NEVADA LEGISLATURE
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION
(Nevada Revised Statutes [NRS] 218E.240)

Minutes
September 10, 2024

The first meeting of the Audit Subcommittee of the Legislative Commission for the 2023–2024 Interim was held on Tuesday, September 10, 2024, and called to order at 9:07 a.m. in Room 165, Nevada Legislative Office Building, 7230 Amigo Street, Las Vegas, Nevada. The meeting was simultaneously video conferenced to the Legislative Building, Room 4100, 401 South Carson Street, Carson City, Nevada. The meeting was adjourned at 1:50 p.m.

The agenda, minutes, meeting materials, and audio or video recording of the meeting are available on the Subcommittee's meeting page. The audio or video recording may also be found at https://www.leg.state.nv.us/Video/. Copies of the audio or video record can be obtained through the Publications Office of the Legislative Counsel Bureau (LCB) (publications@lcb.state.nv.us or 775-684-6835).

AUDIT SUBCOMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Marilyn Dondero Loop, Senatorial District No. 8, Chair
Senator Dina Neal, Senatorial District No. 4

AUDIT SUBCOMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Skip Daly, Senatorial District No. 13, Vice Chair
Senator Pete Goicoechea, Senatorial District No. 19

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN LAS VEGAS:

Daniel Crossman, Legislative Auditor, Audit Division

COMMITTEE MEMBER ABSENT:

Assemblyman Rich DeLong, Assembly District No. 26, (Excused)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT IN CARSON CITY:

Todd Peterson, Chief Deputy Legislative Auditor, Audit Division
Eugene Allara, Audit Manager, Audit Division
Shirlee Eitel-Bingham, Information Security Audit Manager, Audit Division
Tammy Goetze, Audit Manager, Audit Division
Jennifer Otto, Audit Manager, Audit Division
Jeet Bains, Deputy Legislative Auditor, Audit Division
Amanda Barlow, Deputy Legislative Auditor, Audit Division

Kam Cheung, Deputy Legislative Auditor, Audit Division
Hailey Cornelia-Swift, Child Welfare Specialist, Audit Division
William Evenden, Deputy Legislative Auditor, Audit Division
Christopher Gray, Deputy Legislative Auditor, Information Security, Audit Division
Scott Jones, Deputy Legislative Auditor, Audit Division
Karen Moreno, Deputy Legislative Auditor, Audit Division
Jennifer Graves, Office Manager, Audit Division
Deborah Anderson, Secretary, Audit Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I. – CALL TO ORDER AND OPENING REMARKS

[Chair Dondero Loop called the meeting to order. She welcomed members, presenters, and the public to the Nevada Legislature Audit Subcommittee of the Legislative Commission meeting.]

Senator Marilyn Dondero Loop (Chair):

Good morning. Thank you for your patience. We're all trying to get organized and ready to use this new building, so I appreciate your patience. Welcome to the first meeting of the Audit Subcommittee this Interim. Ms. Graves, will you please call the roll?

Jennifer Graves (Office Manager, Audit Division)

Ms. Graves called roll and a quorum was present.

Chair Dondero Loop:

Thank you very much. Please mark Assemblyman DeLong's absence excused. As you all know, some of you in this building, those listening up in Reno, and joining us up in Reno; we have a major fire going on up there. And so, we've got people who might not be able to be here today due to that. I just got off the phone with my brother up there who worked for the Nevada Department of Forestry for years and I know the perils those folks are put in and I know Senator Goicoechea is aware of that as well. My brother calls me daily and gives me the updates. So, let us hope that all our Reno friends, US Forestry, and Washoe Valley friends stay safe and that they get this fire under control.

With that, I would like to thank all of those who are participating in the meeting today via Zoom. The chat feature is only to be used for any communication with BPS [Broadcast and Production Services] for technical assistance. It is not to be used for any communication between members or presenters unless you are requesting technical assistance from BPS.

Before we begin, as a reminder for the benefit of the audience and those wishing to speak, we will have two periods of public comment today, one at the beginning of the meeting and one at the end of the meeting. Public comment is limited to 3 minutes per speaker. There are four ways to provide public comment of all of which are listed on the agenda. You may do so by calling (888) 475-4499, then entering the Meeting ID 86473804213, followed by #; you may email comments to LCAudit@lcb.state.nv.us; you may mail comments to the Audit Division, 401 South Carson Street, Carson City, Nevada 89701; or you may fax your comments to (775) 684-6435. As always, this meeting is recorded and will be made available on the Legislative Counsel Bureau website.

AGENDA ITEM II. – PUBLIC COMMENT

We will start by welcoming our in-person public comment in Las Vegas and Carson City. So, Las Vegas, is there anyone here in person who would like to make public comment? Seeing none. Is there anyone in Carson City? Seeing none. Is there anyone on the phone lines BPS? Go ahead if you're ready.

BPS:

Chair, the public line is working; however, there are no callers at this time.

AGENDA ITEM III. – SELECTION OF VICE CHAIR OF AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION

Chair Dondero Loop:

Thank you very much. Because this is the first meeting, we will need to make a selection of the Vice Chair of the Audit Subcommittee of the Legislative Commission. Historically, the Chair and the Vice Chair are from different houses. Today, we happen to have all Senators present. I will take a motion for a Vice Chair of this Committee.

SENATOR NEAL MOVED TO ACCEPT SENATOR DALY AS VICE CHAIR OF THE AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM IV. – APPROVAL OF THE MINUTES FOR THE MEETING ON JANUARY 12, 2023

Chair Dondero Loop:

We will move to our next Agenda Item IV, which is the Approval of the Minutes from January 12, 2023. Members, are there any questions, comments, or changes regarding the minutes? If not, I will take a motion to approve the minutes.

VICE CHAIR DALY MOVED TO ACCEPT THE AUDIT SUBCOMMITTEE MINUTES OF THE JANUARY 12, 2023, MEETING.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM V. – PRESENTATION OF AUDIT REPORTS (NRS 218G.240)

Chair Dondero Loop:

Before we move to Agenda Item V, I would like to first consider a motion to accept a few of the 6-Month Reports under Agenda Item IX where the Audit Division does not have questions regarding the implementation of audit recommendation as part of the 6-Month Report follow-up process. These would include Agenda Items IX D Department of Employment, Training and Rehabilitation, Rehabilitation Division; IX E Department of Health and Human Services, Division of Health Care Financing and Policy, Dual Enrollments and Supplemental Drug Rebates; and IX F Department of Taxation, Information Security – Servers, Operating System and Database

Application Software. This would allow some of our agency representatives to leave the meeting and return to their other duties. The remaining items under Agenda Item IX, IX A, IX B, and IX C will be taken in the order of the agenda. I will take a motion to approve the 6-Month Reports under Agenda Item IX D, IX E, and IX F.

SENATOR GOICOECHEA MOVED TO ACCEPT THE 6-MONTH REPORTS OF THE DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, REHABILITATION DIVISION; DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF HEALTH CARE FINANCING AND POLICY, DUAL ENROLLMENTS AND SUPPLEMENTAL DRUG REBATES; AND DEPARTMENT OF TAXATION, INFORMATION SECURITY – SERVERS, OPERATING SYSTEM AND DATABASE APPLICATION SOFTWARE.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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Chair Dondero Loop:

We will go to Agenda Item V, Presentation of Audit Reports. Mr. Crossman, would you like to go ahead.

Daniel Crossman (Legislative Auditor):

Thank you, Chair. Under Agenda Item V, we have seven performance audit reports. These audit reports are kept confidential until they are presented today at the Audit Subcommittee. Copies of these reports will be made available on the Audit Division website today, following the meeting.

I would like to thank my team, as well as all of those agencies that we worked with to complete this work. For some of these audits, I want to point out that we did have to pause some of our audit work to complete some other Legislative priority audits that were provided to us. We did return to these projects when we were able to dedicate the necessary resources to resume and complete them. When this has been the case, we have made a notation in our audit methodology in the reports to provide some explanation for the timelines of these audits.

Some of these audits covered periods of time during and coming out of the pandemic as well. We recognize that the pandemic created various challenges for various state agencies. Along with that though, the requirements to operate sound and effective governance of programs remained. Lastly, I want to recognize that all agencies, including those that are here today, who we have audit reports on, are doing a great job of providing critical services to the citizens of the State. Our job in my office is to identify opportunities for improvement and that is what we end up focusing on. With that being our focus of our audit process, much of the good work and efforts by thousands of employees of the State often go unrecognized and to that end, we do truly appreciate all the great work that does not get recognized. So, with that Vice Chair, I will turn it back over to you to introduce the first report today.

AGENDA ITEM V. A. – OFFICE OF THE GOVERNOR, OFFICE OF THE CHIEF INFORMATION OFFICER, CUSTOMER RATE DEVELOPMENT AND CONTRACTING PRACTICES (LA24-15)

Chair Dondero Loop:

Thank you very much. We will go first to Agenda Item V A, Office of the Governor, Office of the Chief Information Officer, Customer Rate Development and Contracting Practices. Please go ahead when you are ready.

Kam Cheung (Deputy Legislative Auditor):

Good morning, Chair Dondero Loop and Committee Members. For the record, my name is Kam Cheung, my last name is spelled C-h-e-u-n-g, Deputy Legislative Auditor. We are presenting the audit report for the office of the Office of the Chief of the Information Officer today. Beginning on page 1 and continuing through page 3 in the audit report, we provide background information on the Office of the Chief Information Officer, including its mission, budgeting and staffing, and revenues and expenditures for fiscal year 2023, as shown in Exhibit 1 on page 2.

The report also includes an overview of the customer rates development process and contract management. In the rates development process, the Office submits labor distribution and customer utilization data to the Department of Administration, Administrative Services Division, which estimates costs and calculates customer rates. These rates are determined by dividing the revenue needed by the utilizations. The Office contracts for various services and equipment through service contracts and lease agreements, including mainframe storage, information technology security, and server storage. Additionally, the Office enters revenue contracts for microwave, digital signal channels, and rack space server storage at multiple tower sites throughout the State.

On page 4 in the report, we state our audit scope and objectives. The objectives of this audit were to determine if the Office has adequate controls over the development of customer rates, including an analysis of labor distribution and customer utilization; and to determine if the Office has adequate controls over the monitoring and solicitation of contracts and lease agreements.

The audit findings begin on page 5, where we discuss that the Office does not have an established formalized process for tracking employee time and forecasting labor distribution. Our examination of cost pools revealed substantial deficiencies in labor distribution tracking. For 7 of 10 cost pools reviewed, the Office lacked processes for a comprehensive tracking of employee time. Exhibit 2 on page 6 in the report shows the employee costs represent a significant percentage of the estimated revenue needs for some cost pools and it also determines the allocation of indirect costs, such as overhead. On page 7, we noted inaccuracies in timesheet records for 3 of 10 cost pools. For example, employee hours tracked in the Office's billing system did not always add up to 40 hours a week, and variances noted when compared to state payroll records. Moreover, issues were identified in the allocation of full-time equivalents (FTEs) to cost pools. In some cases, FTEs were incorrectly allocated, thereby affecting the calculated rates for other cost pools. Additionally, there were instances where labor was evenly distributed across cost pools, despite data indicating a diminished demand, which suggests a reduced need for labor.

In the report, we acknowledge that projections inherently involve estimates and assumptions, and discrepancies between projected and actual figures may arise due to

unforeseen factors or changing circumstances. This highlights the importance of maintaining accurate time-tracking records for reliable projections. Continuing on page 7, we discuss how the lack of accurate tracking, FTE projection errors, and timesheet discrepancies undermine labor allocation and rate calculations. This could potentially lead to customers from one service inadvertently subsidizing the costs for customers of another service.

On page 8, we discuss that the Office lacks effective controls to monitor customer utilization. For five of eight cost pools tested, information supporting customer utilization was incorrect or undocumented. For example, the virtual server cost pool did not include five customers that started using the services in fiscal year 2021 on its 2022 and 2023 utilization list. In addition, on page 9, we discuss that the Office does not have an established, formalized process for monitoring customer utilization and generating comprehensive utilization reports for its various cost pools. We noted instances where entities accessed Office services but were not billed for the services. Inaccurate customer utilization tracking can lead to the underfunding or overfunding of the Office's operations, the inequitable charging of service rates, and the misallocation of resources. On page 10, we discuss that the Office relied on state agencies to self-report utilization of services through the budget process, instead of using internal data to identify utilization. For three cost pools tested, the Office did not reconcile between entities utilizing services and entities that budgeted for the services.

Continuing on page 10 of the report contains 4 recommendations to strengthen controls over labor distribution and customer utilization information for rate development.

Moving on to contract management of the report, which starts on page 11, we discuss that the Office did not always use competitive solicitation practices to procure millions of dollars in services. We tested contracts that were in effect during fiscal years 2022 and 2023 and observed instances where the Office procured services through the questionable use of sole source waivers. For three of eight sole source procurements tested, the services procured were offered by more than one vendor, but the Office continued to procure the services from the same vendor by using a sole source designation. Exhibit 3 on page 12 in the report shows several services were questionably deemed sole source and competitive solicitations were not performed. In addition, for some services the same sole source solicitation waiver was used multiple times to continue contracting with the vendor without regard to significant changes made to the scope of work for the contract.

Continuing at the bottom of page 12 and top of page 13 in the report, we discuss that State law, regulation, and policy require agencies to competitively procure goods and services. While soliciting contracts every 4 years may not be prudent for some information technology products and services, allowing decades to pass before competitively soliciting bids for those services is not in the best interest of the State. In addition, on page 13, we noted in some cases, contract amendments were used to expand contract maximums instead of seeking competitive bids. For 2 of 14 contracts tested, $16.8 million in contract price was added through contract amendments. Exhibit 4 shows Vendor A's contract increased over $12.1 million dollars and Vendor B's contract increased by $4.6 million dollars. However, no solicitations were conducted for these changes.

On page 14, we noted inadequate contract monitoring resulted in transactions occurring outside the protections of a contract. We tested 15 expense contracts in fiscal year 2022 and 11 in fiscal year 2023. We found payments totaling $187,000 were made to two vendors without active contracts in place. We also found a lapse in two revenue contracts for site space (rack rentals), microwave, and digital signal channels services provided by the Office. In addition, we found two vendors were not billed for services rendered. Continuing

on page 14, we discuss that the Office does not have policies and procedures related to contract management. When products or services are not procured through a contract, or the contract expires, the State could be subjected to arbitrary price increases, unacceptable changes in products, delays, lack of service, or incorrect payments. Furthermore, it could be difficult for the State to enforce the terms of an expired agreement and collect revenue owed.

On page 14, we make 3 recommendations to strengthen controls over contract solicitation and monitoring practices.

