

MINUTES OF THE MEETING OF THE
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION
Legislative Building
401 South Carson Street, Room 4100
October 14, 1999

A meeting of the Audit Subcommittee of the Legislative Commission (NRS 218.6823) was called to order by Senator Dean A. Rhoads, Chairman, at 9:30 a.m., Thursday, October 14, 1999, in room 4100 of the Legislative Building, Carson City, Nevada.

AUDIT SUBCOMMITTEE MEMBERS PRESENT:

Senator Dean A. Rhoads, Chairman
Assemblyman John W. Marvel
Senator Joseph M. Neal, Jr.
Assemblyman Greg Brower
Assemblywoman Vonne Chowning

AUDIT SUBCOMMITTEE MEMBERS ABSENT:

Assemblyman Morse Arberry, Jr.
Assemblyman Richard Perkins

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Gary Crews, Legislative Auditor
Stephen Wood, Chief Deputy Legislative Auditor
Marie Cavin, Office Manager
Ian Allan, Deputy Legislative Auditor
Jane Bailey, Deputy Legislative Auditor
Tim Brown, Audit Supervisor
Darin Conforti, Deputy Legislative Auditor
Rocky Cooper, Audit Supervisor
Harry O'Nan, Audit Supervisor
Doug Peterson, Deputy Legislative Auditor
Mike Spell, Audit Supervisor
Paul Townsend, Audit Supervisor

Item 1³/₄ Approval of the minutes of the meeting held on December 15, 1998.

ASSEMBLYMAN MARVEL MOVED TO APPROVE THE AUDIT SUBCOMMITTEE MINUTES OF DECEMBER 15, 1998. THE MOTION WAS SECONDED BY SENATOR NEAL AND PASSED UNANIMOUSLY.

Item 2³/₄ Selection of Vice-Chairman of Audit Subcommittee of the Legislative Commission.

SENATOR NEAL MOVED THAT ASSEMBLYMAN JOHN MARVEL BE VICE-CHAIRMAN OF THE AUDIT SUBCOMMITTEE. SECONDED BY ASSEMBLYMAN

BROWER AND PASSED UNANIMOUSLY.

Item 3^{3/4} *Presentation of audit reports.*

A. Department of Motor Vehicles and Public Safety, Division of Parole and Probation.

Gary Crews, Legislative Auditor, introduced Darin Conforti, Deputy Legislative Auditor, to present the report.

Darin Conforti explained the audit of the Division of Parole and Probation evaluated the process for supervising offenders up to June 30, 1998. The Division's process for collecting supervision fees was also examined. The audit objective was to determine if the Division had controls in place to ensure criminal offenders were supervised according to policies and procedures, and supervision fees were collected.

Mr. Conforti informed the subcommittee members that, overall, the Division of Parole and Probation has two main problems in its offender supervision process. First, criminal offenders have not been supervised according to Division supervision standards and, second, many problems in the classification process for assigning offenders super-vision levels, decrease assurance that offenders are supervised according to the risk they pose to the public. Specific problems in supervising offenders according to standards are:

1. The required supervision contacts have not been made.
2. Most required home visits have not been done.
3. Initial visits to offenders' homes have not been timely.
4. Supervision standards were not met for sex offenders and intensive supervision offenders.
5. The Division did not conduct mandated drug tests on some offenders.

The Division of Parole and Probation's policies and procedures require offenders to receive a minimum number of supervision contacts each month. The number of contacts to be made depends on each offender's assigned supervision level. In order to meet supervision standards, a parole and probation officer has to make all the minimum required contacts for the month. From the 4 Parole and Probation districts, Carson City, Reno, Las Vegas, and Elko, the auditors tested a total of 62 offender files to determine if the minimum required supervision contacts were made. Overall, the Division made 60% of the minimum required contacts.

Assemblyman Marvel asked why the Elko district has such a low percentage of supervision contacts (45%). Mr. Conforti replied the auditors contribute the low contact rate throughout the Division to a lack of management controls.

Continuing, Mr. Conforti explained the auditors looked at over 1,200 months of supervision from the 62 offender files tested and found the Division met its supervision standards for those months only 12% of the time. There is also a wide variance in meeting standards among the districts with a high of 29% and a low of 1%. Some offenders receive no supervision contacts, which is the case with offenders on open caseloads in the Las Vegas district. An open caseload is a caseload temporarily assigned to an operations supervisor because the Division does not have enough parole and probation officers available to supervise offenders.

One of the required supervision contacts is a visit to the offender's home. This is considered to be an important contact to insure public safety. The contact is to be made unannounced in order for the officer to assess the offender's living conditions and detect possible criminal behavior. The auditors found only 36% of the minimum required home visits were made.

Sometimes an officer may attempt to make a home visit but the offender is not home. This is referred to as a home visit attempt. For the required home visits that were not made, Mr Conforti identified 73% of the time a visit was not attempted. In addition, the first home visit is not being made timely. On average, it took 123 days to make the first home visit. Division policy requires the initial home visit to be made in 10 working days for probationers and 5 working days for parolees. Approximately 30% of offenders reviewed received the initial home visit in 10 days or less. Thirty percent took longer than 100 days and, in some cases, more than 250 days.

Out of the 62 offender files reviewed, 7 were sex offenders and 7 were intensive supervision unit (ISU) offenders. Mr. Conforti pointed out these offenders pose unique and increased risk to public safety. The Division has established additional supervision contacts to manage the risk of ISU offenders. While sex offenders are supervised with the same standards as other offenders, the Division has established specialized sex offender caseloads in Las Vegas and Reno districts. The auditors found the contact rates for these offenders were not much different than those for the other offenders. About two-thirds of the contacts were made, less than half of the home visits were made, and supervision standards were met about 20% of the time. On the other hand, the Division was more timely with the initial home visit for these offenders.

The auditors found the Division of Parole and Probation did not always conduct mandated drug tests. Many parolees and probationers have drug testing as a special supervision condition ordered by the Parole Board or the sentencing court.

Mr. Conforti explained the auditors identified six problems in the Division of Parole and Probation's process to assign offenders supervision levels.

1. The majority of supervision level reassessments were not done.
2. The initial classification of supervision levels were not always timely.
3. Many classification overrides were not properly documented.
4. Some offenders were not scored correctly.
5. Policies and procedures for intensive supervision classification have been lacking.
6. There are significant variances in the assignment of supervision levels among

the districts.

The Legislature emphasized the importance of classifying offenders in 1997 by statutorily requiring the Division to reassess an offender at least every six months. From the offender files reviewed by the auditors, the Division only conducted 45% of the required reassessments and did not always conduct initial classifications timely. Division policy requires initial classification to be done within 30 days. This did not occur for approximately 20% of the files reviewed ranging from a few days late to months late.

Mr. Conforti brought up another concern about the Division's classification process. This has been the lack of specific policies and procedures to place offenders on intensive supervision. Whereas offenders are assigned to maximum, medium, and minimum supervision using a standard scoring form, offenders are placed on intensive supervision at officer discretion. Policies and procedures would help prevent inconsistencies and ensure discretion is exercised within defined Division parameters.

In addition, significant variances occur in the distribution of supervision levels among the districts. Inappropriate classification of offenders could expose the public to risk or result in the wasteful use of resources. During the audit, the Division began reassessing their entire offender populations. In the Las Vegas district, this resulted in the number of offenders classified to minimum supervision increasing from 185 to 849 between March and September 1998.

Mr. Conforti identified the Division's poor performance of supervising offenders has been an on-going

problem. From the 62 files reviewed, the majority of offenders had been on probation since at least 1996. There was little difference in the supervision contact rates for offenders in the 3 years. Division management has contended that high officer caseloads have been a major reason for poor performance. The auditors compared the contact rates to caseload ratios from 1996 to 1998. In general, while caseload ratios have been above the budgeted level of 75 offenders per officer, increased workload has not had a clear or consistent effect on performance. In 1996 the Las Vegas district had an estimated average caseload ratio of 82 and the Division made 57% of its contacts, yet when the district's caseload dramatically increased to 100 in 1998, the contact rate fell only slightly to 51%. On the other hand, the Elko district's contact rate actually went up when the caseload ratio increased. Additionally, home visit rates have not been affected by caseload size.

While high caseloads may be involved in affecting poor performance, the auditors feel the first step the Division has to take to improve the offender's supervision process, is to establish management controls. Specifically, the Division needs to establish a review process to ensure required supervision contacts are made and supervision level reassessments conducted. Also, the Division's current information systems are inadequate for tracking offender supervision contacts and ensuring supervision level reassessments are done.

Mr. Conforti added that documentation of the actions taken to supervise offenders and assign supervision levels also needs to be improved. Nearly 50% of the offender files reviewed were either missing documentation or contained insufficient documentation to assess what supervision actions had been taken.

Mr. Conforti explained that, overall, the Division's process to collect monthly supervision fees from offenders needs significant improvement. During fiscal year 1998, about \$900,000 in supervision fees went uncollected because of poor collection practices, inaccurate records, and weak controls over granting fee exemptions. In addition, the Division has not established adequate internal controls to safeguard more than \$2 million in fees paid annually by offenders. While no instances of fraud were identified, the Division's controls are so weak that fraud and abuse could go undetected.

