualitative change with such things as how the homes looked, smelled, and operated from what was shown in the pictures that were in the audit report.

Dr. Kotchevar commented that she personally examined the homes in the north and south. Some of the homes were in such poor condition the Division closed the homes and relocated the clients. One of the most compelling lessons learned by the Division was there were enough homes for clients were they needed to be relocated when homes were closed. She noted recently a provider in Las Vegas had closed and changed its business model, which meant 40 residents had to be relocated. In less than 2 weeks, all of those residents were relocated. It is not that there were not homes to place people; it is just that people were not accustomed to problem solving in that manner.

In the initial investigation where homes were found to be unsafe, the Division had the residents moved within 24 hours. She was of the opinion there was no excuse to leave those people in those homes. Some of the homes that were in really poor condition were just closed. The Division canceled a contract with a provider in Las Vegas who had the greatest number of poor homes.

Some of the other homes examined by Dr. Kotchevar were older homes that needed basic repairs such as painting and repairs to damaged walls; however, the repairs were not made. The overall conditions of those homes did not have insect infestations. Part of the problem with some of the providers was they were leasing homes and did not know how to negotiate with the landlord for what types of repairs were the tenant's or the landlord's responsibility, such as a leaking roof and a broken microwave.

Chair Benitez-Thompson was of the opinion that the Division has addressed the brick and mortar aspect the group homes. She asked about the program-end of it and if the money spent on the clients was about achieving independence to teach them life skills in the behavioral side.

Dr. Kotchevar was of the opinion focusing more on the behavioral side could happen. One of the things the Division found through the audit was a lot of the damage to the homes was not caused by the residents, but rather the damage was a result of disrepair. The Division found it disturbing that people were in these homes all day every day and were not involved in active treatment or support employment, does not help the clients to achieve independence. It does not help anyone's mental health condition to be sitting in a disgusting home all day long. People need to be more involved in active treatment in order to move towards independence. The Division is working to help caregivers understand that they have a responsibility to help people move towards independence and that does not involve staying at home all day.

Chair Benitez-Thompson had question on the medication piece and whether if in the group homes did staff have a better protocol and understanding of the expectations of the distributing appropriate medications.

Dr. Kotchevar replied intensive training was done with providers almost immediately on appropriate medication practices. She noted one provider was saving empty pill bottles for a craft project. The provider was instructed remove the labels, wash the empty bottles, and to not let them collect in a cabinet.

Chair Benitez-Thompson called for further questions and there were none. She thanked Dr. Kotchevar for the update.

***Item 9 — Public Comment***

Chair Benitez-Thompson called for public comment.

Dave Doyle, Chapter Chair, Nevada Chapter of the Family Focus Treatment Association (FFTA), and Director of Operations, Eagle Quest, stated the FFTA is the only national nonprofit agency representing and advocating for best practice in treatment foster care. He wanted to be here in support of Mr. Stuckey at Genesis. Mr. Doyle has too been reviewed before and opined sometimes the expectations are difficult to comprehend. He noted that with the introduction of the FFTA, becoming nationally accredited, and having access to best practice standards, the local provider community is willing to meet with Mr. Stuckey to provide the policies procedures that are working. Mr. Stuckey has been a wonderful resource in the community and he takes in some of the most difficult children, which have been kicked out of regional treatment centers and state hospitals. He noted that he has been attending these meeting since 2011 and medication management has continued to be an issue. He was of the opinion that if a committee was developed among the providers with feedback from the auditors to develop standard tools and forms it would be beneficial to the children, their families, and the providers.

Chair Benitez-Thompson adjourned the meeting at 1:41 p.m.

Respectfully submitted,

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Susan M. Young, Office Manager

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Assemblywoman Teresa Benitez-Thompson  
Chair of the Audit Subcommittee of the Legislative Commission

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Rocky Cooper, Legislative Auditor  
and Secretary to the Audit Subcommittee of the Legislative Commission

### Meeting Materials

AGENDA ITEM	WITNESS/ENTITY	DESCRIPTION
<a href="#">Agenda Item IV</a>	Eide Bailly, LLP, Reno, Nevada	Handout