Appendix A starting on page 15 through 16 in the report, shows the customer rates for various services offered by the Office for fiscal years 2022 and 2023. Appendix B on pages 17 through 21, describes our audit methodology. Appendix C, on pages 22 to 24 shows the Office's response to our audit report. On page 25, we list the audit recommendations and show that the Office accepted all 7 recommendations. This concludes the audit presentation. I would be happy to answer any questions.

Chair Dondero Loop:

Thank you very much for that information. Members, does anyone have questions?

Senator Skip Daly:

I do, Madam Chair.

Chair Dondero Loop:

Go ahead. please.

Senator Daly:

Thank you and thank you for your presentation. It is my first time on this Committee, so I do not know if you answer questions or if you have someone from the Office of Information Technology answer them. I will start with you, if that is ok. On the competitive bidding on page 11, you said that there is questionable use of sole source waivers. I have a couple of different questions on the waivers. What was, in your view, the questionable part? Either they are allowed, or they are not allowed. And who decides whether they were allowed or not allowed? You say it was questionable, so, what was the concern from your point of view?

Kam Cheung (Deputy Legislative Auditor):

For the record, Kam Chung, Deputy Legislative Auditor. Chair Dondero Loop, through you to Senator Daly.

Chair Dondero Loop:

You may go directly.

Kam Cheung (Deputy Legislative Auditor):

Thank you. On page 12 in the report, we noted that, although agencies may obtain sole source solicitation waivers from the Purchasing Division, it is the responsibility of agency management to ensure a sole source vendor destination is legitimate for services being procured.

Senator Daly:

You are saying they may not have gotten the proper extension or the proper sole source waiver because one of my other questions is also on page 12. For some services, the same sole source solicitation waiver was used multiple times to continue contracting. How often do they have to get the sole source waiver? Who issues the sole source waiver? Who determines if it is prudent? Is there a time limit or a number of times for extension? I have a similar question on contract extensions as well but answer this one first.

Todd Peterson (Chief Deputy Legislative Auditor):

For the record, Todd Peterson, Chief Deputy Legislative Auditor. Senator Daly, let me see if I can get to all your questions. First of all, once a contract expires, once it has reached its termination date, and the agency continues to desire to procure services from that vendor, they would either need to go back out to bid or receive a solicitation waiver. The proper way is to seek a solicitation waiver from the Purchasing Division. In all cases that we noted with the department, the Chief Information Officer's office, they did that. They went to the Purchasing Division and received that waiver, and where we are making our judgment as to whether or not that solicitation waiver is appropriate is because we noted that there are other vendors that provide the service. So, in our judgment, that is not a legitimate sole source contract. Did I answer all your questions, or was there another one?

Senator Daly:

Well, the other part of that was they went forward, they got a solicitation waiver. If I can, Madam Chair, thank you. How long is that good for? Do they say, 'Hey, we are going to give you this sole source waiver'? Is that in perpetuity, or is it for a set period of time? Do they have to go back at the end of a three-year period, four-year period, whatever it might be? They are extending that old contract, I am assuming, or maybe they are negotiating it. And obviously they added scope of work if they go from 91,000 to 12 million. Where is all that? And I understand there are laws that say you have to competitively bid and there's time periods. I also understand you have a whole computer system - you can't just change it tomorrow and get a whole new system. You may have to go to IFC, or if we are in session, to the money committees to get the resources to do that - it is expensive - but how long do those waivers last? And you said they use it multiple times, for apparently a very long period of time. Are there any limits on it?

Todd Peterson (Chief Deputy Legislative Auditor):

For the record, Todd Peterson, Chief Deputy Legislative Auditor. Senator Daly, as far as my understanding is, they are good for the duration of the next contract or the amended contract. If the contract is extended for four years, then at the end of that four years, they would either need to go back out to bid or they would need to receive another solicitation waiver from the Purchasing Division to extend the contract for as long as the extension allows.

Senator Daly:

And from what you have indicated here, they got the first one and then used it multiple times and didn't go back?

Todd Peterson (Chief Deputy Legislative Auditor):

Yes.

Senator Daly:

What are they doing because they use it, apparently, for decades? So on the Board of Examiners introduced the office pursue other options besides vendor A. Who approves the extensions? Is it the same thing; The Purchasing Division would approve the extension. Is that the same as a waiver?

Todd Peterson (Chief Deputy Legislative Auditor):

Yes. For the record, Todd Peterson, Chief Deputy Legislative Auditor. Senator Daly, yes, the Purchasing Division has that authority to approve those waivers.

Senator Daly:

The waivers, and the extensions of the contract?

Todd Peterson (Chief Deputy Legislative Auditor):

Yes.

Senator Daly:

Do they look at what they are asking for when they ask for the waiver? So, if we want a waiver of this contract and then go and negotiate a completely new one, is there oversight over that, or are they just ignoring it - or is there a loophole?

Todd Peterson (Chief Deputy Legislative Auditor):

That's a good question, Senator Daly. For the record, Todd Peterson, Chief Deputy Legislative Auditor. The Purchasing Division approves the waiver. As to what their process is for reviewing that request to extend and to approve the solicitation waiver and extend the contract, I do not know. We'd have to speak with Purchasing about that, but there is a reminder. There is a check in the process. There are some controls built in that the contract would then have to go to the Board of Examiners for approval and there would be some review and oversight at that level as well.

Senator Daly:

Ok. Well, if Purchasing is listening, get back to me, because I think it needs to be tightened up from what I am seeing here. Thank you, Madam Chair.

Chair Dondero Loop:

Thank you very much, Senator. Any other questions up in Carson City? Senator Goicoechea, any questions?

Senator Pete Goicoechea:

Yes. Thank you, Madam Chair. I have served on the reserve purchasing subcommittee and we reviewed some of that back in the day. So, we clearly need to make sure what they have to function under is more defined. I heard you say, to the best of my knowledge, or the way you understand it. But I think in most of these scenarios, I do not know really what qualifies you to get a waiver. Is that spelled out clearly enough? Maybe it is something we should be looking at here in the Legislature and making sure that when you go out with your request for RFP, you find what you are looking for. I know the basic steps, but four years into it, and you decide, ok, we have not completed this contract, we're going to ask for an extension – are the parameters of that really defined in the regs?

Todd Peterson (Chief Deputy Legislative Auditor):

For the record, Todd Peterson, Chief Deputy Legislative Auditor. Senator Goicoechea, so in the regs in NAC, in my understanding that the Purchasing Division will be the ones that approve the solicitation waivers or other waivers that might be requested. In the State Administrative Manual, there is the guideline that contracts be bid on every four years. And that is currently what we use as criteria when auditing these agencies.

Senator Goicoechea:

And in your opinion, they are adequate?

Todd Peterson (Chief Deputy Legislative Auditor):

I'll decline to answer that.

Senator Goicoechea:

Thank you. And I guess that is the point I was trying to make in this, especially over the last four years, there's been a ton of money infused into this budget. ARPA, all these funds came in. Clearly, we are expanding projects, scope of duties on particular agencies with huge amounts of money, and, if you went through it and crossed all the Ts and dotted all the I's, you never would have got that contract completed in the time frame to get the money expended. I think we are really looking at this, again, first time on this Audit Subcommittee in over 10 years, but looking at all the volumes we have got here, yeah, it is problematic, and I think we have to start to make sure the agencies understand they've got to do this if this is the case. And I think we are trying to spend money trying to get it allocated in the right places and I am sure there was some stuff that fell through the cracks. So, thank you. Thank you, Madam Chair.

Chair Dondero Loop:

Thank you very much. Any additional questions. Senator Neal?

Senator Dina Neal:

Thank you.

To dovetail on the conversation that was happening with Senator Daly and Senator Goicoechea - in the amendments, did the Audit Division feel that the vendor completed the service or was the amendment just a consistent extension where the value was not given? Because, in finance, we have groups that come and ask for extensions. This is just an example and sometimes we are questioning whether or not they are ever going to actually complete the project, but yet they have an amendment to their contract, and we are not sure that it was ever adequately completed, that they ever actually really did the work and it or took them 15 years to do something that should have taken them five. Does that clear up the question?

Kam Cheung (Deputy Legislative Auditor):

For the record, Kam Cheung. Senator Neal, in this case, we do believe that the vendor provided the value and the service, but the office kept extending the contracts. And as far as whether it was the value to the entire office in the State, I think the agency would be better positioned to answer that question.

Timothy Galluzi (Chief Information Officer, State Chief Information Officer, Office of the Governor, Office of the CIO):

Good morning, Senator. For the record, Timothy Galluzi. I have the honor of servicing as the Chief Information Officer of the Office of the CIO. For the contract that we are discussing back in 2017, we, the office, made a decision to go from a Capex model in replacing the State's mainframe that was end of life to a leasing model. We had determined at that time that the mainframe was not going to last forever. The leasing model was in the State's best interest as we approached the inevitable decommissioning of the mainframe to pull out of that service so that is why we see the significant repeat of that service. We have derived the value from that investment. We have some agencies here today that are on that mainframe still. Our constituents are driving value from that investment even as we speak. So, yes, ma'am, to answer your question, the State is still driving benefit from that investment.

Senator Neal:

Thank you for that response. And I appreciate that because I know me and Senator Goicoechea chaired that subcommittee in finance where you came in talking about this archaic system. I made jokes about it but I am just grateful that you just said that because that makes more sense that it was that behemoth that was sitting in the corner from 1976. I have another question for this agency on page 10, Madam Chair. I had questions on the self-reporting and the utilization services through the budget process instead of the internal data that was identified for utilization because the first thing that popped up in my mind was, when we are asking agencies, "How did you spend this money? Did everything match?", this points out that we may have allowed an agency to get more money, and the value and the time of the employees and everything that we put out there is not appropriate. I was wondering how would we go back and backtrack and look at those particular testimonies where they self-reported utilization, but that it was not done based on internal data, which means that what we funded was probably an incorrect data set. That's how I read it. I do not know if I am reading that right on page 10 at the top.

Todd Peterson (Chief Deputy Legislative Auditor):

For the record, Todd Peterson, Chief Deputy Legislative Auditor. Senator Neal, are you asking how we can go back and see those agencies that paid for services but did not receive any. I am not quite sure about your question.

Senator Neal:

Well, I do not know really how to phrase this because it seems like there should be some backtracking in the budget in which they we are allocated a certain amount of money to do a certain thing, right? They're saying staff will utilize their time and spend 40 hours doing X Y and Z but it was not based on what this says, it says there was not internal data that identified that it was self-reported. So, I sat and said, well, we did 40 hours, but that may not actually be true. That's how I am reading it. I mean, we are all apparently first timers on this committee and feeling very special.

Todd Peterson (Chief Deputy Legislative Auditor):

You are a special, Senator. All of you are. For the record, Todd Peterson, Chief Deputy Legislative Auditor. Senator Neal, if I understand correctly, you might be referring to page 7 of the report where we noted that the Office of the Chief Information Officer had a system in place where they are tracking hours for their staff working on certain projects. Am I getting close? And some of those hours did not add up to 40 hours and the question might be, what are they doing? Am I understanding that correctly?

Senator Neal:

You are understanding that. But I guess my question is, and you are in the right spot, is that we funded the 40 hours in finance. We funded those 40 hours and those did not occur. That makes sense? So, you give a budget to an agency and then you are finding out that these costs and these overhead costs that they tell us and then we are like, oh my God, we have to make sure we give them this money because we do not want the agency to fail. How would we go back and reevaluate on the other side, on the finance side, whether or not this is truly happening? That is the question.

Todd Peterson (Chief Deputy Legislative Auditor):

For the record, Todd Peterson, Chief Deputy Legislative Auditor. Senator Neal. So on page 7 of the report, what we note is that for the Office of the Chief Information Officer are funded through their rates and the agency can better speak to this. I think it is based on the services that they provide. And in this case, for the 40 hours, some programmers have an internal system that tracks how many hours their programmers work for services provided to a specific agency. And in our testing, what we noted was that that internal timekeeping system did not always add up to what was reported on their timesheets. What is happening is they are not properly keeping track of their time using their internal timekeeping system. Does that answer the question? And if they are not fully tracking their time in that internal timekeeping system, then they would not properly bill an agency that they were performing programming services for if they we are spending more time working on a project for that agency but were not recording all that time to their internal timekeeping system.

Senator Neal:

Ok, thank you.

Chair Dondero Loop:

Thank you very much. And thank you for that information. Any additional questions from the Committee?

With no additional questions, I will take a motion to approve this report.

SENATOR NEAL MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE OFFICE OF THE GOVERNOR, OFFICE OF THE CHIEF INFORMATION OFFICER, CUSTOMER RATE DEVELOPMENT AND CONTRACTING PRACTICES.

SENATOR DALY SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM V. B. – Department of Health and Human Services (DHHS), Division of Health Care Financing and Policy (DHCFP), Hospice Care Claims and Fiscal Agent Contracts (LA24-12)

Chair Dondero Loop:

With that, we will go onto V B.

Senator Goicoechea:

Madam Chair, I don't know if it would be appropriate in this to show that they have accepted the recommendations. Does that help you as we get into the report? Maybe some of these other agencies haven't accepted all of the recommendations. Does that help if the record reflects that? I am kind of looking at Mr. Peterson. Is that better or worse?

Chair Dondero Loop:

Thank you, Senator. The very last page of the books has the responses of what they have accepted and haven't so you can see whether they have accepted or rejected those recommendations. Does that help to clarify what you're asking?

Senator Goicoechea:

Yes, I just thought that in the motion where it clearly makes a difference to me as where they approve it or not, and as we get into these, we will find some of these audits, clearly they don't agree at the point that they've agreed to disagree on the recommendations. I think it should be, well, I was wondering if it should be reflected in the motion.

Chair Dondero Loop:

Thank you, Senator. I believe that our job is to accept the report. We have done that, and we've voted so I think that we will, at this point, let the Office of Chief Information Officer Customer Rate Development contracting practices move forward and we'll go to the next item which is V B and I appreciate that information.

Senator Goicoechea:

Thank you for that.

Chair Dondero Loop:

Yes, Senator. I absolutely hear what you're saying so thank you very much.

V B, we will hear from Department of Health and Human Services, Division of Health Care Financing and Policy, Hospice Care Claims and Fiscal Agent Contracts and Mr. Peterson, I think you're back at the hot seat along with Mr. Evenden. Go ahead when you're ready.

William Evenden (Deputy Legislative Auditor):

Madam Chair and Committee Members, for the record, I am Will Evenden, Deputy Legislative Auditor. Beginning on page 1 and continuing through page 4 in the audit report, we provide background information on the Division of Health Care Financing and Policy. Specifically on page 2, we provide information on the Medicaid hospice care program. Hospice care is designed to provide support and comfort for Medicaid eligible recipients who have a terminal illness and are expected to live 6 months or less and have decided to receive end-of-life care.