The collection of supervision fees is intended to defray part of the state's cost of supervising offenders. Pursuant to NRS 213.1076, offenders supervised by the Division are required to pay a monthly fee of \$30. During fiscal year 1998, these fees did not defray as much of the state's cost as anticipated. As a result, the Division experienced a \$600,000 budget shortfall which contributed to the need for a supplemental appropriation from the State General Fund during the 1999 Legislative Session.

The Division collected about 55% of the fees owed for fiscal year 1998. The collection rate varies significantly among the four district offices because the Division has not established an adequate collection process. The Carson district had a high collection rate of 73% and the Las Vegas district had a low collection rate of 47%. The auditors estimated the Division could have collected \$900,000 more in supervision fees in fiscal year 1998 by achieving an 80% collection rate. An 80% collection rate is reasonable based on work performance standards of parole and probation officers. Mr. Conforti added that they believe the standard is obtainable with better collection processes because two districts already have collection rates exceeding 70% even though the current process is ineffective.

Mr. Conforti identified the Division has not established an adequate system of internal control to safeguard more than \$2 million in fees paid annually by offenders. Internal control weaknesses identified include payments not recorded when received, poor controls over cash receipt forms, total payments received not compared to deposits, offenders paying their fees to officers instead of accounting staff, inadequate separation of accounting duties, untimely deposits, and poor controls over payments received by mail. The auditors concluded the Division could improve its fee collections and internal controls while reducing the amount of resources spent on supervision fee collections. The Division's current process is bogged down by

duplication of efforts, redundant information systems, and staff performing unnecessary work. This makes the fee collection process ineffective and inefficient.

Poor supervision and supervision fee collection processes are attributable to long-standing management weaknesses in the Division. Although the Division has received sufficient resources to perform supervision activities, it does not have an effective management control system to ensure resources are used efficiently. The Legislature has provided the Division with the adequate parole and probation officer positions needed to supervise caseloads at formula funded levels; however, management control weaknesses over the hiring process hampered the agency's ability to fill vacant positions timely. These weaknesses resulted in the Division not testing or recruiting applicants from April 1996 to March 1997, and by July 1997 the Division had 41 parole and probation officer positions vacant³/₄ nearly 20% of the total positions. Because of these vacancies, more than 3,000 offenders were added to existing officer caseloads increasing the caseload ratio for those officers.

Senator Neal asked Mr. Conforti who bears the culpability for the lack of parole and probation officers. Mr. Conforti explained the hiring process involves the Division, the Department of Motor Vehicle and Public Safety's personnel unit, and the State Personnel Department. In 1996, the Division lost their long-time personnel analyst who maintained much of the information about the on-going recruitments. When that person left, the Division did not know the status of the on-going recruitments. It went through a number of procedures to make sure of their personnel rules before advertising for vacant positions again. During this time they did not actively recruit or test, although they did do some hiring through transfers from other agencies.

In answer to Senator Neal's concern over this matter, Mr. Conforti explained the Division lacked policies and procedures for their hiring process and did not have adequate controls over tracking the process.

Continuing, Mr. Conforti added the staff shortage also contributed to the Division exceeding its overtime budget by \$850,000 in fiscal years 1996, 1997, and 1998.

Strengthening management control systems should begin by increasing the Division's central office oversight and monitoring district operations. Likewise, Division management should improve its performance measurement system to ensure agency operations are guided toward attainment of the Division's mission to protect public safety.

Inefficient operations contribute to Nevada having the highest cost of offender supervision among the western states. According to the most recent national data from the Criminal Justice Institute, on average it costs \$5.20 per day to supervise an offender in Nevada, while the national average is \$3.13. Although the auditors did not review all functions of the Division, they did identify numerous inefficiencies in the areas examined. In addition to the inefficiencies in the fee collection process, Mr. Conforti noted the Division of Parole and Probation has a redundant and manual information system, a low ratio of officers per manager, and unnecessary training. If the Division reduced its costs by 10% through elimination of inefficiencies, it could make \$2.7 million available, each year, for other priorities. Mr. Conforti noted the Division is in the process of implementing a new management information system and the increase in automation should help create efficiencies by allowing more work to be done with existing resources. The auditors believe the 10% reduction is reasonable and, at that, the Division would still be significantly higher than the national average cost for offender supervision.

In answer to Assemblyman Marvel's question, Mr. Conforti replied the Division's MIS system is currently under development.

Mr. Conforti mentioned there have been factors affecting the Division's ability to operate efficiently and

effectively. Most notably, the Division has experienced a great deal of management turnover since 1993 while at the same time, the demands for its services have increased with adding many new programs. During the course of the audit, management began taking steps to improve its management controls. Mr. Conforti felt these steps are a positive start and the effort must be sustained to ensure long-term improvement in management controls and performance.

In conclusion of his presentation, Mr. Conforti noted there are twenty-eight recommendations made to help improve the Division of Parole and Probation. The Division rejected four of the recommendations; however, upon analyzing the agency's response, the auditors have concluded the Division is in agreement with the intent of the recommendations, and has already begun taking corrective actions.

Assemblyman Marvel commented that he felt the auditors did an excellent job on the audit.

In answer to Senator Neal's question, Mr. Conforti responded the Division of Parole and Probation has been under the Department of Motor Vehicles and Public Safety since 1993. He then asked if the problems seem to be any different now than prior to the time it went under the Department of Motor Vehicles and Public Safety. Mr. Conforti was not able to answer the question because he did not review the activity that far back.

Assemblyman Marvel mentioned he has received information from the Governor's Office that they would like to see public safety and DMV separated again. There would actually be a public safety organization. He felt this last move to the Department of Motor Vehicles and Public Safety (DMV&PS) was too massive of a move, and is too much for the Director of DMV&PS to be accountable for. Mr. Marvel added he would be very supportive of seeing these two agencies separated.

Carlos Concha, Chief of Parole and Probation, testified the Division of Parole and Probation management has been in constant turmoil. Since 1993, the Division has had three chiefs. Mr. Concha stressed the main reason for leaving positions at the Division was for more money. Mr. Concha felt that with the continual addition of new programs, staff has been spread farther and wider. The problems really did not show until the mid 1990's. He informed the subcommittee he is the only remaining administrator with the Division since 1993.

Assemblyman Marvel commented Mr. Concha was the glue that kept the organization together.

Mr. Concha informed Senator Neal there are approximately 2,800 parolees in Nevada and all can be accounted for. Mr. Concha explained the caseload is approximately 70 to 72 statewide. When the audit took place, the Division was averaging about 120 in Las Vegas. In July 1997, the Division had a high vacancy rate in Las Vegas and statewide there was a vacancy rate of 53 sworn staff with 41 of those in Las Vegas. This left many cases open and just sitting there. Mr. Concha added that in September there were 11 vacant positions statewide, and in October of this year they received more staff positions. The vacancy rate has been minimized because of the hiring practices.

Senator Neal wondered how the Division goes about collecting the fees from the parolees. Mr. Concha explained the officer supervising the offender has the offender coming in on a monthly basis, sees him at his home, and monitors his activities. Monthly, that offender is required to bring into the office a \$30 fee payment, any restitution payments, any house arrest fee payments, any parole loan payments, his monthly report, and any pay stubs from employment. He added those parolees in outlying areas may not have the ability to drive in to pay so the officer may collect the fee on their visit. That is one of the problems in the receipting and tracking of payments.

Senator Neal then inquired if the deficit in collection money is caused by the parole officer not being able to contact the parolee. Mr. Concha replied it is a problem when there are open and unsupervised caseloads,

and no one is asking for the money. Specifically, he was referring to offenders or individuals that have jobs paying minimum wages.

Senator Neal asked Mr. Concha if what he is suggesting to the committee is an increase in staffing would cure the problem. Mr. Concha disagreed and informed Mr. Neal that is just one problem. The other problem is the process of collecting, billing, and putting in an automation system. The accounting system is currently being tested in the Carson City central office. The Legislature gave the Division funding for automation. Before, they were strictly a 3 x 5 card operation. This year the Division received the last funding for automation to be completed, and the total program should be ready to go in July 2000. The Division of Parole and Probation asked for automation dating back to 1991 and 1993. Each time it was not provided in the budget. Finally, in 1997, the automation was budgeted but it was given piecemeal.

Mr. Concha agreed with Senator Neal that the automation was only going to cure problems they might have after they collect the money, but will not help with the contacting and collecting from the parolee. Looking back as far as 1989 in supervision fee collection rates, Mr. Concha did not find one year in the previous 5 bi-annuals, where they ever collect what was required. Initially when supervision fees started, it was just a supplement to the General Fund; they were not required to fund positions. It was then changed to where the fees funded positions and the Division was mandated to collect a certain amount. The Division has never attained the amount asked of them to collect. Mr. Concha felt it was a combination of the projection being too high and asking the Division to collect this money from offenders working at minimum wage jobs.

Mr. Concha explained that many of the offenders do not have the money to pay and some are exempt. He stressed there are sanctions for offenders who do not pay, but the Division cannot impose these and they are not about to send someone to prison because they didn't pay their restitution or their fees. He added there are between 50 to 60 revocations per month statewide.