On page 3, we present background information for the Medicaid Management Information System, abbreviated as MMIS throughout the report. The MMIS is a computerized claims processing and information retrieval system that Nevada Medicaid uses to process Medicaid claims, with subsystems that support program integrity activities such as provider screenings, utilization reviews, and other functions necessary for the economic and efficient operations, management, monitoring, and administration of the Medicaid program. The MMIS system is implemented, managed, and maintained by a contractor known as a fiscal agent.

On page 4 of the report, we include the Division's mission, budgeting and staffing, and revenues and expenditures for fiscal year 2023 as shown in Exhibit 1.

On page 5, we included our previous Medicaid related audits going back to calendar year 2020, where we noted we have identified over $40 million in improper payments and uncollected funds as of calendar year 2023, with recommendations to improve controls and program monitoring over the Nevada Medicaid program. Also on page 5, we state our audit scope and objectives. Our audit objectives for this audit were to determine if the Division of Health Care Financing and Policy has adequate controls over hospice care to limit improper provider payments, and to determine if the solicitation and oversight of the current fiscal agent complied with applicable laws, policies, contract terms, and best practices.

The audit findings begin on page 7, where we discuss that the Division overpaid hospice providers who improperly billed for duplicate hospice room and board services during calendar years 2020 through 2022. Medicaid will reimburse 95% of the room and board charges billed by long-term care facilities, such as a skilled nursing facility, less any amount a hospice recipient in a facility can contribute to the cost of their own care. We analyzed all 5,509-hospice provider room and board claims made during this period and identified 115 clams with duplicate dates of services. We conservatively estimate these duplicate payments exceeded $155,000 during this 3-year period. On Exhibit 2 on page 8, we provide examples of the duplicate payments that were billed by providers for four different recipients. As shown, these overpayments can range from a few hundred dollars to

thousands of dollars. Continuing on page 8, we discuss that these overpayments occurred because the MMIS did not have the proper system controls in place to prevent hospice providers from billing and receiving payment for duplicate room and board services. We brought these duplicate payments to the attention of the Division, where the Division performed their own analysis and confirmed the duplicate payments for room and board services. The Division stated they found some system controls from the previous system did not carry forward correctly into the modernization of MMIS that occurred in 2019. As stated on the bottom of page 8, the Center of Medicare and Medicaid Services defines duplicate claims as any claim paid across more than one claim for the same beneficiary, procedural codes, and service date by the same provider and are considered overpayments per federal regulation, which states, an overpayment is the amount paid by a Medicaid agency to a provider which is in excess of the amount that is allowable for furnished services.

Moving on to page 9, we discuss in the report that the Division overpaid hospice providers who improperly billed for the higher rate of routine home care services. Routine Home Care is the level of care provided when the recipient is not in a crisis and is paid at a daily rate for each day the recipient is in hospice care. This rate is paid without regard to the volume or intensity of services provided on any given day. Medicaid will pay a higher rate for the first 60 days of hospice care, then a lower rate starting on day 61. The Division overpaid hospice providers because the MMIS did not have the proper system controls in place to prevent hospice providers from receiving payment after billing for the higher routine home care rate beyond a recipient's initial 60 days. During calendar years 2020 – 2022, we identified 80 out of 1,388 recipients whose providers received payment for the higher routine home care rate beyond 60 days. From the population of 80 recipients, we randomly selected a sample of 20 recipients. We found 13 recipients whose providers billed the higher routine home care rate for more than the allowable first 60 days of hospice enrollment. Exhibit 3 on the bottom of page 9, shows five examples of Medicaid hospice care recipients whose providers improperly used the higher routine home care rate that was paid to providers and the associated overpayments. We projected that for the population of 80 recipients, we conservatively estimate about $114,000 in overpayments were made. Per federal and Nevada Medicaid policy, hospice providers are only allowed to bill and receive payment for the higher routine home care rate during the first 60 days a recipient is enrolled in hospice care, unless there is a 60-day break between their last date of service and reenrollment into hospice care.

Continuing on page 10, we discuss the Division improperly paid some hospice providers claiming the hospice service intensity add-on rate. The Service Intensity Add-On rate is an additional rate paid for the use of social workers or a registered nurse when these services are provided during routine home care in the last 7 days of a recipient's life. The service intensity add-on payment is equal to the continuous home care hourly rate, multiplied by the hours of nursing or social work provided, up to a total of 4 hours for each day of service. Because the Division's MMIS did not have proper system controls in place, we estimate over $117,000 in improper payments were made to providers for the service intensity add-on rate during calendar years 2020 – 2022. Overpayments occurred for two reasons. First, the MMIS allowed hospice providers to receive payment for the service intensity add-on rate before the last 7 days of a recipient's life. Second, the MMIS allowed payments beyond the daily limits established for the service intensity add-on rate. On the top of page 11, Exhibit 4, we show 5 examples of recipients whose providers billed for the service intensity add-on when a resident did not have a date of death or before their last seven days of life. On the bottom of page 11, we discuss that the service intensity add-on rate daily limits were exceeded due to providers who improperly billed and received payment for more than the allowed 4 hours per day of the service intensity add-on.

Continuing to the bottom of page 12, the report discusses the Division overpaid providers who improperly billed for hospice services claimed to be rendered after a recipient's date of death. Our testing of all paid hospice services for calendar years 2020 –2022 identified four dates of service where providers received payment for services claimed to be rendered after a recipient's date of death. While this amount associated with these claims were immaterial, we discovered the MMIS does not retroactively identify any fee-for-service claims where providers received payment for services claimed to be rendered after the recipient's date of death. Though the MMIS does have system controls to prevent payment for services with dates after the recipients date of death, once the date is entered. The system controls, however, do not retroactively identify improper payment or services dated after a recipient's date of death, but processed before the date of death was entered in MMIS. Per discussion with the Division, it can take several months before date of death is entered in MMIS, thus leaving a significant amount of time when a provider can bill and receive payments for services dated after a recipient's date of death. Therefore, the number of improper payments related to dates of services could be significant across all Medicaid fee-for-service claims.

On page 13, we list 8 recommendations to improve controls over hospice care payments and recoup any overpayments.

Moving on to the fiscal agent contract which starts on page 15. We discuss that the Division's fiscal agent contracting process can be improved. Better oversight and contracting practices for fiscal agent services will help ensure state contracting laws and policies are followed. The current fiscal agent contract has been in effect since January 2011, for over 12 years. Since the initial execution of the contract in 2011, 26 amendments have followed. While some of the 26 amendments were federally mandated, many were done at the request of the Division or the fiscal agent. Contract amendments were used to change the nature of the vendor's work instead of soliciting competitive bids from interested vendors.

On page 16, Exhibit 5 shows some of the significant contract amendments over the term of the contract. The contract was initially effective from January 2011 – June 2016 for a maximum of $176 million. Four contract extensions have since taken place, amending it through June 2028, with the option for two, 2-year extensions to 2032 if desired. Amendments have altered the contract scope without competitive bids, increasing the contract maximum to more than $803 million. Annual payments to the fiscal agent averaged $46 million between fiscal years 2011 and 2023. Per the State Administration Manual and state regulation, it is the general policy that bids be solicited at least every 4 years, except in the case of emergency or when it is determined that only one vendor exists that provides the product or services.

Continuing on page 17, we discuss that the Division has not successfully solicited bids for a fiscal agent since 2011 for several reasons. First, Division staff indicated they regularly communicate with other states and MMIS contractors to know what is available. Second, the Division believes that if the fiscal agent does not change, this will minimize distractions to providers and members. Finally, the Division has not effectively identified and documented their own needs for MMIS fiscal agent services. For example, the Division took a year to develop the specifications for an RFP released in 2021. This RFP was eventually released, but later cancelled by the Purchasing Division due to undisclosed defects in the process. Without competition through an RFP process, the Division cannot ensure it is receiving the best value for fiscal agent services due to private negotiations taking place, which can be unduly influenced in many ways. In addition, when contract amendments significantly modify the original scope of work, other vendors are denied the opportunity to compete and offer different solutions and pricing, which could lead to additional costs and inferior

performance. Competitively soliciting a vendor does not always mean a new vendor will be selected. Instead, competitive solicitation helps ensure the Division receives the best value for the commodity or service solicited.

On the bottom of page 17, we list two recommendations to improve contracting solicitation practices related to the MMIS. Appendix A on page 18, shows the hospice care service rates for federal fiscal years 2019-2023. Appendix B on page 19 through page 24, describes our audit methodology. Appendix C on page 25 through 28, contains the Division's response to the audit report. This concludes the audit presentation. I would be happy to answer any questions you may have.

Chair Dondero Loop:

Thank you very much for that information. Any questions?

Senator Daly:

Yes.

Chair Dondero Loop:

Go ahead Senator Daly.

Senator Daly:

Thank you, Madam Chair. If the Department of Health and Human Services is here, questions may be answered to them. I know the Governor's Office of Information Technology came up, but not when I first asked questions, maybe I scared them, I don't know. On the first half of the presentation, regarding over billing and various things, I'm assuming that the State - before we agree to reimburse - we have some type of an agreement with these vendors. I'm assuming.

William Evenden (Deputy Legislative Auditor):

Will Evenden, Deputy Legislative Auditor, for the record. You're talking about the Medicaid providers that are providing Hospice Care Services?

Senator Daly:

The State paid money. I'm assuming the State had some type of agreement with them to reimburse them for the services they provided.

William Evenden (Deputy Legislative Auditor):

Yes, that is correct.

Senator Daly:

Is there any language in those agreements that says if we overpaid you or you overbilled, for us to recoup that money? Is that language in those agreements? You may not know. That's why I asked if the other people may need to come up.

Stacie Weeks (Administrator, Division of Healthcare Financing and Policy):

Madam Chair, Stacie Weeks, for the record, Division of Healthcare and Policy. Yes, we, under state law in our agreements, can always recoup money from providers. There is a Statute of Limitations - I think it is 6 years, or longer. I can't remember off-hand, but there are agreements and anytime that a provider commits fraud, or we have a credible allegation of fraud, we can terminate that agreement, as well as recoup money. We also submit any type of fraud to the AG's office for review.

Senator Daly:

In all of these discrepancies, whether they were mistakes or whatever, they didn't appear to be fraud, just errors, or was it caught? Did the State recoup the money?

Stacie Weeks (Administrator, Division of Healthcare Financing and Policy):

Madam Chair, Stacie Weeks for the record. Yes, in the report, it says we did recoup the money. I think it was a couple 100,000 dollars and my understanding that it was mostly mistakes on our side in terms of system checks and we have since improved and fixed.

Senator Daly:

That was part of the recommendations. On the second portion of it, we have a theme here, with bidding. The first three are read and then the next one and then the last one. We have a problem with bidding. When I look at those issues, 26 extensions and no bids going out for 13 years – 12 + years – and when I look at it and then that's when I want to talk to the purchasing people here. When I look at the response, for number 9 and then number 10, for those two recommendations in that section, it says you agree with the recommendations, but then you also go in and say, "working with the Purchasing Division, we'll take the necessary actions to prepare for the effective RFP if". And I'm going, if? Either you're going to or not, if the Purchasing Division believes it's necessary to ensure that the contract for these services is in the best interest of the State. So, we are supposed to go out to bid for services every 4 years and I understand the whole thing about sole source vendors, and I understand about continuity, but you still have to go out for bids. In another section of my life and role, we've had the same money manager on our pension plan for 40 years, but we still go out to bid periodically. And they win, and off we go. I do know also that when we go out for attorneys, actuaries, and several other providers, sometimes we've changed, sometimes we haven't. We have people trying to get into the business. They're giving the same type of services at a competitive rate. But if you never go, you don't know. And I just want to understand what the Purchasing Division is thinking if they consider it to be in the best interest of the State, if it's already been decided that it's in the best interest of the State to go out and publicly bid or at least put out RFPs and then make a determination based on what you received back. What are we doing? I didn't really like that response.

Stacie Weeks (Administrator, Division of Healthcare Financing and Policy):

Madam Chair, Stacie Weeks for the record. I can understand that. I think the issue we're having nationally – every state Medicaid program – is that these programs are huge. The IT system that we have is not just an IT system, it is a huge fiscal payment system that sends out billions of dollars to providers. Shifting to a new vendor is an incredible task. It is not that we do not want to go out to bid, we did go out to bid. I cannot speak to why that procurement was pulled and did not move forward. We went back and extended our current

contract with Gainwell. We are looking at re-bidding. My only concern is if I am in the middle of – for example, we just had a cyber-attack or other issues that are really impacting our program, we're going to want to make sure that we have the capacity to do that bid. While all those bids do not happen overnight, these contracts are very, very long. These are billions of dollars, and it is a huge task for my team, and we need vendor support to even write them. To even get these things up and going, it can be 2 years of work. So, from my perspective, the challenge of having a 4 year, which has been much longer for this one, so I will admit to that and prior to my time here. But I think for most states, most of these programs are extended for 12 to 10 years. So, we are in the normal span of time to go back out for another bid. It is just I am not sure we did not want to promise in case something is happening, and we do not have the capacity to do that we will because providers will not get paid and that is our concern.

Senator Daly:

I understand and thank you for that. And I am not saying that what actually happened based on not changing the vendors, is not in the best interest of the State, and that making that change is a big decision - various things are not always based on price you have, is this new vendor performing, is the one we have performing, and you have that uncertainty. You can still make a decision based on the RFPs and all of these other factors you are talking about to do that. I am just saying, when you are spending public money, we have these extra steps you have to take and if there's a period of time, like I said, we had the same money manager for 40 years, obviously we are comfortable with that person, et cetera, and you guys may be as we well. If the Purchasing Division thinks it is in the best interest of the State, I still think you have to at least put the RFPs out and go through a little bit of that process. I am not saying you have to change or make a determination based on the assessment of the proposals in front of you. And it may be in the best interest of the State to have the same one, but at least you have determined that over several periods rather than this is the same one because it is convenient, which is part of what it turned out to be. I did not like the answers to number 9 and 10. Thank you. Thank you, Madam Chair.

Chair Dondero Loop:

Thank you very much. Additional questions?

Senator Goicoechea:

Madam Chair, more of a comment than a question. I am thinking this as I look through this report, and of course, when you see numbers like 25 to 32 percent overpayment rates, they are scary. But the other side of it is when you also look at the Division and the 338 positions with a 30 percent vacancy rate there. I think they run hand in hand. If we are going to do a better job, we got to make sure we got the people to do it. More of a comment than anything. Thank you.

Senator Neal:

Thank you, Madam Chair. Thank you, Ms. Weeks, for the responses. I was reading the agency's response on the payments after death, and the changing in processes. Are you guys planning on trying to recoup the money from the agents or the providers who you overpaid post death? Because I did not see that.

Stacie Weeks (Administrator, Division of Healthcare Financing and Policy):

Madam Chair, Stacie Weeks for the record. To speak to the actual date of death issue, that's (DWWS) another division. I think until we have a better sense of those numbers and what that was, for the purposes of this audit, we did recoup everything that was identified.

Chair Dondero Loop:

Thank you very much. All right, seeing no more questions. I will take a motion to approve the report, and I see at the end of the report that the Division has accepted the recommendations, so I will take a motion.

SENATOR NEAL MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF HEALTH CARE FINANCING AND POLICY, HOSPICE CARE CLAIMS AND FISCAL AGENT CONTRACT.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM V. C. – NEVADA GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT (GOED), PANDEMIC RELIEF AND STATE SMALL BUSINESS CREDIT INITIATIVE ASSISTANCE PROGRAMS (LA24-16)

Chair Dondero Loop:

All right, we will go on to V C which is the Governor's Office of Economic Development, Pandemic Relief and State Small Business Credit Initiative Assistance Programs. And I believe we have Ms. Moreno and Mr. Allara. Go ahead when you are ready, please.

Karen Moreno (Deputy Legislative Auditor):

Good morning, Madam Chair and members of the Audit Subcommittee. For the record, I am Karen Moreno, Deputy Legislative Auditor. I am here today to present the report on the Governor's Office of Economic Development, Pandemic Relief and State Small Business Credit Initiative Assistance Programs audit beginning with background information on page 1.

GOED was created during the 2011 Legislative Session to provide a robust, diversified, and prosperous economy in Nevada. GOED is overseen by an 11-member Board of Economic Development with daily activities managed by an Executive Director appointed by the Governor. Our audit focused on two pandemic-related small business assistance programs and the State Small Business Credit Initiative program.

The pandemic assistance programs were jointly managed by GOED and the Treasurer's Office. For both pandemic relief programs, a contractor was responsible for processing applications and paying awardees under the supervision of GOED. Although the Pandemic Relief Programs were jointly managed by the GOED and the Treasurer's Office, our audit findings from this report are directed towards GOED. Funding for the two programs was accounted for in GOED's budget accounts.

On top of page two, we provide detail of the two Pandemic Relief Programs beginning with the Commercial Rental Assistance Grant Program or (CRAG). The CRAG Program provided up to $10,000 to qualifying small businesses to assist with rent expenses during the pandemic shutdown. About $7.2 million was distributed to 777 businesses under the program. About $430,000 was paid to the contractor for administering the program.

The Pandemic Emergency Technical Support Program (PETS) provided payments of $10,000 or $20,000 directly to the business depending on the type of entity. Funds were provided to cover various operating expenses of businesses affected by the shutdown. A total of $52.2 million of federal and $50 million of state funds provided $96.4 million in awards to businesses. Administrative fees of about $5.8 million were paid to the contractor.

On the bottom of page 2 we provide information on the Nevada State Small Business Credit Initiative program or (SSBCI) which began with a $13.8 million allocation from the federal Small Business Jobs Act of 2010. During our audit, the program consisted of two components which are described on page 3. The Collateral Support Program provides cash collateral to Nevada financial institutions to enhance collateral coverage of borrowers.

The Battle Born Venture Capital Program provides equity and equity-like investments in start-up and growing Nevada companies established in 10 specified business sectors. Program investments are held on behalf of the State by a corporation for public benefit called Nevada Battle Born Growth Escalator, Inc. or (NBBGEI). NBBGEI was authorized by the Legislature during the 2015 Legislative Session. Investments are held by NBBGEI because the Nevada Constitution prohibits the State from having direct ownership in private entities. Continuing on page 4, The Battle Born Venture Capital Program is intended to be self-sustaining with return on investments and proceeds being reinvested back into the Program. From inception to the end of our audit, the Program had made 15 investments with four exits. One exit resulted in a small profit.

In September 2022, IFC approved the SSBCI program to receive about $35 million of federal American Rescue Plan Act funding. The program is expected to receive additional federal funding totaling over $100 million over the next few years.

On the bottom of page 4, the scope of our audit included a review of GOED's administration of investments and stimulus funding between January 1, 2020, and June 30, 2022. Our audit objective was to Evaluate GOED's awarding, oversight, and monitoring of certain economic investment and stimulus funding.

Page 6 begins the first chapter discussing our findings related to the PETS and CRAG programs. On the top of page 6 we note GOED did not provide sufficient oversight to ensure businesses were appropriately awarded funds from certain coronavirus relief programs. Our audit questioned the eligibility for more than 10% of the awardees receiving funds from the CRAG and PETS Programs. On the top of page 7 we note enhanced oversight of the application process was needed to ensure funds were awarded to business in good standing with the State. To be in good standing, a business had to be free of any governmental loan, lien, or judgment, conduct its operations in compliance with state laws, and have an active state business license.

On the bottom of page 7 and continuing to page 8, we identified 494 PETS award recipients who owed about $5.6 million to the State as of March 1, 2020, the program's eligibility cutoff date. These awardees appeared on the outstanding debt lists from either the Department of Taxation or the State Controller's Office. Exhibit 2, on page 8, breaks down the debt owed by PETS awardees.

On the bottom of page 8, our audit found 69 award recipients from the CRAG program owed the State about $669,000 of debt incurred as of March 1, 2020. These awardees also appeared on either the Department of Taxations or the State Controller's Office delinquent debt lists. Exhibit 3 on top of page 9 provides a breakdown of the debt owed by CRAG awardees.

In the middle of page 9, we found funds were awarded to some small business who had not filed a timely tax return with the State. We found a total of 623 PETS awardees had at least one late tax return with Department of Taxation as of March 1, 2020, 105 of which had money owed to the state. The CRAG program's 66 awardees had late returns with 14 of these awardees with confirmed debt to the State.

On the middle of page 10, we note some businesses were awarded funds through the PETS program without an active state business license on March 1, 2020. A total of 57 PETS awardees were given an award based on a state business license issued after March 1, 2020. For 5 of the 57 businesses, the state business license was issued after October 14, 2020, the public announcement date for the PETS program. Further, 19 of the 57 businesses were in default status one year after issuance of their state license. GOED did, however, ensure all businesses receiving a CRAG award had appropriate business licenses.

On the bottom of page 10 and continuing on page 11 we found funds could have been awarded to other eligible businesses. In total $10.7 million was awarded to businesses whose eligibility under program requirements was questionable while other applicants received no funds. We were able to identify $6.9 million in additional demand from PETS applicants who did not receive an award because funds were exhausted, or their application was not processed. Further, an unknown number of additional applicants may have submitted PETS applications had applications been accepted through the full advertised application period.

In the middle of page 11 and continuing on page 12, we discuss application processing times. We found GOED did ensure CRAG applications were processed timely. However, GOED did not ensure the contractor processed PETS applications within the 60-day contract terms. We found 46 of the 50 applications tested were not processed timely. On average it took 144 days or about 5 months to process these applications. Timely application processing was needed to quickly relieve the financial hardships experienced by small businesses during the pandemic shutdown. Exhibit 4 on the bottom of page 11 shows the processing times of the 50 applications tested.

On the middle of page 12, we found controls were needed to ensure PETS program funds were spent appropriately. During Legislative hearings on the PETS program, legislators expressed the need for accountability. PETS program management testified accountability would be achieved by requiring applicants to submit a spending plan with the application and by periodically auditing small businesses. Our audit found no PETS awardees were audited. Additionally, we found 324 of the 9,389 PETS awardees submitted incomplete spending plans with their application. These awardees provided insufficient detail to demonstrate how approximately $804,000 of funds would be expended in accordance with federal requirements.

Page 13 lists our recommendations regarding the PETS and CRAG programs. I will turn the presentation over to Audit Manager Eugene Allara for our discussion of GOED's SSBCI Program described in chapter 2.

Eugene Allara (Audit Manager):

Good morning, for the record I am Eugene Allara, Audit Manager.

On page 14 and continuing to page 15, our audit found GOED needs to improve fiscal oversight practices of the SSBCI program to properly safeguard program funds. Specifically, GOED did not ensure required financial audits of its corporation for public benefit Nevada Battle Born Growth Escalator Inc., (NBBGEI) were performed during the first four years of the corporation's operations. Additionally, GOED did not appropriately track signatory authority on the account to ensure the appropriate employees were endorsing checks. Also, GOED did not ensure record keeping duties for the account were segregated from employees authorized to sign checks. Finally, GOED did not maintain complete documentation of disbursements for 7 of the 14 disbursements we tested.

On page 16 we found GOED needs to improve monitoring activities over the SSBCI program and NBBGEI. GOED did not collect annual reports, required by state regulation, from NBBGEI. These reports contain information necessary for monitoring the program such as a summary of NBBGEI's audited financial statements and a review of the progress reports submitted by businesses which NBBGEI made loans to or investments in.

On page 17 we found GOED did not ensure progress reports were collected from the 11 open investment businesses held by NBBGEI during our audit period. Further, as noted on the bottom of page 17 through page 18, GOED did not ensure its contracted investment manager consistently provided an update of the status and progress of all businesses provided financial assistance under the SSBCI program.

On the middle of page 18, we note GOED did not perform annual assessments to evaluate whether NBBGEI is furthering the public interest as required by state regulation. Based on the evaluation, the Executive Director of GOED is required to annually certify NBBGEI is meeting the public interest and post the information on the internet.

Starting on page 19 we found GOED did not establish a sufficient process for reporting SSBCI program information to the Legislature. GOED submitted reports timely; however, they did not contain sufficient information. For example, reports lacked an adequate accounting of SSBCI funds, a summary of progress reports submitted by NBBGEI investments, and a certification by the Executive Director of GOED that NBBGEI is furthering the public interest.

On page 20 we indicate NBBGEI 2021 financial statements were not prepared in accordance with Generally Accepted Accounting Principles. Specifically, investments are not recorded or valued in the financial statements at their fair market value. Instead, the financial statements value the investments at what NBBGEI paid for them at the time of investment. Because the value of investments can vary widely over time depending on its performance, recording investments at the fair market value is the preferred method.

On pages 21 we note LCB access to SSBCI program records was not consistently included in program contracts. While performing our audit, one contracted entity providing services for NBBGEI became unresponsive to our requests for meetings and documentation. Additionally, some SBBCI program staff expressed concern with LCB Audit Division's authority to access program records. During Legislative hearings regarding the formation of NBBGEI, GOED testified LCB access to confidential information would not be impacted by the program structuring. However, GOED did not consistently ensure program contracts contained inspection provisions for the LCB Auditor.

In the middle of page 21 and continuing on page 22, we caution that potential program changes could increase NBBGEI's separation from the State. During Legislative hearings on its formation, GOED management testified that the State was the owner of NBBGEI. However, although GOED staff cooperated with the audit, concern was expressed regarding LCB Audits authority to access NBBGEI records due to the separate status between NBBGEI and the State. Further, staff indicated that separation could increase with the addition of new federal funds into the program. Such separation could be accomplished in part by modification of NBBGEI's bylaws. As a safeguard to help ensure proper oversight, the Legislature implemented legislatively appointed members on the Board of Directors of NBBGEI. Additionally, the Legislature made the Executive Director of GOED chairman of NBBGEI's board. Legislatively appointed board members should ensure the Legislature maintains oversight ability of the SSBCI program.

Our recommendations for the SSBCI program are listed beginning on the bottom of page 22 and continue page 23. Page 24 through 27 incorporate Appendix A which provides a detailed timeline of PETS funding authorization and spend down. Appendix B, located on page 28, provides a copy of the State Regulation requiring annual reports related to the SSBCI program. Our audit methodology is listed in Appendix C located on pages 29 to 33. GOED's response to our audit is located in Appendix D beginning on page 34. This concludes my presentation; I would be happy to answer any questions at this time.

Chair Dondero Loop:

Thank you very much for that information. Questions up North?

Senator Daly:

Thank you, I have several. I guess I am just dumbfounded a little bit on some of the circumstances and various things, but I will try to keep it civil. When they we are going through this stuff, and I understand a lot of this came from the feds with very little instruction, nobody knew exactly what they intended. I do recall, IFC was trying to figure out what we can spend the money on. There were little delays to get it out and they put some safeguards in and did some things on here, some mandated by the feds, some put on by the State, in order to qualify for these things. I am sure it was a lot in the money. And then we had not only one, but two agencies. Apparently, you also had GOED and you also had the Treasurer's Office who was supposed to oversee and sign off on these things. In fact, I think they testified that there would have to be a spending action plan and various things if I read your report, and apparently all of these things we are missed and people checked boxes and nobody followed up. Then I am looking on page 7 where it says awardees signed an agreement representing their business was in good standing with the State business licenses, tax returns, all of these things. They didn't owe money, which are the requirements. And apparently those we are inaccurate. Nobody double checked; two agencies. Is there any, was there any, reports or going after these people and say, 'hey, you probably received this money, you have to pay it back'. Was signing a false statement referred to the AG's office. What was done? I do not mean to get on a high horse, but if this was an audit of an unemployment division and there were workers that filled that paper wrong or did this or made false representations, we'd have Fox News in here saying, oh, hue and cry. This is a horrible thing, small businesses, and I understand the pandemic. We're not trying to hurt people, but you have to follow the rules and it seems like there's a double standard and I am upset. Maybe I expected out of GOED. I have never been a fan really, but I am disappointed the Treasurer's Office did not hold up their end of this oversight when they said they would. What have we done for these people that we are obviously not in compliance and the State doled out this money. We're in such a big hurry

to give away federal dollars, we just said, ah, take it everybody and people, why people wonder why there's no confidence in some of these programs.

Chair Dondero Loop:

Thank you very much. And Director Burns is here in Las Vegas so I will let whoever, whether Carson City or Las Vegas, wants to answer.

Eugene Allara (Audit Manager):

For the record, Eugene Allara, Audit Manager. Senator Daly, we struggled with what to do with this. And ultimately, came to the conclusion because these are of a large number of very small awards, $10,000 each, over 10,000 different awardees, it would cost the State a significant amount of money to recoup an individual award with time from the AG and so forth. Our conclusion was that it would be best moving forward, to ensure that proper controls were in place so that this does not happen again.

Senator Daly:

And I understand some of those calculations. We do the same thing in trust collections and various things, as well as the cost of diminishing returns - recognized the economic principle. I guess the moral of the story is, cheating does pay sometimes. On the vendor who had a 60-day limit to do his work in various things and we had a contract with the vendor to do these things. I am assuming they had some oversight on all this stuff before they recommended to the person who's then supposed to review and sign off on it before payment was made - they had a 60-day limitation. Was there any provisions for liquidated damages or liability on the vendor for not concluding their work appropriately or within the standards in the terms of the contract. Is there any liquidated damages or recuperation the state can go through to that vendor, who absolutely had responsibility and a signed contract that they would perform, perform the work.