Assemblywoman Chowning asked how Nevada compares to other states in the collection process, and if Nevada's service-industry job market is the reason the Division is not able to obtain the 80%. She also asked if Nevada is still serving as a training ground for the counties and if there is a lack of seasoned personnel because the counties pay so much better. Is the disparity still great?

Mr. Concha responded the Division continues to lose to the federal probation agencies in Las Vegas and Reno. He added that if he walked into federal probation in Las Vegas right now, 90% of the staff were trained by the Division of Parole and Probation and later picked up by the Federal Government. The Division also loses to Metro North Las Vegas because the pay is much greater. The State pays the least except for the small counties that can't afford probation officers. Eighty percent of the offenders are in Washoe and Clark Counties and this is where the majority of the staff is placed.

Mr. Conforti explained the auditors did some comparative analysis with other states where they looked at collection rates but the data in that area was inconclusive because many of the states do not track rates. Mr. Conforti added the 80% collection rate should be 80% of the amount that is not exempt. Parolees or probationers with no available resources because their employment does not allow them to pay the supervision fee, would be factored into that exemption process. Mr. Conforti added the auditors believe the 80% is a very attainable rate, especially given the performance of some of the districts already being in the 70% range.

In answer to Assemblyman Brower's question regarding criteria for exemption, Mr. Concha replied there are NAC regulations and policy only gives exemption to those below the poverty line or those that are indigent and cannot pay at all.

Assemblyman Marvel inquired about the cost to train an officer. Mr. Concha responded with close to 18 weeks of training academies and 3-months of an OJT training class, the cost is in the neighborhood of

\$30,000.

Assemblyman Marvel then asked if it would merit having legislation that after the State trains these officers if another state or county agency hires these people within a certain amount of time, they are mandated to pay the State for the training costs. Mr. Concha mentioned that the issue was addressed last session and would benefit the State.

Mr. Concha commented that he had the privilege of working on this audit with Darin Conforti, Dale Hansen, and Rocky Cooper. They opened the eyes of the Division personnel to a lot of issues and he felt the Division opened up their eyes in return. He agreed they have had a lot of problems with the changes in management and the hiring of staff. The report has told the Division what they need to do and they have complied with the majority of the recommendations. He stressed the Division realizes they do have a lot of problems and they realize that without staff everything falls apart. Mr. Concha feels that he and his two deputy chiefs are working well together, and are able to review what is being done out in the field. He appreciated the audit and they are anxious to clean the programs up.

Chairman Rhoads explained he understands some of the obstacles the Division is under, however; it is disappointing in this modern technology age that there is an agency that is evidently going down hill. He welcomes Mr. Concha's ability to try to straighten some of these problems out.

In answer to Mr. Rhoads question about the last audit of the Division of Parole and Probation, Mr. Crews was not positive but he thought it was in the late 1980's. Chairman Rhoads felt it would be interesting to compare the standings of this current audit with the last one. Mr. Crews explained the audits today are looking more at performance issues where 10 years ago they mainly did financial audits. He added they did have problems with the collection and receipting of money back then as well.

Mr. Concha informed the subcommittee he belongs to a group of parole and probation executives and one of the issues they all experience is the auditing process of the officers and their work. Every agency is having similar problems and Nevada is the only agency auditing to the depth they are doing right now.

Mr. Crews explained that several have mentioned the fact there is some turnover. This only stresses the importance of having policies and procedures, and management controls because it is going to get away from the agency unless they have these processes in place. An agency cannot manage effectively without effective policies and procedures. This was pointed out in many places in the report.

Senator Neal asked Mr. Concha if he shared the auditors' estimate that \$300,000 could be saved by making all PSI positions non-sworn. Mr. Concha shares the idea but he is not sure if he agrees with the exact dollar figure. The last Legislature approved a pilot program in Las Vegas and Reno where the Division has downgraded the positions of sworn officers to program officers. He is to appear before IFC to report on the pilot program and he anticipates it will be a positive impact.

ASSEMBLYMAN MARVEL MOVED TO ACCEPT THE AUDIT REPORT
ON THE DIVISION OF PAROLE AND PROBATION. SECONDED BY
SENATOR NEAL AND PASSED UNANIMOUSLY.

B. Department of Business and Industry, Insurance Division

Gary Crews introduced Doug Peterson, Deputy Legislative Auditor, to present the report.

Mr. Peterson explained the audit of the Insurance Division included a review of the methods used by the Division in performing market conduct exams and in handling consumer complaints during the calendar years

1997 and 1998. Mr. Peterson also included an issue for further review, which is the Division's lack of accreditation.

Mr. Peterson found weaknesses continue to exist in the market conduct exam process from the last audit even though he did note some improvements have been made. Exams are still not always conducted in accordance with standards. Some of these standards include not using a risk-based approach for selecting which companies are selected for exams, or following up on recommendations noted in exams. A market conduct exam evaluates an insurance company's compliance with statutes and regulations. Not conducting these exams in accordance with standards could impact the Division's ability to regulate them.

As a result of the 1994 audit, the Division has established a process for selecting which insurance companies are to be examined. Although this process is in place, Mr. Peterson found staff do not always use it.

Mr. Peterson pointed out the corporate and financial section within the Division of Insurance is responsible for market conduct exams. The Division lacks accountability over this process. The activities in this section include oversight of exams and contract examiners, imposing of fines or other disciplinary actions, and follow-up on the implementation of exam recommendations. However, the auditors found management has not established an effective reporting system to be able to monitor these activities and ensure they are accomplished.

Mr. Peterson discussed that improvements have been made in the investigation of consumer complaints, but more needs to be done. The Division does not always meet standards for the timely resolution of complaints which can be caused, in part, from a lack of complete and accurate complaint information. The auditors found the Division does not always resolve 80% of complaints within 60 days.

To adequately monitor consumer complaint activities, the Division needs better management information. They do have an information system in place but no mechanism exists for them to extract information. Information from 500 complaint cases worked on by Las Vegas personnel were missing from the main database in Carson City. In addition, the dates opened and closed on many records were incorrect.

Mr. Peterson evaluated the status of the six recommendations from the prior audit and found that four have not been fully implemented. Some action had been taken but more needs to be done. The Division accepted all six of the current recommendations.

Alice Molasky-Arman, Commissioner of Insurance, confirmed the Division of Insurance accepted all six recommendations and they really appreciated the opportunity to work with Mr. Peterson and felt the audit was very fair. She informed the subcommittee the Division has made significant strides in improving the areas pointed out several years ago, but she believes the objectivity with which this audit was conducted points out areas they need to improve upon.

Senator Neal asked why the recommendations made in the prior audit have not been accomplished. Ms. Molasky-Arman explained the Division took those recommendations seriously, and in some instances it took time to implement, particularly in regard to the market conduct examinations. The Division did change their entire procedures and their priority to risk-based selection is to conduct the examinations required by statute. Ms. Molasky-Arman added the Division is required to examine the domestic insurers every 5 years and HMO's every 3 years.

Regarding consumer complaints, Ms. Molasky-Arman informed the subcommittee the Division does have a new program to assist them in tracking the performance and timeliness of handling complaints. Although a 60-day window has been established where complaints should be received and resolved, that is not always the case when there are complex issues involved. An example was when there was a nationwide multi-state

examination of the Prudential Insurance Company. The Division of Insurance participated in that market conduct examination. This whole process took several years, meanwhile, those complaints remained open on the record. Ms. Molasky-Arman felt the Division needed to identify why cases are not closed within 60 days, even though there are legitimate reasons for not achieving closure.

Senator Neal asked if the audit did not acknowledge the fact the Division was in this long drawn out case and some of these complaints had not been closed. Ms. Molasky-Arman believed Mr. Peterson did recognize that fact and he also recognized there was not always a method for determining which of those cases had a basis for being continued for the duration that they were.

Senator Neal asked why the Division did not follow-up on market conduct examinations to determine if insurance companies resolved problems noted during the exams,. Ms. Molasky-Arman replied that she believed there was follow-up when required. Some-times examinations are clean and there is a notation that no follow-up is necessary. In other instances she believed follow-up was necessary, however, the files were not properly documented to demonstrate that follow-up existed.

Mr. Peterson explained the auditors did note there are different ways in which a follow-up exam can be done. He pointed out the Division has a policy and that process was not being done by the corporate financial section. The various ways of following-up were recognized, but in the ones reviewed there was no evidence this had been done.

ASSEMBLYMAN MARVEL MOVED TO ACCEPT THE REPORT
ON THE INSURANCE DIVISION. SECONDED BY SENATOR NEAL
AND PASSED UNANIMOUSLY.

C. Department of Administration, Motor Pool Division

Mr. Crews introduced Ian Allan, Deputy Legislative Auditor, to present the report.

Mr. Allan explained the audit included the activities of the Motor Pool Division related to improving fleet management information since the 1993 audit of what was then the State Motor Pool. The objective of the audit was to determine if the Motor Pool Division has the information needed to ensure the economical utilization of motor pool vehicles.