Eugene Allara (Audit Manager):

For the record. Eugene Allara, Audit Manager. I am not aware of such provisions, but I will go back and check the contract again and get back to you on that.

Senator Daly:

If we did not have it in there, we should have it in there. We have it on a lot of other stuff, and I know my colleague from, I think it is Senate 4, wanted to have some oversight on these types of things. I know we have put claw back provisions in just about every type of incentive and things that we have done, and I know we are in a hurry with some of the stuff. We are trying to help people, but there are people that actually needed the help qualified that got shut out because people failed that we are counting on to have this stuff: the vendor, Treasurer's Office, GOED, down the line. And it just causes me concern and problems if we are not doing that. And, like I said, the Treasurer's Office did testify that accountability and that we would have these spending plans. And you report in your audit that those we are not provided directly or inaccurate or incomplete - so there was basically no oversight. We gave you the money and you can do whatever you want with it. I hope they did not lose it at the crap tables. But at least we would have got some state revenue if they did. I will stop there for now, Madam Chair. I just am dumbfounded with this report and in the inadequacies of how the State handled it. Thank you.

Chair Dondero Loop:

Thank you very much. Senator Goicoechea, do you have any questions up there?

Senator Goicoechea:

No Madam Chair, but maybe one more comment; those are different times and truly was a feeding frenzy and I appreciate the work. I think it is just the tip of the iceberg when we get into the whole mess. I am sorry. Thank you.

Chair Dondero Loop:

Thank you very much. Senator Neal?

Senator Neal:

Thank you, Madam Chair. I have a question for Director Burns. I am going to start with a question and then I am going to have a second question. Is the corporation for Public Benefit established under 78 B? The NRS 78 B? Do you know what statute it is under?

Tom Burns (Director, Governor's Office of Economic Development):

Senator Neal, I do not know directly what statute it is under. I apologize. I can get back.

Senator Neal:

I think it is 78 B. I am not sure either. It says specific public benefit defined which was promoting economic opportunity. I was trying to understand, but I know it was created under a statute. Ok. That now goes to my second question, which is what is listed in the report on page 21 and 22 about this interesting commentary that maybe the fiscal division or the auditors really did not have the true authority to come in and review this NBBGEI and I want to understand that a little bit more. I understand this constitutionality piece but help me understand why a statement like that would be made when, if we create something in statute and let us say, it is the hospital, we as a Legislature still can go in and ask questions. And if state money is involved and somehow, we, are we are saying, you are not doing the public benefit appropriately. Help me understand, I want to understand the logic and the reasoning and then the reasoning to want to change the bylaws. And I am not sure if that was true. Change the bylaws to potentially lock us out of viewing or seeing or questioning.

Tom Burns (Director, Governor's Office of Economic Development):

Senator Neal, Tom Burns for the record. I find those comments regrettable. I think it is important for our agency to be very transparent in what we do with the people's money and how we handle it and be very, very straightforward. It is easy to pass the buck. I am not trying to do that. That is not the attitude of the leadership of GOED at this point in time. I apologize for any inconvenience that Mr. Crossman's staff incurred as a result of that and find that very regrettable.

Senator Neal:

Thank you for that. With that, Director Burns, there will not be any future activity or bylaw changes that somehow block the auditors from coming in and asking questions that that has been officially tabled indefinitely?

Tom Burns (Director, Governor's Office of Economic Development):

Senator Neal, Tom Burns for the record. Not on my watch.

Senator Neal:

That was my only question, Madam Chair. Thanks.

Chair Dondero Loop:

Thank you very much. And I think that, as I am listening to the questions and the information, I think one of the things that is so pointed is that while I recognize this may have started, some of the dates in the report are March of 2020, which was long before your time, but they have continued. And so, I think that is the discomfort that everybody is feeling. I am glad I know that you are saying that this will not happen under your watch. I am hoping when there's another audit that we will see that in reflection as we move forward.

Tom Burns (Director, Governor's Office of Economic Development):

Madam Chair, may I ask a question?

Chair Dondero Loop:

Sure.

Tom Burns (Director, Governor's Office of Economic Development):

As you said, it continued on. I guess I lack a point of reference on that.

Chair Dondero Loop:

Well, I think that this particular audit may have started in March, but I am not sure that we have seen the answers to the questions that the members ask. Have we seen any change? And I do not mean under your under your directorship, I just mean, have we seen some change?

Tom Burns (Director, Governor's Office of Economic Development):

As respects to the internal controls or attitude as it relates to training?

Chair Dondero Loop:

I would probably say both.

Tom Burns (Director, Governor's Office of Economic Development):

I think you'll note that we accepted all of the comments from Mr. Crossman's staff. By background, I am a licensed CPA and I find internal controls to be pretty important. So we will adhere to those. It is important that the people of the State of Nevada have confidence in how their taxpayer dollars are administered on their behalf through the legislative and executive process. And those are very important. We are doing and we have made very significant changes in the last 90 days and prior to that, but very significant ones in the last 90 days as it relates to internal controls and how they will move forward. As it relates to the transparency again, I will go back to that it is very important that the people of the State of Nevada have confidence in how their money is administered. And if you hear differently, Senator, I would like to hear it from you. I am happy to respond to any questions any legislator or a member of the public has.

Chief Dondero Loop:

Thank you very much. I appreciate that because I hope we never have another pandemic and get all this money.

Tom Burns (Director, Governor's Office of Economic Development):

We share that desire.

Chief Dondero Loop:

Yes, because it did create it is own inherent issues that nobody could foresee - and by the way, I would suggest that it was in every state, it was not just in ours - I appreciate that, and I appreciate your leadership and what you are doing to rectify some of this. And I appreciate you accepting the recommendations. Will you be recommending anything in regard to legislation moving forward? You may not know that right this minute, but I was just curious.

Tom Burns (Director, Governor's Office of Economic Development):

Not as it relates to either one of these two programs. I think, to your point, Madam Chair, Tom Burns, for the record. To your point Madam Chair, I hope not to administer a pandemic program under my watch. But if we will, we will do a better job than we did last time and probably hold our vendors more accountable as we move forward. I do not anticipate any legislation as it relates to the SSBCI program at this point in time.

Chair Dondero Loop:

Thank you very much. It is always great to be - and not suggesting that you are - but the Monday morning quarterback. You know, after it has already happened, being able to say what went wrong. But the prior knowledge always helps moving forward. So, thank you very much. Any additional questions from the members?

All right. Well, with that, I would accept a motion.

SENATOR NEAL MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE OFFICE OF THE GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT, PANDEMIC RELIEF AND STATE SMALL BUSINESS CREDIT INITIATIVE ASSISTANCE PROGRAMS AND THE RECOMMENDATIONS.

SENATOR DALY SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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Chair Dondero Loop:

Thank you very much, Senator Daly. Any discussion?

Senator Daly:

One comment if I can, Madam Chair. I want to thank the Audit Division for a very enlightening report. I would just express, again, my displeasure with the results of this audit and the two agencies that had responsibility for oversight and the vendor that they hired as well.

AGENDA ITEM V. D. – COLORADO RIVER COMMISSION, RESOURCE AND TECHNOLOGY ADMINISTRATION (LA24-10)

Chair Dondero Loop:

Thank you very much. Any additional comments? With that, we will go on to V D.

Thank you, Mr. Burns, and thank you to your team for being here.

V D, the Colorado River Commission of Nevada, Resource and Technology Administration. Mr. Jones and Mr. Allara again.

Scott Jones (Deputy Legislative Auditor):

Good afternoon, Chair and members of the Audit Subcommittee. For the record, my name is Scott Jones, Deputy Legislative Auditor. If I could direct your attention to page 1, I will begin my presentation with some background information.

The Colorado River Commission of Nevada (CRC) is responsible for establishing policy and overseeing the management of Nevada's allocation of water resources and electrical power from the Colorado River. CRC is composed of a body of seven commissioners and its staff.

CRC operations fall into four main areas. The first is hydropower. CRC manages Nevada's allocation of hydropower purchased from the federal government. The second major CRC operation is its oversight of power delivery through its operation and maintenance of 17 high-voltage substations along with overhead and underground transmission lines in Southern Nevada. Third, CRC oversees tracking of Nevada's Colorado River water usage, and it supports federal conservation programs relating to the Colorado River. Finally, CRC

administration oversees information technology, accounting, budgeting, and other functions like fiscal and performance measures reporting.

CRC does not receive any general fund or other state or federal funds to support its administrative and operating functions. All functions are funded solely from revenue received from the sale of electrical power and water administrative charge to its contractors.

On page 2, we describe our audit scope and objectives. Our audit objectives were to determine if CRC was adequately managing certain activities related to its power delivery, hydroelectric power billing, and water usage tracking and to assess the security of power delivery IT systems and CRC IT risk management processes.

On page 3, we begin our findings and recommendations. We found that records used to document safety procedures performed when taking high voltage electrical systems in and out of service were not always complete and sometimes lacked evidence of management review. Our evaluation found for 10 of 29 switching orders, CRC staff and management did not complete important fields of the forms. Exhibit 1, on the top of page 4, summarizes the results of our review. As the Exhibit shows, certain switching forms lacked documentation of required review and other required information like who prepared records and completed certain switching procedures.

Proper completion of switching orders is important to demonstrate compliance with approved switching procedures and federal safety standards. CRC management indicated there have been no switching injuries during the last 25 years; however, properly documented switching procedures are important to ensure CRC staff are following steps designed to mitigate the risk of injuries or death associated with working on high voltage lines.

Continuing on page 5, we found that CRC could not provide documentary evidence that some required monthly maintenance inspections of their electrical substations were performed. Although our inspections of a sample of 8 of 17 CRC-owned electrical substations did not identify any major safety or security concerns. CRC could not provide checklists for 49 of the 396 (12%) inspections required for CRC substations in fiscal year 2022. Without sufficient documentation, CRC management does not have assurance inspections took place. CRC management indicated the monthly inspections are the primary means to help ensure critical electrical infrastructure equipment is working properly and safely. Inspection checklists were not completed in part because CRC lacked policies and procedures governing the substation inspection process and retention of related documentation.

On page 6, we also found that CRC did not document effective prioritization of maintenance issues identified in routine inspections, and it also did not always record corrective action plans designed to resolve identified concerns. 13 of the 14 substations with maintenance issues identified by CRC did not have a documented corrective action plan to help ensure issues were corrected or prioritized. CRC management verified they do not document corrective action plans or document their prioritization of maintenance issues, although management stated any critical issues identified are promptly scheduled for maintenance. Documented review of inspection records and development of corrective action plans help ensure management is aware, has prioritized, and has ensured timely correction of maintenance issues.

Page 7 shows our analysis of water usage tracking. CRC's reporting of Nevada's use of its Colorado River allocation by water customers was materially accurate. However, the 2021

report contained minor miscalculations affecting an informational table comparing the 2021 water use to the previous year for two of seven water users. The minor errors in the informational table did not impact the overall reporting or accounting of Nevada's net water usage. However, CRC has not documented policies and procedures for water usage tracking calculations, reporting, and management oversight. Without policies and procedures, there is an increased risk of reporting errors.

Continuing to page 8, we reviewed two hydropower performance measures reported in the State of Nevada 2021-23 Executive Budget and found that one performance measure reported had values that were inaccurate and lacked supporting documentation. This occurred because CRC did not have written procedures and controls for calculating, reviewing, and reporting performance measures.

On page 10, we describe our assessment of information technology oversight at the CRC. We found that CRC does not have written assessments and plans to help protect the agency's IT systems and resume operations in a catastrophe. Specifically, CRC does not have a documented IT risk assessment and continuity of operations, disaster recovery, and incident response plans for their administrative network and the supervisory control and data acquisition system, commonly referred to as the SCADA system. Exhibit 2 on page 11 provides an outline of the required IT assessments and their purposes based on the State's information security policies. Without IT security plans, there is an increased risk staff will not have sufficient resources and training to appropriately react to IT related incidents. Thus, continuity of operations could be negatively impacted.

On page 12, we state that although management effectively oversaw many elements of security, CRC's process for monitoring visitor access to sensitive areas could be enhanced. During on-site inspections of CRC facilities, we observed physical access controls like secure entrances and doors at CRC facilities that prevent unauthorized public access to the buildings. However, we found CRC did not maintain visitor logs for their SCADA control room and the main server room. Establishing visitor access policies helps standardize and prioritize control and management of visitor access, improving security over sensitive IT resources.

Additionally, CRC lacked an effective process for ensuring background checks were completed for employees working in sensitive areas. Our assessment of CRC's records identified two employees who did not have a fingerprint-based background check as required by state IT security standards. Further, two employees working within the critical infrastructure of CRC's electrical systems did not receive a timely background check. Timely background checks help ensure employees working in critical areas are free from criminal activity which could impact the agency and the public. Background checks were not performed because CRC did not have policies and procedures to identify positions requiring checks or for their timely performance.

To conclude, the report appendices begin on page 14. Appendix A is our audit methodology, and Appendix B is the Division's response. As indicated on pages 25-26, the Division accepted all 13 recommendations.

Chair and members of the Audit Subcommittee, that completes my presentation. I am available to answer any questions.

Chair Dondero Loop:

Thank you very much and thank you for being quick and concise. Any questions up North?

Senator Goicoechea:

Yes, thank you, Madam Chair. As I look at this, and in your recommendations, there's a number that are centered around IT. I would assume all state agencies have some very similar policies and when sensitive IT issues and how you secure them. I realize we are talking about water and power, but again, there are a number of agencies on the same thing. Is there just a matter of question, do not we have something broad-based, for all state agencies, when it comes to securing your IT?

Scott Jones (Deputy Legislative Auditor):

Scott Jones, Deputy Legislative Auditor, for the record. We compared their operations against state IT security standards, which are manuals that include policy and that are standardized, and the agencies are to comply with those standards.

Senator Goicoechea:

Ok, what you are saying with this report, it is shortcomings in there. How they are dealing with their IT services, and they need to bring it up to the level that other state agencies are.

Scott Jones (Deputy Legislative Auditor):

Scott Jones, Deputy Legislative Auditor, for the record, yes.

Senator Goicoechea:

If they are not performing like everybody else, they better get on board. Ok, thank you.

Chair Dondero Loop:

Thank you very much Senator. Any questions down South?

Senator Neal:

Thank you, Madam Chair. I was reading in the response from the agency that the one employee with technical expertise retired during the audit. Then, a new employee was hired, but is the retired employee offering his expertise? Because it said that they are trained in water accounting but that may not be to the same level.