The Motor Pool Division does not have the information needed to manage its operations. For years it has operated without adequate information on vehicle operating costs. As a consequence, decisions, such as when to replace vehicles or what rental rates to charge, are made without a proper analysis of cost information. Although the 1993 audit contained several recommendations to improve information, the recommendations have not been fully implemented. Furthermore, Mr. Allan noted the Division does not expect to have sufficient information on vehicle operations for several more years. This results in the Division having little assurance it is meeting its statutory purpose of ensuring economical utilization of state-owned vehicles.

Continuing, Mr. Allan explained that between fiscal years 1993 and 1999 the Division spent about \$6.5 million on new and replacement vehicles and more than \$4.9 million on vehicle operations without adequate information to ensure sound management decisions are made.

The Motor Pool Division is counting on its new fleet management system to provide the information needed to make informed decisions. However, the Division estimates the new fleet management system will not provide information that can be used in rate setting or vehicle replacement analyses until July 2002. The delay in generating useful information is partially due to the decision not to include vehicle information collected prior to July 1, 1998, in the database of the new system. According to Division management, this

information was set aside because it had become unusable due to missing or duplicate data, corrupt files, and system constraints.

Mr. Allan informed the subcommittee the Division did not fully implement the prior audit recommendations aimed at improving information to ensure the economical utilization of state-owned vehicles. The 1993 audit estimated the Division could save more than \$600,000 by monitoring vehicle use, revising its rate structure, and calculating the optimal replacement period for motor pool vehicles. During the prior audit the auditors were able to obtain monthly vehicle use information, and during this current audit that information was not available.

Senator Neal asked Mr. Allan if he was referring to a form with all the information regarding a vehicle. Mr. Allan explained the new system is comprehensive and will incorporate mileage information for the vehicles and will also enable the user to access maintenance information. Currently, the problem is while the system has been on-line for about 18 months, there is no historical data in the database. No useful information on operating costs is available. There is hard data available, but with over 700 vehicles in the fleet, it is not readily available for generating information to determine operating costs on a specific type of vehicle. A new computer system should enable the information to be generated and the user should be able to calculate cost-per-mileage information for each specific vehicle.

Senator Neal stressed that he is having a problem understanding why this cannot be done.

Mr. Allan continued by explaining the 1993 audit contained three recommendations to help the Division monitor vehicle utilization. Those recommendations were to establish written minimum use requirements for permanent vehicle assignments, establish written policies and procedures for identifying low-use vehicles, and eliminate or reassign unneeded vehicles. Two of these recommendations have been partially implemented.

Vehicle rental rates established by the Motor Pool Division are not based on a formal analysis of fixed or variable costs for each class of vehicle as recommended in the 1993 audit. Similarly, formal cost analysis to enhance the vehicle replacement decision process has not been prepared by the Division as recommended in our 1993 audit.

The inability of the Motor Pool Division to obtain and maintain adequate information stems from a lack of oversight and divided management functions. Certain management functions have been divided between two divisions within the Department of Administration without a written agreement. As a result, accountability for program performance is diminished.

Mr. Allan explained the Division has experienced significant delays in implementing its new fleet management system. While a needs assessment was completed by the Department of Information Technology (DoIT) in August 1994, the new system did not come online until July 1998. This includes a 19-month period where it appeared no work was done. The system is not yet fully functional.

In regards to oversight, Mr. Allan found no timelines were established for the project after the needs assessment was completed. Proper oversight of progress reports and inquiries as to the project status could not be found for the period July 1995 to January 1997.

The performance of certain management functions has been divided between the Department of Administration's Motor Pool Division and the Administrative Services Division without a written agreement outlining specific responsibilities. While the Motor Pool Division pays the Administrative Services Division in excess of \$100,000 each year for professional services, the exact nature and extent of these services is unclear. Mr. Allan went over some examples of the divided management functions.

Divided management functions resulted from the creation of the Administrative Services Division in 1993. As part of the reorganization of the executive branch of state government, this division was created to provide administrative services to other divisions within the Department of Administration. NRS 232.2195 requires the Administrative Services Division advise and assist the divisions of the Department of Administration in carrying out their functions and responsibilities. This statute also requires the Division to furnish fiscal and accounting services to each division.

Mr. Allan found no written agreements were established in 1993 between the Motor Pool Division and the Administrative Services Division. This left the Motor Pool Division without the employees necessary to perform financial management functions. The reorganization transferred the Motor Pool Division's accountant and accounting clerk to the Administrative Services Division. As a result, the Chief of the Motor Pool Division is responsible for the agency's operations, but must rely on the Administrative Services Division for financial management and analytical services.

Unclear responsibilities and divided management functions diminish program performance. Assuming the new fleet management system is developed as currently planned, it will take 9 years to fully implement the 1993 audit recommendations aimed at improving information. In the meantime, the Division does not have the information it needs to ensure the economical utilization of state vehicles.

Mr. Allan explained to Senator Rhoads that it would take 9 years if the recommendations are implemented in 2002.

Assemblywoman Chowning asked how many people are in the Motor Pool Division. Mr. Allan replied there are 15 staff and none of these staff have the financial requirements necessary to provide the tasks in the recommendations. The Division relies on the Administrative Services Division to provide that kind of assistance. Ms. Chowning asked if the Motor Pool Division does not have the staff necessary, then how can they perform the job.

Mr. Crews explained the Division did have the personnel prior to the reorganization, but they were transferred to the Administrative Services Division under the Department of Administration. He added the Department has the responsibility and should have provided the guidance and assistance needed by the Motor Pool Division and they did not.

The audit contained three recommendations. Mr. Allan felt it is very important the Division focus on putting good information into the new system to avoid some of the problems that happened with the old system. The agency accepted all three recommendations.

Assemblyman Marvel asked if there were no lines of communication between the Motor Pool Division and the Administrative Services Division. Mr. Allan replied there has been some communication and some assistance but it has not been formally written down. The auditors discovered the assistance has been informal and felt it would be better if the assistance be formalized with a written agreement covering the responsibilities of the Administrative Services Division with regard to the Motor Pool.

Senator Neal commented that what he is beginning to see is the agencies, in carrying out their responsibilities, can only rise to the level of those individuals who oversee them.

Frank Revell, Administrator for the Nevada State Motor Pool, responded to the audit. He thanked Ian for his thoroughness and professionalism in doing the audit. At the time the three original recommendations were made in the 1993 audit, the Division was just splitting the accounting staff into the Administrative Services Division. At that time the Division had a data information system available to them that was implemented in

1986. Obviously, by 1993 it was obsolete, as well as their equipment. Mr. Revell explained that when he took over in 1995, identifying low-use vehicles, eliminating reassigned or unneeded vehicles, and establishing minimum use requirements for vehicles were done on an informal basis. They were not in writing but the Division has always identified low-use vehicles manually. The Division has taken these low-use vehicles and reassigned them as the agencies are willing to give them up. Only as a result of the present audit have they established written procedures and they have changed minimum use requirements.

Senator Rhoads inquired if the Motor Pool Division has asked the Administrative Services Division for assistance. Mr. Revell replied the Administrative Services Division is more than willing to work with them. In 1995 a needs assessment was done with the Department of Information Technology. During this 19-month period, an off-the-shelf software product was not found to meet their needs. While this was happening, the Motor Pool system began deteriorating to the point it could not be used. After this time period, the software needed was found and implemented.

Mr. Revell explained that with the system available, they are able to obtain any information on any car, but there is no historical data. The historical data was corrupt and it would have been expensive to convert it into a format to load into the new system. The Division made the decision to not utilize the older data. By the year 2002, the bulk of the fleet will have been replaced from the time of the implementation of the computer system to that point.

Senator Neal asked what criteria is used to replace the vehicles. Mr. Revell answered the original idea was to use 8 years or 80,000 miles for sedans and 10 years and 100,000 miles for trucks. Unfortunately, the replacement is a moot point because there have been mechanical failures or the vehicles have reached over 100,000 miles. Every vehicle replaced this year is already out of service. He added one vehicle a week is crashed and one a month is totaled.

Assemblyman Marvel asked if the old vehicles could be given to prison industries to restore so they could have a higher resale value. Mr. Revell has talked to several people at the Prisons and, historically, there is a preconceived value of any vehicle that comes out of the Motor Pool fleet. Of the last 36 cars that have gone to auction from the Motor Pool, only 12 or 14 would even run.

SENATOR NEAL MOVED TO ACCEPT THE AUDIT ON THE MOTOR POOL DIVISION. SECONDED BY ASSEMBLYWOMAN CHOWNING AND PASSED UNANIMOUSLY.

D. Department of Taxation

Mr. Crews introduced Jane Bailey, Deputy Legislative Auditor, to present the report.

Ms. Bailey began with background information on the Excise Tax Section of the Revenue Division of the Department of Taxation. The Excise Tax Section collected over \$558.2 million during fiscal year 1998, about one quarter of the taxes and fees collected by the Revenue Division. This audit focused on the administration of fuel taxes and fees, estate taxes, and short-term auto lease fees.

Ms. Bailey found weak management controls over the administration of the estate tax have led to poor taxpayer service, delayed collection of taxes, and inadequate methods for processing taxpayer information. The Department has not developed policies, procedures, or regulations relating to the administration and enforcement of the tax. Consequently, refunds and billings are often delayed and sometimes contain errors. Some estates have been due refunds for years and have not received payment. Similarly, estates owing thousands of dollars in tax are sometimes never billed or billed only once. The lack of guidance through policies and procedures has contributed to interest and penalties on delinquent accounts not being assessed

uniformly.