Scott Jones (Deputy Legislative Auditor):

Scott Jones, Deputy Legislative Auditor, for the record. When we were on the audit, we interviewed different staff and management to identify who in the staff had the technical expertise to produce the report and sufficient knowledge to be able to review that report. At the time of the audit, based on our interviews, there was only one staff member that had the technical training to be able to produce the report and provide a comprehensive internal review of the report. That is why our recommendation is to cross train another employee. Their response indicated some additional information that we did not have during the audit. But the agency could also comment regarding that position and their availability during the production of that report.

Chair Dondero Loop:

I believe the agency is in the room, if you will come forward.

Eric Witkoski (Director, Colorado River Commission):

For the record, Eric Witkoski, Director of Colorado River Commission. Regarding the question, we had one person available who could do the report. Peggy actually retired. She was the other person who could do the report and do the internal review. She did retire, of course, she was available if we are in a pinch. But I would also highlight, number one, we have actually now hired another person to do the internal review but during this period, just so you understand that even when we prepared it, we do have an external review and we, because we coordinate with SNWA and because they have water accounting as well, they check the numbers and I do not sign off until it is been reviewed also externally and then prepared. Now, currently, right now it is prepared and reviewed internally, it is still reviewed externally and then I do not sign off until those processes have gone through.

Senator Neal:

Thank you for that response. I think ultimately my question is, thank you for giving us a name, I do not know who Peggy is, but has Peggy been able to cross train the new employee? Who is now taking this over, since she was the expert, and now this other person may not have all of the same level of expertise? Has she come in and tried to assist and help with training that individual, or did she?

Eric Witkoski (Director, Colorado River Commission):

For the record, Eric Witkoski, Director of Colorado River Commission. That's a good question but I can give you a little bit of facts on that. The person who prepares it now is still with the agency. She was there as secondary if we needed her to do it and she could do the secondary review. But the person who does a primary is now the Chief of that division and he is able to train the new person that we have hired and so she is capable as well. And then we are recruiting for a third person who will do solely the water accounting. And then we want them to do some modeling because with the challenging of hydrology is difficult to predict hydropower for your hydropower customers. We are going to try to do some of our own forecasting. We've done some internally with success and we think we can expand that role for that person. We will have the water accounting covered with the Chief with the other person and then this new person.

Senator Neal:

Ok. Thank you. Thank you, Madam Chair.

Chair Dondero Loop:

Thank you. And Peggy, if you are listening, we need you.

Any additional questions from the committee? We thank all of you for what you are doing. These audits are a lot of work for the agencies and for the auditors.

With that, I will take a motion to approve the report.

SENATOR GOICOECHEA MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE COLORADO RIVER COMMISSION, RESOURCE AND TECHNOLOGY ADMINISTRATION.

SENATOR DALY SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM V. E. – DMV, INFORMATION SECURITY (LA24-08)

Chair Dondero Loop:

Thank you very much and we will move on to V E, the Department of Motor Vehicles, Information Security. We have Mr. Gray and Ms. Eitel-Bingham. You may go ahead when you are ready.

Christopher Gray (Deputy Legislative Auditor):

Thank you, Madam Chair, and good morning members of the Audit Subcommittee. For the record my name is Christopher Gray, Deputy Legislative Auditor (Information Security). Today I am going to present the Department of Motor Vehicles – Information Security audit beginning with background information on pages 1 and 2.

At the time of the audit, the DMV licensed 2.3 million Nevada drivers and more than 2.7 million vehicles. There are approximately 10 million transactions processed and 1.6 billion dollars in revenue collected each year at DMV. Exhibit 1 shows the positions and vacancies by budget account indicating more than 1,100 active employees of which 65 were dedicated to IT functions.

At the end of page 2, the scope of our audit covered the information systems and related practices in place during fiscal years 2022 and 2023. We also reviewed information back to 2020 for user access and 2021 for asset inventory. Finally, the audit objective was to determine if the DMV has adequate information security controls in place to protect its information processing systems.

Page 4 begins the first chapter, "Essential Information Technology Functions Need Additional Oversight". In the middle of page 4, we note that the DMV is not routinely completing annual risk assessments of its information systems. At the time of the audit, there were no monitoring controls in place to ensure IT-related activities such as risk assessment occur in frequency with established standards. The DMV's most recent risk assessment was conducted in 2019.

Page 5 explains that the DMV does not have fully documented plans related to critical IT operations and functions. Specifically, the DMV does not have a continuity of operations or disaster recovery plan, which are used to minimize the effects of a major failure of information systems and business activities. Additionally, the DMV's incident response plan was in draft form and not followed during an incident that resulted in the DMV's website user portal being down for 10 hours.

Continuing on page 5 and onto page 6, auditors note the DMV's data destruction process is insufficient. The DMV does not have a process or policy to track and monitor hard drives from receipt to disposal or to ensure devices are thoroughly cleaned or destroyed when retired. Exhibit 2 shows an example of hard drives collected in a cardboard box that was slated for destruction but contained no indication of origin, data classification, or data destruction status.

On Pages 7 and 8, we note the DMV's security patching and change management processes lacks oversight, consistency, and documentation. Auditors found various systems were not receiving updates consistently, including servers. Further, the approval process for applying patches to the primary CARRS system was not always documented. For 25 devices selected, the DMV was unable to provide any configuration documentation.

Continuing on page 8 and on to page 9, we discuss that the DMV does not monitor data extractions or review logs for sensitive information from their primary system. The DMV has an established process for data sales; however, the application, approval, and data extraction process is performed by two separate divisions, and documentation detailing the nature, reason, and approval for the information is not retained.

On page 9, we note that modifications to PII records were not always reviewed. 6 of 67 programmer-initiated social security number modifications, tested did not contain any reason as to why they were accessed or changed in the primary application.

Page 10 concludes the first chapter and contains 10 recommendations for adding additional oversight to essential information technology functions.

Page 11 starts the second chapter, "Better Controls Over Access to Systems Needed". On pages 11 and 12, we discuss that user access management at the DMV is weak. Information technology security forms are utilized to establish and revoke user access to systems, however, our review found that ITSEC forms were not updated when users were terminated. The DMV was working on a new digital IT form request system during the audit, but it had not been fully implemented. Additionally, in the middle of page 12, we note the DMV's ITSEC forms lack approved access consistency. In two cases, there were top-level programmers with full primary system access and no indication that access was approved or that they had held those positions. Finally, we note that the DMV does not ensure permissions for routine positions are appropriate.

On page 13, we discuss that because ITSEC forms are not completed timely and routine reviews of user accounts do not occur, the DMV did not consistently remove former or inactive employees' network access in a timely manner, including 15 terminated users that had active application accounts.

Page 14 and 15, we note the DMV's inventory controls are inadequate over IT assets. Our review found the DMV's asset inventory is not accurate, showing IT assets missing from inventory records and other discrepancies between records. Exhibit 3 shows the discrepancies between state inventory, IT inventory, and DMV internal inventory. In addition, on page 15, we discuss there is no current software reconciliation policy at the DMV, and software is not included in the annual inventory process. We found one software license installed 42 times over the purchased limit.

The bottom of page 15 and page 16 conclude the second chapter and contain 5 recommendations for improving controls over access to systems.

The audit methodology is located in Appendix A, pages 17-20. The response from the DMV is in Appendix B, pages 21 -25. And finally, pages 26 and 27 contain the DMV's response to the audit recommendations which shows they accepted all 17 recommendations.

This concludes my presentation. I'm happy to answer any questions that you might have.

Chair Dondero Loop:

Thank you very much and I recognize that you are moving into a new system, so I appreciate the acceptance of the audit recommendations. Are there any questions up North?

Senator Daly:

Yes, Madam. But my question, I think, is for DMV, if they are here?

Chair Dondero Loop:

Is there anyone from DMV?

Tonya Laney (Director, Nevada Department of Motor Vehicle):

Good morning, Vice Chair Daly. Tanya Laney, Director of the Nevada Department of Motor Vehicles, ready to answer any questions. And with me, I have Josh Parker with our information security team as well.

Senator Daly:

Thank you for reminding me on the Vice Chair thing. I was actually going to nominate Senator Neal, but anyway.

Tonya Laney (Director, Nevada Department of Motor Vehicle):

She beat you to it, sir.

Senator Daly:

On the vendor information that sold - and I know DMV has done it for a long time and it is revenue to the State, and we need to understand it and it is what it is - But some of the information that we got here around that on documentation on who has access is concerning. I understand we are going to try to fix that, but my question is, what is in the contract? And they are saying, hey, what documentation and what can they have access to and what are they supposed to be able to do that? You have an agreement with whoever you are selling this to on what it is they have access to, how they receive it, what they can use it for, et cetera. Is all that information in their contract and if they breach that, there's liability on their part?

Tonya Laney (Director, Nevada Department of Motor Vehicle):

Thank you for the question. Again, for the record, Tonya Laney, Director of Nevada DMV. Vice Chair Daly, my understanding is, yes, depending on the organization that has the contract with us, the information is outlined in the memorandum of understanding - or the contract - depending on how that that is structured. And it does have disclaimers in there about the third-party dissemination. In my time with the DMV, I am not aware of any cases

that came up with third-party dissemination and how that was handled. But there is verbiage in there to protect from that act.

Senator Daly:

So, the people that are buying it do not have the right thing to resell it?

Tonya Laney (Director, Nevada Department of Motor Vehicle):

That is correct.

Senator Daly:

And then when I was looking at the recommendations, your letter of response, it says the DMV documented cases. You are working with external partners and providers, and you are going to have evaluations of four bullet points. Is that in place? Is it consistent what you have already done or is that new and going to be in place on the evaluations of the use of that information? I mean, if I had my way, I would say to stop selling it, but I know that is not in the cards. And there's valid reasons for the people that do have it and the vendors and various things, and it is useful in some ways and also useful to the State. But are those recommendations of the thing that is in your response letter in place or going to be in place?

Tonya Laney (Director, Nevada Department of Motor Vehicle):

Thank you for the question. Again, Tonya Laney, Director of Nevada DMV, for the record. I am happy to report that of the 17 findings that we had after LCB audit, we only have one that is currently outstanding. That is due to be completed by the end of this month and that would be item number 13 on our list. Everything else is fully implemented.

Senator Daly:

Item 9 is complete.

Tonya Laney (Director, Nevada Department of Motor Vehicle):

Yes, sir.

Senator Daly:

Well, at least your audit was not as bad as some of the others. I appreciate it. Thank you, Madam Chair.

Chair Dondero Loop:

Thank you very much. Additional questions? All right, go ahead, please.

Senator Goicoechea:

Thank you, Madam Chair. And more of a comment, but if you have got all these implemented, I do not mind saying I was very concerned when I see 10 percent of the social security number changes did not have documentation. That's a big issue. We use

driver's licenses for everything. So, I appreciate that, and thanks if you have got most of them implemented, that will help. Thank you to the audit team as well.

Chair Dondero Loop:

Thank you very much. Any additional questions or comments? All right, seeing none. I will take a motion to approve this report from the Department of Motor Vehicles.

SENATOR DALY MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE DEPARTMENT OF MOTOR VEHICLES, INFORMATION SECURITY.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM V. F. – SILVER STATE HEALTH INSURANCE EXCHANGE, INFORMATION SECURITY (LA24-14)

Chair Dondero Loop:

We will go on to V F, the Silver State Health Insurance Exchange and Information Security. We have Mr. Gray and Ms. Eitel-Bingham. Go ahead, please.

Christopher Gray (Deputy Legislative Auditor):

Thank you, Madam Chair. Again, for the record, Christopher Gray, Deputy Legislative Auditor (Information Security). I am here today to present the Silver State Health Insurance Exchange – Information Security audit beginning with background information on pages 1 and 2.

The Silver State Health Insurance Exchange, known as "The Exchange", is the state agency that operates the online marketplace called Nevada Health Link. Established in 2011, the Exchange was created to function as a state-based health insurance exchange. The Exchange has contracted the enrollment, eligibility, and call center functions of the state-based exchange platform to a contractor. As of March 2023, the Exchange had 33 authorized positions with 31 positions filled. Exhibit 1 shows the Exchange's revenues and expenditures for fiscal year 2023. The scope of our audit covered the systems and practices in place during fiscal years 2023 and 2024. Our audit objective was to determine if the Exchange has adequate information security controls in place to protect the confidentiality, integrity, and availability of its information and information processing systems.

Page 4 begins the first chapter, "Weaknesses Exist in User Management Controls". While we noted various opportunities for improvement, our work did not identify any critical security vulnerabilities at the Exchange within our testing areas. Near the bottom of the page, we note that the Exchange's user access request practices lack consistency and documentation across the various user types accessing the state-based exchange platform. For 29 of 30 users tested the exchange was unable to produce evidence of access requests or approvals.

In addition, on pages 4 and 5, we discuss the Exchange's process for ensuring background checks are completed does not verify all users receive them. For 30 users tested the Exchange was unable to produce evidence it verified that a background check was

completed before granting or allowing access to the state-based exchange platform. Further, we discuss the Exchange does not enforce its policy to have its contractor's background checks conducted by Nevada's Department of Public Safety.

In the middle of page 6, we note that the Exchange does not have a process in place to ensure all users accessing the state-based exchange platform, which contains Nevada citizens' PII, have read and signed the required acceptable use agreements. For 30 exchange platform users tested, the Exchange was unable to produce any documentation of a signed acceptable use agreement.

On page 7, we explain the Exchange does not have any documentation to verify that quarterly user access reviews are being conducted. In addition, we note that better oversight of the Exchange's security awareness training program for employees and contractors is needed. 22 of 30 users tested did not complete their annual refresher SAT or the exchange was unable to provide evidence of its completion.

Page 8 concludes the first chapter and contains 6 recommendations for strengthening user management controls.

Page 9 begins the second chapter, "Key Information Security Processes Can Be Strengthened". On page 9 we discuss the Exchange's risk management process can be further developed to include an assessment of internal IT systems. Although an annual risk assessment is conducted by a contractor on the state-based exchange platform, the Exchange has not prioritized the assessment of risks on internal systems.

On page 10, we note the Exchanges asset inventory practices are weak and need improvement and they relate to computer hardware. We observed significant discrepancies in physical inventory reconciliation. We determined some computers were listed in the state inventory records but were not on the physical inventory list. In addition, at the bottom of page 10, we explain that the Exchange does not always disable local administrator accounts.

Page 11 concludes the second chapter and contains 3 recommendations for strengthening key information security processes.

Page 12 starts the third chapter, "Physical Security Controls Can Be Improved". Page 12 we note the Exchange does not adequately manage digital keycards and physical key access. After reviewing a list of active users from the digital key card system, we found two users who had incorrect names in the system. Additionally, the manual forms used to distribute physical keys lacked some information to properly track keys, such as how many keys exist.

On page 13, we note that while the Exchange has a server room containing limited essential equipment and requires keycard access to enter the building and room, the server room door provides minimal physical security. As shown in the picture, the server room door's slats and exterior hinges would offer little resistance to any forced entry.