While control weaknesses have had the most significant effect on the estate tax, fuel taxes and short-term auto lease fees would also benefit from strengthened controls.

The Department does not always promptly or accurately process refunds and billings for the estate tax. The Department does not know the amount of delinquent taxes owed to the State or the amount of refunds owed to estates. In addition, interest and penalties are not assessed uniformly, and the amount and type of documentation required from estates is not consistent. These problems resulted from the Department not developing systems, policies, procedures, and regulations that address estate tax transactions.

Ms. Bailey pointed out the Department does not maintain a list of delinquent accounts for the estate tax, therefore, the only way to determine whether an estate owes taxes, penalty, or interest is to review its file. Because of this, the Department cannot measure its effectiveness in collecting delinquent accounts.

The auditors also found the Department took an average of 5 months to process the 34 refunds requested by estates for the 88 accounts examined. In addition, seven refunds had not yet been processed by the date the auditors conducted their review. These lengthy delays result in poor service and inconvenience for estates.

Ms. Bailey noted the Department has not established a system of controls for tracking individual account activity for estate taxes. The auditors found errors in amounts billed and refunded.

Penalties and interest were not always assessed consistently. They found no documented policies, procedures or regulations for determining when to assess penalties and interest for delinquent estate tax filings and payments. Ms. Bailey added the Department has not formalized the type of documentation required to waive penalties and interest; therefore, they found several instances where penalties and interest were not assessed consistently among the accounts reviewed.

The Department has not adopted regulations requiring sufficient documentation of the amount of tax due, as required by NRS 375A.150(2). As a result, documentation submitted by estates varies and the Department must frequently request additional documentation. Regulations are important because Nevada does not have a tax form for estate taxes. Instead, estates submit copies of federal tax forms and schedules. The requirement to adopt regulations dates back to when the estate tax became effective in 1987.

Ms. Bailey discussed the Department's procedures for processing payments of excise taxes do not ensure the payments are adequately safeguarded. They found the checks received in the mail for excise taxes were not immediately endorsed and duties for processing estate tax receipts were not adequately segregated.

Ms. Bailey explained the Department did not always respond timely to taxpayers' written requests for waivers of penalty and interest assessments on delinquent fuel taxes. The Department can waive penalties and interest if it finds a taxpayer does not have a history of habitual delinquency or the delinquency was due to good cause. NRS 360.293 requires the Department to respond to written requests from taxpayers within 30 days.

Assemblyman Marvel mentioned the fuel tax is going to be moved to the Department of Motor Vehicles and Public Safety (DMV&PS), and he felt that should make quite a bit of difference in the next Department of Taxation audit. He suggested DMV&PS should be notified of these findings. Mr. Crews agreed but felt there was a statutory responsibility to carry out the laws of the past and that is what they are reporting on.

Continuing on, Ms. Bailey mentioned desk reviews are an important control to minimize errors on tax filings

and to deter evasion. However, management controls should be designed to derive the maximum benefit with the minimum effort. The Department staff is attempting to review all tax files every month which may not be an efficient use of staff resources. The auditors' analysis of the desk review findings for the first 6 months of calendar year 1998 reported only 16% of dealers filing a return with any taxable activity had findings. This rate of deficiency does not support performing such a large number of reviews.

Ms. Bailey explained the Department should enhance controls over its computer network by adopting a comprehensive security plan. A plan should include provisions for controlling access; training staff on security; producing, reviewing, and responding to incident reports; and planning for continuity of support. In addition, the Department has not ensured all software applications used for excise tax administration were adequately tested or documented.

Ms. Bailey informed Senator Neal any data that is essential to the function of the agency is critical and should be guarded. If any of this information was to be lost, the Department would be set back quite a bit. Some of the information is confidential by federal and state law, and agencies are required to have a system of internal control that would cover information systems as well as processing receipts or other types of controls.

Senator Neal inquired if there is a difference between securing data and the integrity of data. Ms. Bailey felt they were linked because if there is no security over the data, the integrity is diminished.

Assemblyman Marvel asked how much confidentiality there was on the pickup tax on the estate taxes. Ms. Bailey believed any information on individual estate taxes is very confidential.

Ms. Bailey said the Department has evaluated its hardware and software for Y2K compliance and has certified this compliance to the Department of Information Technology. However, the policies adopted by the Department are incomplete or have not been fully implemented in certain areas.

Ms. Bailey noted the Department has recognized the need to control software development and document software applications and modifications. According to the Department's policy, all changes, except routine maintenance changes, must be reviewed by the Information Services Committee with final approval by the Executive Director. In addition, the policy requires a complete file of programs and programming changes be maintained in the Information Services library.

The Department has applied this policy only to programs developed after the policy went into effect; however, these controls should extend to software developed prior to policy whenever possible. This would include testing and documenting the software applications and subsequent modifications. Many of the applications used to administer the excise taxes, such as the motor fuel tax, have not been adequately documented or tested.

The Department accepted all seven recommendations.

Senator Neal inquired if it is more important to lock out an intruder than it is to try to catch one when monitoring the network irregularities. Ms. Bailey agreed it is more important to lock out the intruder. She did add that if the Department did track irregularities, they could tell if someone was making repeated unsuccessful attempts to logon to their system.

Dino DiCianno, Deputy Executive Director for the Department of Taxation, responded to the audit. He confirmed the Department is in concurrence with the recommendations of the audit and they appreciate the opportunity to have worked with the auditors. He assured the subcommittee the Department is in the process of implementing those recommendations, or completing the process very shortly. He added they

have already begun the regulation process and establishing penalties on the estate tax.

Mr. DiCianno mentioned the Department has already begun the process of security through the BPR, and they are also trying to ensure the supervisors train employees to make it part of their review process each time they utilize the system.

Assemblyman Marvel asked if all of this is in the ACES program. Mr. DiCianno replied the estate tax is a stand-alone system. He did confirm that estate tax documents are very confidential.

Assemblywoman Chowning referred to the delinquent accounts listed in the audit report. She noted some of the accounts were almost 14 months overdue without any activity. She inquired if any of these have been collected. Mr. DiCianno did not know, but he could go back, research, and provide the information to the subcommittee.

Mr. Crews added the committee could ask that the information be provided in the 6-month report.

Ms. Chowning asked if the equipment, personnel, and training are in place now to implement the recommendations. Mr. DiCianno felt some of the recommendations could be handled with the current resources; however, some of the others regarding training will require little bit of shifting. When estate tax was established in 1987, the Department did not have the personnel to deal with that. In 1997, the Department acquired an individual to handle that, but their duties were spread across a number of different tax implementations. He informed Assemblywoman Chowning the Department will go through the budget review process to request additional resources, individuals, and training money to deal with some of the recommendations.

Mr. DiCianno agreed with Assemblyman Marvel that some of the problems were created with the combined audit program.

In response to the audit finding regarding penalties and interest not being assessed consistently where the audit states there is no documentation, policy, procedures, or regulations for delinquent estate tax filings and payment, Senator Neal asked if that is a statutory requirement for that to be done. Mr. DiCianno replied that is correct. They have tried to take care of this internally, however, they do understand that the process needs to be completed and carried forward.

ASSEMBLYMAN MARVEL MOVED TO ACCEPT THE AUDIT REPORT
ON THE DEPARTMENT OF TAXATION. SECONDED BY SENATOR
NEAL AND PASSED UNANIMOUSLY.

Gary Crews commented that when the auditors evaluate these audits they look at everything very closely and in most cases additional resources are not required. They do suggest additional staff if necessary. Many times the agency lacks proper guidance, procedures, policies, and so on. They are not going to be as proficient without that guidance. Once policies and procedures are in place, a reevaluation should be done to see if staffing is needed.

Item 4 – Presentation of six-month reports.

Mr. Crews informed the subcommittee members the 6-month reporting process is a key part of the process. Prior to 1987 when it was instituted, the only reporting process was when a follow-up audit was done. The follow-up process was implemented when the Legislature became concerned audit recommendations were not being implemented. They implemented a process where after the audit report is presented to the Audit Subcommittee, the agency is required by statute to submit a plan 60 days later identifying how they were

going to actually implement the recommendations. Six months after the 60-day plan, the Department of Administration is supposed to physically evaluate the implementation of those recommendations and then file a report with the Legislative Auditor who brings the report, along with the Legislative Auditor's analysis, to the Audit Subcommittee. Mr. Crews stressed the whole purpose of this process is trying to improve the implementation of audit recommendations. As has been seen in the past, many of these recommendations increase revenue and cut costs. He added it is important the implementation of these recommendations be taken seriously.

Mr. Crews expressed his concerns. It is the poorest group of 6-month reports since this process has been in place. Over the past 2 years there has been a 60% rate of fully implementing the recommendations by the time of the 6-month report. The eight 6-month reports today represent a 25% rate of fully implementing the recommendations. He suggested the 6-month reports presented today need to be looked at closely, individually, and addressed as they come up.

Assemblyman Marvel added that the subcommittee may not be able to do much today but it can certainly be remembered for the budget process next session.