Page 14 concludes the third chapter and contains 2 recommendations for improving physical security controls.

The audit methodology is located in Appendix A, pages 15-18., the response from the Silver State Health Insurance Exchange is in Appendix B, pages 19-21. And finally, page 22 contains the Exchange's response to the audit recommendations. I will highlight that they did accepted all 11 recommendations.

This concludes my presentation. We are happy to answer any questions you may have.

Chair Dondero Loop:

Ok, any questions? Up North?

Senator Daly:

Thank you. Under the section on the background checks, may or may not be doing it, I see their response to your recommendation that they are going to work with the vendors regarding the out-of-state contractors. But I was concerned with the language where when you say management, you are talking about the Silver State Exchange said that the contractor is not required to follow state law, which is contrary to their policy. Obviously, if they are out-of-state, I do not know that we can force someone out-of-state, but we do have an agreement or a contract with them that says they'll do these things. Is that correct?

Christopher Gray (Deputy Legislative Auditor):

For the record, Christopher Gray Deputy Legislative Auditor. Thank you for the question. Senator, yes, that is correct, they have an internal policy that outlines the steps that they are supposed to take and that is one of them.

Senator Daly:

And I understand there may be some issues for the people that are out-of-state. Maybe they did not go through the Department of Public Safety here. But did they get background checks or just none at all? Do the vendors have a policy that they are implementing for some of these things or is there just no checks at all?

Christopher Gray (Deputy Legislative Auditor):

Thank you for the question, Senator. For the record, Christopher Gray, Deputy Legislative Auditor. Yes, for the outside agent or for the contractors outside of the state of Nevada, we could not get any proof of a background check other than they said that they had completed one, but there was no documentation to suggest that it was done for sure. I hope that answers the question.

Senator Daly:

It does. And similar to the answer we had earlier on some of the Health and Human Services stuff, these are big companies when they are not only operating in Nevada. We have our own state-based system, but we have outside vendors to help us do these things. Otherwise, it is just not going to work, and we do want people to get insurance and have access to that. And I know in their response it says the exchange has been working with the vendors to find solutions that will work so it sounds to me like they are getting the documentation they need to at least be able to show proof they did it - whether it was done by in state Nevada for someone in Colorado is a different issue. And maybe that needs to be looked at. It is just a matter of getting the documentation and they are working on that if I read their response correctly. They are working on that.

Christopher Gray (Deputy Legislative Auditor):

Thank you for the question, Senator. For the record, Christopher Gray, Deputy Legislative Auditor. Yes, they are going to work on the process. Their current policy was to have it done in-state - so have them fill out the forms and then have the agency send it to Nevada's background check process and then get the results and then let them know, yes, you are now able to access the system. Whether or not it is easier one way or the other, I am not sure, but that is just what their policy says. And so, their policy is not being followed at this time. I would suppose they either work with the agency to develop a new policy or they enforce the one that they have, one way or the other.

Senator Daly:

Right. And if they have a new policy that says they'll accept a background check as long as it is comparable, it is kind of like a lot of other things we do with reciprocity. All right, that was my question. Just wanted to make sure it was getting done. And thank you, Madam Chair.

Chair Dondero Loop:

Thank you. Any additional questions up North? South? All right, well, with that, I will accept a motion on item V F.

SENATOR NEAL MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE SILVER STATE HEALTH INSURANCE EXCHANGE, INFORMATION SECURITY.

SENATOR DALY SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM V. G. – PUBLIC UTILITIES COMMISSION OF NEVADA (PUCN) (LA24-09)

Chair Dondero Loop:

We will move on to V G, the Public Utilities Commission of Nevada, Performance Measures. Good afternoon - or good morning still. I do not want to hurry us here.

Tammy Goetze (Audit Manager):

Good morning, Madam, Chair Dondero Loop and members of the Audit Subcommittee. For the record, my name is Tammy Goetze, Audit Manager. If I could direct your attention to page 1, I will begin my presentation with some background information.

The Public Utilities Commission of Nevada was established in 1911. It regulates approximately 400 investor-owned utilities engaged in electric, natural gas, telecommunications, water and wastewater services, gas and electric "master meter" service at mobile home parks, and some propane systems. In addition, it monitors gas pipeline, rail safety, and underground excavation near subsurface installations.

The PUCN's mission is to protect the public interest by ensuring fair and reasonable utility rates and regulating the delivery of utility services to benefit the economy, the environment, and all Nevadans. This mission is accomplished through eight program activity areas listed on pages 1 through 2.

The PUCN maintains offices in Carson City and Las Vegas. As of June 30, 2022, there were 103 authorized positions of which 92 were filled.

On page 3, Exhibit 1 shows the PUCN's fiscal year 2022 expenditures. Continuing at the bottom of the page, we describe our audit scope and objective. The scope of our audit included a review of performance measures for fiscal year 2022, and prior years for certain external reporting. Our audit objective was to evaluate the PUCN's internal controls over the reliability and relevance of its performance measures.

On page 4 begins our findings chapter. We found controls over performance measures can be strengthened. Stronger controls are needed over the administration of performance measures to improve usefulness and reliability. The PUCN reported 33 performance measures in the 2023 – 2025 Nevada Executive Budget System.

Our testing found increased outcome measures would be beneficial. We analyzed PUCN's 33 performance measures and found only 9 were outcome based. Performance measures that are outcome based demonstrate the impact of an agency. Outcome measures also help state officials get a sense of how the agency is operating and assist with budgetary decisions.

On page 5, Exhibit 2 shows the results of our analysis within each activity area, including the total number of measures, and number and percentage of outcome measures for each area.

Management indicated its core mission and duties have not drastically changed over the years; therefore, performance measures have remained constant. While experienced staff recognize the importance of performance measures for state and federal reporting, more emphasis has been placed on the efficiency, or timeliness, of performance, which represents a majority of the agency's measures (42%). Even though this is an important aspect of performance, further emphasis should be placed on the agency's impact.

As it is commendable that the PUCN is completing cases, noticing dockets, and reviewing filings in a timely manner, it is more beneficial to measure the PUCN's actual impact by compliance actions met, penalties upheld, gas pipeline damages decreasing, and fines collected, as depicted in existing agency outcome measures.

On page 6, we discuss the types of performance measures. When planning, managing, and budgeting, administrators and policymakers need to evaluate various aspects of performance. Different types of measures can be used to provide specific information about a program's activities. Exhibit 3, on page 6, lists the seven common types of performance measures, their definitions, and an example of each type.

Continuing to page 7, we found that the accuracy of performance measures can be improved. The PUCN can take steps to improve the reliability of performance measures used in the state's budget process. Certain performance measures were not reliable due to mathematical errors. Our review found three 2021 and five 2022 measures to be reported inaccurately. Exhibit 4 shows each of these measures, the reported and actual performance data, and reason for error.

As stated on page 8, we indicate that the PUCN can enhance controls over the reliability of its performance measures by providing additional guidance to staff through policies and procedures.

During our testing, we found the agency documents the methodology used for calculating each performance measure in a spreadsheet used by fiscal staff for inputting performance data into the state budget system. Additionally, some staff maintain informal procedures and handwritten notes for preparing their performance measures. Formal written policies and procedures demonstrate a commitment to reliable performance measures by providing agency staff clear instructions for collecting and calculating applicable information.

As stated on page 9, oversight of measurement data is also needed by thoroughly reviewing measurement calculations and supporting documents for accuracy, and ensuring data is utilized for managing operations. We found all fiscal year 2022 measures lacked evidence of an adequate review of measurement calculations and detailed support. For 24 of the 33 measures, staff indicated the measure was reviewed by program staff. However, no documentation existed to support this review.

Further, we found two of the agency's eight program activity areas do not utilize performance data to manage their activity area. Staff indicated their performance measures are only calculated as part of the state budget process; therefore, the measurement results are not used to monitor internal performance.

Performance measures are designed to assist an agency and government officials in identifying financial and program results, evaluating past resource decisions, improving future resource allocation decisions, and communicating program results. By preparing and utilizing performance data, the agency can evaluate whether resources are being used efficiently and effectively to carry out its mission and determine the success of its programs.

On page 10, we state our three recommendations to strengthen controls over the usefulness and reliability of performance measures.

To conclude, the report appendices begin on page 11. Appendix A lists PUCN's performance measures for fiscal years 2020 to 2022. Appendix B is our audit methodology, and Appendix C is the Commission's response. As indicated on page 19, the PUCN accepted all three recommendations. Madam Chair and member of the Audit Subcommittee that completes my presentation, I would be happy to answer any questions.

Chair Dondero Loop:

Thank you very much. Any questions up North?

Senator Daly:

Yes, Madam Chair, is someone here from the PUCN? I have a clarifying question. My question, and anyone can answer on the performance measures, right? A number of outcomes based on performance measures. I want to get clarification on that because I see that it says you accept the recommendation and then the rest of the language says, well, not exactly, right? I am not sure that I disagree with your analysis of that. I just would like to get a little more explanation on what the audit is coming forward and what they mean by outcome-based performance measures and then how you guys understand that that may not always fit into some of the things, especially in the contested cases, explanation on that evaluation on conflicting evaluations.

Stephanie Mullen (Executive Director, Public Utilities Commission):

Thank you, Senator Daly. For the record, Stephanie Mullen, Executive Director with the Public Utilities Commission. And as we outlined in recommendation one, we do acknowledge that our performance measures have not been updated since 2014 and that we are going to take a deeper look. I think 19 bills have passed since the 2013 legislative session. There's probably some room to make some adjustments and add some outcome-based measures. And as I stated in my response, because of our quasi-judicial nature, and the decision-making process in contested cases, it is often difficult to have outcome-based decisions for specific areas of our regulation. While we agree with all recommendations, we have implemented recommendations two and three. We are working on recommendation one to get a better grasp on what needs to happen.

Senator Daly:

Can you give me an example of a type of a contested case where maybe you have an outcome-based measure that you have in your regulation and if applied does not work in the contested case area when you have to, it has got to be fact-based. Again, people have to be able to put up defenses if you are trying to administer a fine or whatever it is. The conclusions have to be sound, and people have defenses to those accusations, et cetera. Any examples?

Stephanie Mullen (Executive Director, Public Utilities Commission):

I do not know if I have one off the top of my head but the example, we gave in our response letter was regarding our staff. We are two sides of the house. We have the commission policy side, and we have our regulatory operations, staff side. They act as parties to these contested cases, and they would also be responsible for performance measures. I think if there we are a certain amount of fines that we needed to impose, I guess I do not have an example off the top of my head, I probably should have come prepared with one. I hear what you are saying. I do not have a specific answer to your question. However, we will be looking at it to see if we can do a bit better.

Senator Daly:

Ok. And like I said, it appears to be a conflict there and we accept the recommendation but not 100 percent. There are variations on that. I was just trying to get an understanding better on that. Like I said, I do not necessarily disagree with your analysis on the contested cases and outcome of determinations. And then people can go to judicial review and various things so that has to be right if you are not going to get overturned, et cetera. That was my only question, Madam Chair and hopefully they'll be able to give me a better answer in the future.

Chair Dondero Loop:

Thank you very much. Any additional questions up north? Down south?

With that, I will take a motion to approve the report.

SENATOR DALY MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE PUBLIC UTILITIES COMMISSION OF NEVADA, PERFORMANCE MEASURES.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM VI. – STATE OF NEVADA SINGLE AUDIT REPORT

Chair Dondero Loop:

We will go on to agenda item number VI, the State of Nevada Single Audit Report from June 30th, 2022.

Tammy Goetze (Audit Manager):

Good morning, Madam Chair and members of the Audit Subcommittee. For the record, my name is Tammy Goetze, Audit Manager. I will begin with a brief overview and background information on the Single Audit Report for the year ended June 30, 2022. The report was due March 31, 2023; however, due to various delays within the state from the State Controller's Office to the state agencies financial and accounting staff, the report was not filed until February 13, 2024. The State has not been granted a federal waiver for fiscal years 2022 or 2023, which is expected to be late as well due to the previously mentioned circumstances.

The Single Audit was performed under contract with the firm of Eide Bailly. The Single Audit is required by the federal government for state agencies who accept and expend federal funds. The statewide Single Audit incorporates audits of the state's financial statements and compliance with requirements related to federal funds. The audit of federal funds is an audit of certain programs and related requirements established by the federal government for the state's use and management of those funds.

The financial statements are comprised of the independent auditor's report, management's discussion and analysis, the financial statements, notes to the financial statements, required supplemental information and related notes, and the independent auditor's report on financial reporting. Management's Discussion and Analysis provides a narrative overview, written by the State Controller, of the financial statements and highlights information for readers. The actual financial statements and notes to the financial statements provide further detail and information and should be read in conjunction with the financial statements.

The Independent Auditor's Report in the Single Audit Report notes the financial statements received an unmodified opinion. This means the auditors have been able to access all necessary financial information and that the information conformed to accounting principles generally accepted in the United States of America. Although, a separate qualified opinion was issued over the governmental activities and general fund as it relates to the Division of Emergency Management's year-end inventory and adjustments.

The auditor's report on federal compliance for each major program for the State had 47 findings related to federal compliance which is an increase from 46 in fiscal year 2021 and 25 in fiscal year 2020. The most significant findings are those considered material weaknesses with material non-compliance. A material weakness is defined as a deficiency in internal controls, which is significant and results in noncompliance with a requirement of a federal program, which will not be detected or corrected on a timely basis. There were 16 of these findings in this report. The auditors' report on federal compliance also noted that the Schedule of Expenditures of Federal Awards is fairly stated. The Schedule of Expenditures of Federal Awards identifies over $9.9 billion in federal awards was expended by the State in fiscal year 2022. In 2021, $13.9 billion and in 2020, $11.1 billion was expended.

The 17 findings related to the financial statement audit related to errors in recording Unemployment insurance; Emergency Management inventory; Transportation infrastructure; Corrections and Health and Human Services payroll; Taxation sales and use tax; Agriculture, Education, Medicaid and CHIP, and Public Safety receivables; Pandemic electronic benefit transfers; and Higher Education Tuition Trust Fund financials. Additional errors were found regarding cash and investments reconciliation, classification, and disclosures; revenue recognition; settlement liability and expenses; leases recognition and disclosures; and overall risk assessment and monitoring activities. Accounting adjustments were made to correct the errors, where applicable.

The Single Audit Report contains management's response to auditor findings including the prior audit findings and corrective action plans prepared by the agencies who received the findings. These can be found on the blue pages at the back of the printed version of the report.

That concludes my overview of the Single Audit Report. I would like to express the Audit Division's appreciation for the professionalism of Eide Bailly in completing the Single Audit this year and in prior years. Representatives from Eide Bailly are present today to make a brief presentation and answer any questions the committee members may have, including challenges they faced which affected the timeliness of the audit.