Mr. Crews introduced Steve Wood, Chief Deputy Legislative Auditor, to present the 6-month reports.

A. State Emergency Response Commission

Mike Spell, Audit Supervisor, explained in January 1998 the audit report on the State Emergency Response Commission (SERC) was issued. The 60-day plan for corrective action was filed in March 1998, and the 6-month report on the status of the 12 recommendations is being presented today. The Department of Administration indicates three recommendations have been fully implemented, eight recommendations have been partially implemented, and one recommendation has been rejected. Mr. Spell suggested the Audit Subcommittee obtain more detailed information on the status of four of the recommendations.

NRS 459.744 requires SERC to establish, by regulation, a schedule of fees for its regulatory activities and a filing fee for each facility filing an inventory report for extremely hazardous substances. Federal law also requires facilities storing hazardous substances to file an annual inventory report with SERC. The Commission requests facilities include a \$100 filing fee with each report. Although SERC has adopted regulations establishing the filing fee for reporting extremely hazardous substances, regulations have not been established for reporting hazardous substances. This has led to confusion as to whether facilities must pay a filing fee when reporting only hazardous substances. As a result, over half of the 1,300 hazardous substance inventory reports filed during the 2½ years ended December 31, 1996, were submitted without the \$100 filing fee.

The audit recommended SERC comply with NRS 459.744 when establishing fees. The Department of Administration, in its response, said this recommendation has been partially implemented. Although the Commission has determined the costs for processing the hazardous materials reports, the fee has not yet been established in regulation. Staff was to submit the proposed wording of the regulation to the Commission at their April 1999 meeting, and their target date for completion of the regulation update is December 1999.

Mr. Spell asked what the status of the proposed regulation is, and how many hazardous inventory reports have been filed without a filing fee since the finding was presented in January 1998.

Mary Lynn Evans, the new Director of the State Emergency Response Commission, responded that in regards to the proposed regulations, one significant delay was the federal register changed and took all the service stations out that would be filing with SERC. This did not get settled until the July 1999 SERC

meeting when it was decided to go along with federal regulation. SERC is currently working on the regulations and expect to present it to the next SERC meeting and start working with the legislative committee.

In answer to Senator Rhoads questions, Ms. Evans answered that as of July 1999, there were 170 outstanding inventory reports, and in August 1999 SERC went to a new 30-day system and as of this day, 5 inventory reports are outstanding.

Mr. Spell continued. He also found many facilities are not submitting their annual inventory reporting fees in accordance with state and federal laws. The failure to receive hazardous material fees by the required due date delays the granting of these funds to the local emergency planning committees. NRS 459.744 does not provide penalties to encourage facilities to submit their annual inventory reports and related fees by the required due date. SERC does not report facilities filing delinquent reports to the U.S. Environmental Protection Agency. Public Law 99-499 establishes a civil penalty in an amount to exceed \$25,000 for violation of any requirement applicable to reporting hazardous materials and toxic chemical releases.

The two recommendations in this area were: (1) consider requesting legislation amending NRS 459.744 to include penalties for late payment of fees; and (2) inform facilities that late filings will be referred to the U.S. Environmental Protection Agency for additional enforcement action.

The Department of Administration responded the first recommendation has been fully implemented and the second recommendation has been rejected. The Executive Director's response in the audit report stated the annual billings will include a statement that late filings may be referred to the U.S. Environmental Protection Agency for further action. On April 9, 1998, the Commission voted to decline the recommendation since the corrective actions indicated in recommendation #1 should provide a sufficient level of follow-up effort for late filings.

Mr. Spell inquired what assurance the Commission has that controls used to monitor past due accounts will encourage payment by the statutory due date.

Ms. Evans responded SERC is working very closely with the State Fire Marshal inspectors by giving them the information to go out and do the follow-ups and visit the sites. SERC is also working very closely with the EPA, as well as the State Environmental Protection Agency. Ms. Evans added she has to work to make sure there is an actual assurance. Currently, they are closely monitoring this using the resources they have, but they will do further research and report back to the subcommittee.

Mr. Spell added the main concern is what they said they implemented was after-the-fact. The auditors want to make sure there are controls in place to get them to file timely; not once it has been identified as not paid.

Mr. Spell found many of the problems cited in the audit report were the result of internal control weaknesses. Because SERC has only two employees, it may not have the personnel resources needed to develop and implement a complete system of internal controls.

The recommendation made was to request assistance from the Office of Financial Management, Training and Controls to develop and implement a complete system of internal controls. The Department of Administration responded this recommendation is only partially implemented. Commission staff attended training provided by the Office of Financial Management, Training and Controls but additional work is needed to comply with the Office's recommendations. The response concluded the staff intend to present the written policies and procedures to the Commission for approval on July 8, 1999.

Mr. Spell asked if the Commission formally adopted all written policies and procedures needed to document

the system of administrative and accounting controls, and if not, when will the policies and procedures be adopted.

Ms. Evans stated one of the main reasons she was brought into the Emergency Response Commission was her knowledge of the state grants, programs, and administration of offices, not the subject matter. She explained she is having to do a quick study on the subject matter. There are policies and procedures in place, however, the more she is learning she is revising a lot of the office. Even though there are only two employees, she does not feel there needs to be more personnel. She thinks they will be able to work more expediently and help the local counties in a much better way with some revisions. Consequently, they are working with the Office of Financial Management, Training and Controls, and with the internal auditors to expand the policies and procedures or totally revising them.

Ms. Evans informed Senator Rhoads the new policies and procedures would be ready to go to the SERC Commission at the April 2000 meeting.

Ms. Evans informed Assemblyman Marvel the members of the Commission are people from local jurisdictions, state agencies, fire officials, people from the mining industry and other industries. There are 13 commission members.

Mr. Wood suggested that in light of the new Executive Director and the improvements taking place, this would be a situation the subcommittee would want to monitor. The agency was asked to come back after they have had time to implement the recommendations.

ASSEMBLYMAN MARVEL MOVED TO ACCEPT THE 6-MONTH
REPORT ON THE STATE EMERGENCY RESPONSE COMMISSION.
SECONDED BY SENATOR NEAL AND PASSED UNANIMOUSLY.

B. Colorado River Commission

Harry O'Nan, Audit Supervisor, explained the audit report on the Colorado River Commission was presented in December 1997 and in April 1998 they filed their 60-day plan of corrective action. Upon review of the corrective action plan and documentation provided by the Colorado River Commission, the Department of Administration feels that none of the 14 recommendations have been fully implemented. They believe all 14 are in partial stages of implementation. Mr. O'Nan suggested the Audit Subcommittee seek additional information from the Colorado River Commission on why the 14 recommendations have not been implemented and when they anticipate full implementation.

George Caan, Director of the Colorado River Commission, and Doug Beatty, Chief Financial Officer updated the subcommittee on the status of the 14 recommendations.

Mr. Caan went over the two recommendations regarding the power billing system. They had responded the Colorado River Commission would be able to complete and document the new power billing system by the end of FY2000 and they are still on that schedule.

Senator Rhoads asked why it takes 3 years to implement this recommendation. Mr. Caan explained there are a number of reasons. They have 11 power customers and they buy and sell federal hydropower from 3 projects on the Colorado River. Each project has its own way of financing developing rates and each project is allocated differently to customers so there is linkage between the redevelopment of the software package. The Colorado River Commission had to develop and invest in a new software package and they have to have agreements with their customers because they pull energy and they have to account for each individual

energy source differently. Mr. Caan suggested the complexity of developing arrangements with the existing customers, and ensuring they had adequate information from the federal hydropower projects resulted in the length of time.

With regard to the rest of the recommendations, Mr. Caan informed the subcommittee they have taken a number of steps to correct these findings. What they have not done is create a comprehensive documentation of the procedures and policies that have been implemented. The Colorado River Commission is audited every year by external auditors and they have asked the external auditors to help them put together a single internal control document that would address all the controls.

Referring to recommendation #7 regarding canceling credit cards of former employees, Mr. Caan informed Senator Rhoads they have adopted a policy where they keep a database of them and cancel the credit card when someone terminates. In the past, they would keep a terminated employee's credit card until a new employee was hired and then it would be reassigned. The process has been implemented; it just has not been adequately documented. He informed Senator Rhoads this should be accomplished by the first of 2000. Mr. Caan agreed to update the subcommittee at the next meeting on January 24, 2000, but he couldn't guarantee it will be done because they are in the middle of an audit.

Assemblyman Marvel inquired what the rationale was for the Colorado River Commission to be under the jurisdiction of the State.

Mr. Caan replied the statute governs their actions and provides they submit budgets. He also believes there is an interest in the State for the water and power the Colorado River provides. The State has an interest in ensuring those resources are continually made available. Mr. Caan informed the committee the Colorado River Commission receives no state general fund money; their budget is provided by the customers.

They were asked to come to the next meeting to update the subcommittee on the status of the recommendations.

ASSEMBLYMAN MARVEL MOVED TO ACCEPT THE SIX-MONTH
REPORT ON THE COLORADO RIVER COMMISSION. SECONDED
BY ASSEMBLYWOMAN CHOWNING AND PASSED UNANIMOUSLY.

C. Nevada Attorney for Injured Workers

Harry O'Nan, Audit Supervisor, informed the committee that in July 1998 the audit report on the Nevada Attorney for Injured Workers was issued. Their 60-day corrective action plan was filed in December 1998, and he is presenting the 6-month report today.

The Department of Administration's 6-month report indicates the Nevada Attorney for Injured Workers has fully implemented one recommendation, partially implemented eight recommendations, and two are considered not implemented at all. Mr. O'Nan suggested some of these are fairly simple recommendations and he is concerned they have not been implemented after a year.

NancyAnn Leeder, Nevada Attorney for Injured Workers, responded by stating they have implemented the procedures but they have not completed final drafting. A couple of the procedures have now been approved by the Department of Administration. The two recommendations regarding the master services agreement were not completed by June 30. The person hired on a contract basis to reprogram the visual database left 3 weeks before the project was completed. He came back, briefly, after the new fiscal year started but he did not complete reprogramming. Ms. Leeder explained they are still in the same situation as before except there is a master services agreement out there and DoIT is negotiating with the provider for a substitute

programmer to come in. She added that because of the problems created by these two findings, they have not put together the written final compilations of the procedures. She informed Senator Rhoads they had anticipated completing everything by January 1, 2000, but she does not think they can get that done. Assemblywoman Chowning asked if this means the recommendations will be followed-up on. She was concerned the Legislature would not know there was a follow-up. Assemblywoman Chowning mentioned she was troubled with the recommendations to pay invoices timely, the submission of travel claims in one month, and preparing employee evaluations as required by statute. Some of these recommendations should not be held up by the accounting system. They should be done anyway.

Ms. Leeder replied the recommendation regarding the timely submission of travel claims was drafted and has been approved by the Department of Administration. Regarding the employee evaluations, she explained the positions with standards in place are being done according to the state schedule. Some positions don't have performance standards and the problem is writing the standards because that is time consuming. She stated they needed time and staff to do that.

Ms. Chowning expressed her concern and asked that there be follow-up on this report.

In answer to Assemblyman Marvel's questions, there are 12 attorneys in the agency and they are funded through the assessments on all insurers. There is no general fund money.

Senator Rhoads asked the Attorney for Injured Workers to come back and update the committee on the implementation of their recommendations.

SENATOR NEAL MOVED TO ACCEPT THE SIX-MONTH REPORT
ON THE NEVADA ATTORNEY FOR INJURED WORKERS. SECONDED
BY ASSEMBLYWOMAN CHOWNING AND PASSED UNANIMOUSLY.

D. Department of Prisons, Computer System Security

Steve Wood, Chief Deputy Legislative Auditor, explained the audit report was issued in April 1998 and dealt with the Department of Prisons computer system security process. That report contained two recommendations. One has been fully implemented and the other was partially implemented at the time of this 6-month report, but the funding has been obtained to allow for full implementation. There were no concerns.

SENATOR NEAL MOVED TO ACCEPT THIS SIX-MONTH REPORT
ON THE DEPARTMENT OF PRISONS, COMPUTER SYSTEM
SECURITY. SECONDED BY ASSEMBLYWOMAN CHOWNING
AND PASSED UNANIMOUSLY.

E. Department of Prisons, Inmate Classification

Paul Townsend, Audit Supervisor, explained the audit report was issued in April 1998 and contained 10 recommendations. In the 6-month report the Department of Administration indicated one recommendation has been fully implemented, seven partially implemented, and no action has been taken on two. Mr. Townsend suggested the subcommittee request more detailed information on the status of the partially implemented recommendations and the two where no action was taken.

Mr. Townsend discussed the partially implemented recommendations where classification practices do not always ensure inmates are placed in the lowest appropriate custody. The auditors estimate an additional cost of about \$5,000 annually for each inmate at medium custody who should be at minimum custody. The

Department of Administration indicated a draft revision to Administrative Regulation 521 has been prepared and the Prison is awaiting approval by the Board of Prison Commissioners.

Mr. Townsend asked if these sections of regulations had been reviewed and approved by the Board of Prison Commissioners and implemented by the Department. He also asked if the Department had clearly defined responsibilities of classification and medical staff to complete health classification.

Bob Bayer, Director of Prisons, clarified that the 6-month report was done in December and approximately 3 weeks later the draft regulation was put into effect as an informational bulletin. The Board gave their authority whereby the informational bulletin, until it is formally approved and adopted by the Board, does have the formal force of an administrative regulation. This remedies most of these problems.

Mr. Townsend went over the area dealing with health classification. The Medical Division has not conducted health classification in accordance with policy. As of April 1997, the auditors estimated more than 1,700 inmates were overdue for health classification. The recommendation to conduct inmate health classification within the times established in policy had no action in the Department of Administration's response, although the Department of Prisons has stated the Medical Director has been involved in correcting this problem. Mr. Townsend asked how many inmates are currently overdue for health classification.

Dr. D'Amico, Medical Director, informed the subcommittee that as of yesterday a printout was given to him showing 900 physicals that are not up-to-date. As of this morning, that total had been reduced by about 20%. He added he will be going out to the camps in the northern part of the State to catch up and he just recently did that in the southern part of the State.

Revised procedures allow them to use nursing staff to catch up on physicals which is essential because of the number of people involved. He mentioned the second problem was pulling up out-dated physicals from the computer. Some of that was the ineffectiveness of the people at the facilities and some of it was coding. Mr. Wharton is now able to provide him a list each month of out-dated physicals. He added the charts were not identified properly and that is being done now. By allowing these things to be done timely, Dr. D'Amico felt they should be no more than 100 behind within the next 30-60 days.

In answer to Senator Neal's question regarding what a reclassification physical consists of, it is a physical examination of the patient and a review of the chart. If there are no changes in the mental health or the dental portion, this is not alerted and reexamined. They are reclassified from the physical medical evaluation.

Mr. Bayer pointed out that when this particular recommendation was made, there were over 1,700 reclassification physicals outstanding, and as time went on the system grew. In-take physicals on new inmates are more complex. He felt the increase in inmates and reducing the outstanding physicals down to approximately 900 is significant.

Mr. Townsend noted the Prison Medical six-month follow-up report will be presented at the next Audit Subcommittee meeting and perhaps Dr. D'Amico can give an update at that point. Dr. D'Amico agreed and thought that would be a much better report.

The next recommendation was to ensure inmates classified to minimum custody and the restitution centers meet eligibility criteria. It had been noted that inmates had walked away from DOP facilities and were not in proper custody. Mr. Townsend asked what the status is of that recommendation.

Glen Wharton, Chief of Classification and Planning, said with the implementation of Information Bulletin #99-1, the recommendation has been fully implemented.

Mr. Bayer added that walk-aways have been reduced by 66% since 1995.

Mr. Townsend identified opportunities to enhance the classification process by ensuring staff fully utilize the Nevada Corrections Information System (NCIS). He added they have a very good data processing system containing a wealth of information; however, not everyone was able to access reports and utilize data. The Department of Administration indicated partial implementation. Access to reports was available at the institution level and other reports are being developed. Mr. Townsend asked if the management reports the Department was developing have been completed and put into use.

Mr. Wharton answered they have completed some of the reports and are working on completing the others.

Mr. Wharton informed Mr. Marvel that reevaluation classifications are done at a minimum of once every 6 months. The new system keeps track of that information. Mr. Wharton volunteered to provide the subcommittee with the reports showing the margin of errors on the reevaluation classifications. Senator Neal commented that he is pleased to know there is an agency with a computer that works.

Mr. Wharton informed the subcommittee their system has been recognized nationally and last year it was demonstrated at the American Correctional Association Technology Conference where it was referred to as a model.

Mr. Townsend agreed that the Department of Prisons does have a good computer system but they have only one computer network specialist. As a result, if that specialist ever left the Department, essential NCIS functions could not be performed. The recommendation was to create adequate technical support for NCIS maintenance by training more than one staff person. The Department of Administration responded this was partially implemented. Mr. Townsend added that at that point the Department had requested an additional position that was approved by the Legislature, and he asked if more than one person is being trained on the computer system.

Mr. Wharton explained the Director made the acquisition of the additional DP manager a highest priority for the Department. At the present time the position is being reviewed by DoIT to help recruit for the position.

Mr. Townsend then went over the recommendation for the Chief of Classification and Planning to conduct annual evaluations of institutional practices. The Department had indicated the evaluations were not being conducted because of resource limitations. Mr. Townsend felt this was a particularly important issue because of the remote nature of a lot of the institutions and they do things differently in areas of classification. The auditors did note about 60% of the misclassifications were at one institution.

The Department had indicated no action has been taken on this recommendation because the Department of Prisons felt an additional position was required. Mr. Townsend explained that when they performed the audit they felt this could be implemented with existing resources. He noted another element that comes into play is the one recommendation that was implemented where they enhanced their computer abilities. This should have created quite a few efficiencies where the Department of Prisons could direct some of those resources to these evaluations. Mr. Townsend asked what alternative plan has been proposed to conduct these evaluations.

Mr. Wharton responded they do not have an alternative plan to conduct evaluations. He believe they are full, and at the present time they have a present obligation for over 9,500 inmates. In order to manage that population from a central office standpoint, they have only three staff. Mr. Wharton explained the original plan was to make a request for an additional position to be stationed in the southern region. This would leave the Department with enough resources to audit. That did not survive the budget process. Mr. Wharton stressed they agree with the need for audits and for training, and it is their intent to continue and

place it in their request again.

Mr. Bayer mentioned he agrees with what Mr. Wharton is saying. He has stepped up the attempts to do the evaluations on a more frequent basis, but the process has not been formalized as the recommendation would like.

Mr. Townsend discussed how the Chief of the Classification and Planning does not have sufficient authority to change the classification practices at the institutions based on the Department policies. The audit recommended evaluating that position's authority to make sure it is sufficient for Department-wide classification management. The Department of Administration indicated a partial implementation. Mr. Townsend asked what changes have been made to ensure the Chief has sufficient authority to properly manage the classification function department-wide.

Mr. Bayer explained a position reclassification was done and changed the responsibilities and grade level to give him more authority in the Department. He is currently functioning a step below a warden position. Mr. Bayer has given him a lot more personal control of the system and he has been more involved with things the warden would have normally dealt with. From a formal point of view, the position description was the formal indication of this process.

Mr. Bayer responded to Senator Neal that the procedures, position description, and the changes in his position level are all written. Some of the elements for the Chief's authority to manage department-wide was put in 521 when it was rewritten. Mr. Bayer felt there was more room to document and proceduralize the Chief's authority and he will do that. He provided a copy of DOP Information Bulletin #99-1 (Exhibit A) that revised Administrative Regulation 521.

The final issue was the Department's limited review process for some close custody inmates. Primarily those serving life sentences with or without parole. The auditors felt more involvement was needed by the Central Office. Mr. Townsend explained this involved the space in Ely that is very valuable space for the most dangerous inmates. In some cases it may be acceptable to move an older inmate or someone determined to be not as dangerous to a medium custody position.

The Department of Administration indicated partial implementation because the revision was awaiting review and approval. Mr. Townsend asked if this revision was approved by the Board of Prison Commissioners and implemented by the Department.

Mr. Wharton explained the regulation has been implemented and this is also an indication of the review and expansion of his duties.

Mr. Bayer publicly thanked Debbie Bridge for setting up and running the two good computer systems at the Department of Prisons. This was a difficult and time-consuming process for a system that has received good review and they will miss her.

ASSEMBLYMAN MARVEL MOVED TO APPROVE THE 6-MONTH
REPORT ON INMATE CLASSIFICATION. SECONDED BY SENATOR
NEAL AND PASSED UNANIMOUSLY.

F. Risk Management Division

Rocky Cooper, Audit Supervisor, explained the audit report on the Risk Management Division was issued in January 1998. The 6-month report by the Department of Administration indicates four recommendations have been fully implemented and six recommendations have been partially implemented. Mr. Cooper

informed the subcommittee that at the time of the audit the Risk Management Division was performing administrative functions for the State's Group Health Insurance Program.

These administrative functions included processing changes in insurance coverage, and billing and collection of insurance premiums. Since the time the audit report was issued, these functions were transferred to the Public Employees' Health Benefits Program created during the 1999 Legislative Session.

The recommendations contained in the January 1998 audit report now fall under the responsibility of the new program. Mr. Cooper suggested the Audit Subcommittee obtain information on the efforts made by the executive officer to implement the audit recommendations. Mr. Cooper asked if the executive officer of the Public Employees' Health Benefits Program has assigned the responsibility to implement the audit recommendations? If yes, when does the executive officer expect full implementation of the six partially implemented audit recommendations?

Randy Waterman, Executive Director of the Public Employees' Health Benefits Program until tomorrow, explained there are five high-level positions still vacant so they have not assigned responsibility to implement the recommendations. These positions have been vacant since July 1, 1999. Prior to that, several vacancies in the Risk Management Division did not allow the tasks to be assigned.

Mr. Waterman informed the subcommittee they have recruited for those positions and when the new executive director comes on board she will fill those positions. He added he is going back to Risk Management.

Mr. Cooper suggested it would be beneficial to have the new executive director back to see what action has been taken. Senator Rhoads concurred.

Assemblywoman Chowning publicly thanked Mr. Waterman for taking a thankless position and for taking a lot of public criticism. She felt he handled this well and with dignity throughout. Assemblyman Marvel seconded that statement. He also asked Mr. Waterman if he felt the system would work more smoothly now with the reorganization. Mr. Waterman felt SB544 takes the program a step up from where it was and allows for accountability in the program. It also allows the professional staff to actually implement the audit recommendations. He added many of the recommendations have been implemented but not documented, and a lot of progress has been made. The new board of directors seems very knowledgeable and will take the program forward.

In light of the fact Mr. Waterman is leaving, Senator Neal felt the report should be held over and the new Director should come to the next meeting and respond to some of the questions.

The committee members wished Mr. Waterman good luck and thanked him again.

G. Division of Minerals

Mr. Cooper explained in January 1998 the audit report on the Division of Minerals was issued and contained three recommendations. That report represents a significant improvement from the previous audit that contained 19 recommendations. The Department of Administration's 6-month report indicates the Division continues to improve its operations and has fully implemented all three recommendations.

Senator Rhoads felt this is a remarkable comeback and the Audit Division had a lot to do with it. This shows the system does work.

SENATOR NEAL MOVED TO ACCEPT THE 6-MONTH REPORT ON THE DIVISION OF MINERALS. SECONDED BY ASSEMBLY-WOMAN CHOWNING AND PASSED UNANIMOUSLY.

H. Division of Industrial Relations

Mr. Tim Brown, Audit Supervisor, explained the audit report on the Division of Industrial Relations was issued in September 1998. The Department of Administration indicates five of the recommendations have been fully implemented and four recommendations have been partially implemented. Division officials have been in contact with the audit staff and have discussed their corrective action plans; however, Mr. Brown felt there were a few areas to follow up on.

Mr. Brown explained the Division can not readily determine when mines were last inspected. The auditors found 11 of the 30 mines selected for testing lacked evidence they were inspected in 1997. The auditors recommended the Division develop a mine tracking system. The 6-month report indicated the project plan is complete and full implementation was expected by September 1999. Mr. Brown asked what the status was of the tracking system.

The audit report noted the Division did not inspect at least one asbestos project for 11 of 15 contractors doing work in 1997. The central office does not have a tracking system to ensure required inspections are done, nor does it coordinate inspections between district offices. The auditors recommended the Division needs to coordinate inspection of asbestos contractors through the central office.

The Department of Administration responded the Division Administrator indicated the position performing this task is vacant and should be filled by June 1999. Then coordination of inspections would start in July 1999. Mr. Brown asked if the position has been filled and the coordination started.

John Wiles, Division Counsel for the Division of Industrial Relations, representing Roger Bremner, Administrator, who is unavailable, along with Cindy Jones, Management Analyst for the Division of Industrial Relations answered the questions. Ms. Jones confirmed the database and programming for the mine safety and training section has been completed within the last two weeks and the inspections are being entered into the system as they are being completed. She added there is a backlog of approximately 4 years to be entered into the system. A new position effective October 1, 1999, will have the responsibility of entering the backlog data into the system.

Ms. Jones replied the program coordinator for the Occupational Safety and Health Enforcement Section was filled June 3, 1999, and this person is in the process of being trained. Assigning inspections for all asbestos projects is being coordinated through the Carson City office at this time and they are developing a database to follow-up and record completed inspections.

Assemblywoman Chowning inquired when the Legislature will know when this information is being put in the system. She felt if this is approved today, the Legislature knows the tracking system is now in place, but they will not know the results.

Senator Rhoads asked the Division of Industrial Relations to come back and report on the status of this issue.

The last area Mr. Brown questioned was employee performance evaluations not prepared in 1997 for 12 of 15 employees. In addition, some of the employees did not have work performance standards as required by NRS 284.335. The Division Administrator indicated the development and updating of work performance standards is about 90% complete and should be fully complete by December 1999. The Administrator also

stated the employee evaluations are about 33% complete and, as such, all employee evaluations will be completed by June 2000. Mr. Brown inquired if these standards are still expected to be completed by December 1999, and are supervisory training and employee evaluations still expected to be completed by June 2000.

Ms. Jones responded those target dates are reasonable and they do not see any problem meeting those target dates. Currently, about two-thirds of all the supervisors have substantially completed all required training. Ms. Jones added about 60% of employee evaluations are completed and they are sure they will be able to make the target date of June 2000.

Senator Rhoads asked Ms. Jones to update the committee on that matter also.

SENATOR NEAL MOVED TO ACCEPT THE 6-MONTH REPORT
ON THE DIVISION OF INDUSTRIAL RELATIONS. SECONDED BY
ASSEMBLYMAN MARVEL AND PASSED UNANIMOUSLY.

Item 5 – Public Comment

There was no public comment. The next meeting was set for Wednesday, January 26, 2000.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marie Cavin, Secretary to the
Legislative Auditor

Senator Dean A. Rhoads
Chairman of the Audit Subcommittee
of the Legislative Commission

Date _____

Wm. Gary Crews, Legislative Auditor
and Secretary to the Audit Subcommittee
of the Legislative Commission

Date _____