Laura Nelson (Senior Manager, Eide Bailly):

Good morning, Madam Chair and members of the Audit Subcommittee. My name is Laura Nelson. I am a Senior Manager with Eide Bailly, for the record. We would like to first extend our gratitude for LCB for their continued collaboration and they've been fantastic to work with as always. Tammy Goetze, Audit Manager, did a good job of summarizing the audit. I am going to focus my presentation to highlight a little bit of the timing issues that we have seen recently in issuing the financial statement and single audit for the State of Nevada and then we will be here to answer any questions that the Subcommittee may have for us.

As you know, Eide Bailly has performed the audit for the State of Nevada for a number of years. Historically, we have issued on mutually agreed timelines and have met any statutory deadlines by outside parties like bondholders and the federal government. Where we started to see a change in the timing of our financial statement and single audit issuance was during the COVID pandemic. We've heard a little bit of a theme with some of the other audit presentations earlier in terms of how that impacted the state of Nevada and the staff. With that, there was a large increase in federal funding which increases the complexities of the audit. In addition, that created new major programs that we are subject to audit for the State of Nevada. With that, we also saw staffing shortages across the State of Nevada, not only with the agencies, but also impacting the Controller's Office and this is not unique to the state. We've seen this across all of our audits with governments and other industries

because the COVID pandemic did have a significant impact with being able to attract and retain talent. Just to give you some of the historical context for our issuance for fiscal year 2020 we did issue the audit in May 2021. That one was the first one that was a little bit extended due to deadlines received from outside agencies. Fiscal year 2021 was an issuance in June of 2022. A similar timeline where we started to see a more significant change in the timing of issuance was in this fiscal year 2022 report where the financial audit was issued in January of 2024 and the single audit was issued in February 2024. Again, this was essentially a cumulative impact of the COVID pandemic and we saw an increase in retirement and turnover with staff among agencies and among the Controller's Office. In addition, there's been lingering COVID fundings and programs with the complexities that that has added to the audit. And as audit manager Tammy Goetze stated that also led to an increase in findings. Through the pandemic, we at the start of it, we are closer to in the 20-finding range and we have increased to now 47 findings. And the implication on that in our audit is just, it adds additional time as we have to work with the agencies and the Controller's Office to get the underlying support that we need and then work through any issues that we found in the audit to make sure that they are taking the correct action to improve these going forward. Again, that kind of concludes my highlights of the timing of the financial and single audit issuance. Again, we would like to thank LCB for their continued engagement in the audit. And we would also like to thank the Controller's Office and agencies. Although we have seen a number of findings, they are always cooperative and professional in getting us what we need for the audit. And with that, we will open to any questions of the subcommittee.

Chair Dondero Loop:

Thank you so much and thank you for that information. Questions up North?

Senator Goicoechea:

Just a comment and a little clarification, I guess I need on this. And now again, this audit truly only goes to mid-2022. And so, and again, in the 2023 session, we had a significant amount of ARPA funds being, in my mind, probably where it is going to get a lot stickier, because there was a lot more money and a lot more programs out there so that'll be at least a year out and probably two before we have that audit where you actually look at those numbers, say the programs that we are coming out of the 23 session.

Scott Phillips (Audit Partner, Eide Bailly):

Scott Phillips, Audit Partner with Eide Bailly. Yes, that would be correct. We continue to work through 2023, which has additional funding related to it and some of those other sources and we are in the midst of that audit as we speak.

Senator Goicoechea:

All right. Thank you. And I will not lie to anybody and tell them I read this whole thing. So, thank you.

Chair Dondero Loop:

There's a test Senator, at the end of the meeting.

Any additional questions up North?

Senator Neal?

With that, I appreciate all of you and your expertise and I will accept a motion to approve.

SENATOR NEAL MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE STATE OF NEVADA SINGLE AUDIT REPORT, JUNE 30, 2022.

SENATOR DALY SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM VII. – CHILDREN'S FACILITIES REVIEW (LA24-13)

Chair Dondero Loop:

Thank you very much. We appreciate your time, and I think we will try to go on to item number VII.

Daniel Crossman (Legislative Auditor):

Thank you, Chair, for the record, Dan Crossman, Legislative Auditor. Just a quick preamble before we get into this report. One of our roles is to review governmental and private facilities for children on an ongoing basis and provide information to assist in legislative oversight. Ultimately, our goal is to help ensure adequate protection of children in these types of facilities. Our efforts in this area continue to be to perform as many facility inspections as practical. And as we will note in our presentation, our report today covers 29 facilities we reviewed during the prior year. An inspection of a home or facility includes a review of their policies and procedures, review of certain files, and a physical inspection of the facility. We communicate the information and observations after these inspections. We've also worked closely with representatives from DCFS, Washoe County Human Services Agency, and Clark County Department of Family Services throughout this process and have appreciated their assistance and cooperation. With that, I would turn the presentation now over to Ms. Cornelia-Swift, our Child Welfare Specialist, to provide an overview of our report from this year.

Hailey Cornelia-Swift (Child Welfare Specialist):

Good morning, Madam Chair and members of the Subcommittee. For the record, my name is Hailey Cornelia-Swift, Child Welfare Specialist. I am here to present our Governmental and Private Facilities for Children- Inspections report for 2023.

Our work was conducted pursuant to NRS 218G.570 through 218G.595, which requires us to determine if Nevada facilities, defined in statute, adequately protect the health, safety, and welfare of the children in the facilities, and whether the facilities respect the civil and other rights of the children.

On pages 1 through 4, we discuss background information and the type of work we completed. As of June 30, 2023, we identified 53 facilities that met the requirements of NRS 218G. We completed inspections of 29 of these children's facilities.

On page 4, we discuss our inspections of seven children's facilities where we identified multiple issues that caused us to question whether each facility adequately protected the children in its care.

Continuing to pages 4 through 12, we discuss Nevada Homes for Youth. Nevada Homes for Youth is a facility for the treatment of abuse of alcohol or drugs and is licensed by the Bureau of Health Care Quality and Compliance, or HCQC, and contracted as a placement resource by Clark County Department of Family Services, referred to as DFS. We inspected the facility in July 2023. This was our fourth visit to the facility in the last 5 years. Some of the significant issues noted at Nevada Homes for Youth included children self-administering medication; missing medication; incomplete and inaccurate medication records; untimely and backdated treatment plans; missing background check results; missing child abuse and neglect screening results; unsanitary living conditions and damage that posed hazards.

In addition, we found inappropriate age-related activities; documentation of children using substances and bringing contraband into the facility; management and residents' inability to identify regular programming at the facility; lack of notification to HCQC for a serious incident; child rights were not posted, and children were generally unaware of their right to file a complaint; and policies and procedures were weak. Many of these issues were also noted in our 2022 inspections.

Following our visit, we communicated our concerns to HCQC and DFS. HCQC completed an inspection in September 2023 and noted several deficiencies, many of which were similar to our concerns. The facility initially submitted a plan of correction that was determined to be unacceptable by HCQC and later resubmitted a plan of correction that was accepted in January 2024.

Since then, the facility has stopped accepting placements and is undergoing renovation. However, its license with HCQC and contract with DFS are still active. As of August 2024, there are no children placed at Nevada Homes for Youth.

On pages 12 through 14, we discuss concerns noted at Aurora Center for Healing. Aurora Center for Healing is a psychiatric residential treatment facility and is licensed by HCQC. Issues included incomplete and inaccurate medication records, untimely treatment plans, ligature risks for strangulation and self-harm, missing fire extinguishers in dorms, unsecured storage areas with gas and utility lines, unsecured laundry supplies, inappropriate content playing on the television, and policies and procedures were weak.

Following our visit, we communicated our concerns to HCQC. After multiple inspections, a ban on admissions was implemented in May 2023 by HCQC. It was later lifted on September 1, 2023, after a sufficient plan of correction was provided to HCQC.

On pages 14 through 17, we note our concerns with four homes licensed through the Advanced Foster Care Program at the Division of Child and Family Services, or DCFS. This was our second time visiting Advanced Foster Care Homes in the last five years. We had not previously visited the selected homes that we visited in this report. Issues included incomplete and inaccurate medication records; missing medication administration training; non-adherence to statutorily required medication error reporting; missing treatment plans; unsecured records; untimely background checks; debris, equipment and materials that posed safety risks; missing fire escape routes and monthly fire drills; child rights were not posted and there was no evidence to support that children had been made aware of their right to file a complaint; and policies and procedures were weak. Many of these issues were also noted in our 2022 inspection.

After our inspections, DCFS reported two of four homes were no longer AFC homes, and then later reported that one of the homes had become licensed as a specialized foster home again in early 2024. DCFS created a binder with literature and documents for foster parents to assist them in meeting specialized foster care standards.

Since our 2022 visits, policies for complaints and treatment plans have been implemented. Other policies noted as missing have not yet been developed.

Continuing to pages 17 through 19, we discuss HELP of Southern Nevada – Shannon West Homeless Youth Center. HELP is a homeless shelter for at-risk individuals, ages 16 through 24, with 8 beds available for placements of children ages 16 and 17. HELP is not licensed by a state agency but had contracts DFS and Clark County Department of Juvenile Justice Services, or DJJS, that required them to adhere to national, state, and local licensing regulations; standards for emergency shelter care; and Prison Rape Elimination Act, or PREA, standards. This was our second visit to the facility in the last five years. Issues included: children self-administering medication; incomplete medication records; non-adherence to PREA standards including children sharing common spaces with adults; untimely Child Abuse and Neglect Screenings; missing documentation of fire drills, child rights were not posted and there was no documentation to support that a child was made aware of their right to file a complaint; missing training records for employees; and policies and procedures were weak.

Following our inspection, we contacted facility management and the placement agencies to communicate our concerns. DJJS reported they were not enforcing PREA requirements and may revise contract language upon renewal of the contract. DFS reported only placing three children at the facility since 2022, with the most recent placement being a child on independent living arrangement.

Since publishing the report, an update was received that the facility has not renewed their contract with DJJS and is only accepting children from Youth Parole and DFS.

On Pages 19 through 21, we noted a concern for implementation of PREA standards in two of three correction and detention facilities inspected. PREA standards require juvenile correction and detention facilities to use a screening tool to assess children for sexual victimization or abusiveness. We determined two facilities used a screening tool which did not assess all 11 items required by screening standards. The State has developed a screening tool for facilities to use. We recommended that the facilities use the State's screening tool or develop a tool of their own that meets screening standards.

In addition to facility inspections, we review complaints forwarded to our office from facilities. This information is located on pages 21 through 23. NRS 218G requires facilities to forward to the Legislative Auditor copies of any complaint filed by a child under their custody or by any other person on behalf of such a child concerning the health, safety, welfare, and civil and other rights of the child. We received 1,261 complaints from 34 facilities in Nevada for the fiscal year. The other 19 Nevada facilities reported that no complaints were filed during this time.

Based on our review of complaints, we identified that collection, documentation, review, and resolution of complaints vary at each facility. Facilities also have different interpretations of what constitutes health, safety, welfare, and civil and other rights of a child. In July 2023, we communicated our expectations for complaint reporting to facilities.

Exhibit 4, on page 23, summarizes complaints submitted by facilities based on the type of facility for that fiscal year.

On pages 23 through 24, we discuss that employees at some licensed health facilities are not required to have certain training specific to children. Facilities licensed by HCQC that have state placed children are not required by statute to train employees in certain areas specific to children's safety and welfare.

In contrast, statutes governing other facility types that have state-placed children require training in areas including controlling the behavior of children, use of force and restraint, rights of children, suicide awareness and prevention, administration of medication, other matters affecting the health, welfare, safety, and civil rights of the children and working with LGTBQ children. The legislature may want to consider enacting legislation to require all facilities HCQC licenses, which have physical custody of children pursuant to a court order, to train employees who have direct contact with children on the specific topics statutorily required for other children's facilities.

On pages 24 through 27, we note that certain licensed health facilities are not required to screen employees for Child Abuse and Neglect. Statutes do not require health facilities licensed by HCQC that have state placed children to screen employees having direct contact with children for substantiations of child abuse or neglect. NRS 449.125 requires termination of an employee of a licensed health facility if information is received that the person has had a substantiated report of abuse or neglect. However, statutes do not define a method for obtaining this information.

In contrast, statutes governing other facility types that have state placed children require a review of the Central Registry of Information Concerning the Abuse or Neglect of a Child prior to an employee's hire. The legislature may want to consider enacting legislation to require all facilities HCQC licenses, which have physical custody of children pursuant to a court order, to screen employees who have direct contact with children for substantiations of child abuse or neglect before hire. For all children's facilities that have Child Abuse and Neglect screening requirements, only one facility under our purview is required to complete repeat screenings of employees who have direct contact with children. This allows for the opportunity of a substantiation of abuse or neglect during an employee's tenure to go unnoticed. The legislature may want to consider enacting legislation to require all children's facilities that have physical custody of children pursuant to a court order to screen employees who have direct contact with children periodically for substantiations of child abuse or neglect.

Appendix B on page 32 contains a list of inspections we completed. Appendix C, on pages 33 through 35, provides some background, population, and staffing information on the 53 children's facilities in Nevada.

This concludes my presentation. I would be happy to answer any questions the Subcommittee may have.

Chair Dondero Loop:

Thank you very much. It is always hard to listen to this when it concerns kids that are vulnerable and that we are trying to help and we do not rise to the occasion. Any questions up North?

Senator Daly:

More of a comment, Madam Chair. I agree with what you just said. When I have seen some other reports similar to this previous interim committees. When you note these things over and over and then Department for Child Services, they come in and they try to make the corrections; How does it keep happening? I just do not follow. They get unlicensed and relicensed it, it is just difficult to continue to hear that kind of stuff and anybody that that is out there, this is my comment: Rules and these regulations get put in place for a reason to protect the child or the person that is being placed. People are getting paid to provide the services in the fashion that they've agreed and the contracted and the regulations are not just to protect the kids also to protect the State because reports like this, if there's something, God forbid happens, State's going to get held liable for this. If we continued knew about it, allowed it to happen, and did not enforce the regulation. Anybody that is out there trying to say, oh, these regulations are horrible. We should not just let these businesses self-govern because they will not do it. Having this oversight and regulation is not always negative, especially if we are going to be protecting the citizens of the State and these children. That is my comment. I just get frustrated when people say, oh, lift all the regulations and let them go wild. You do not know what you are asking for when you do that. Thank you.

Chair Dondero Loop:

Thank you. I think that was just a comment, not a question. Any additional questions up North? Senator Neal?

Senator Neal:

Thank you, Madam Chair. The report was enlightening to say the least, but on page 5 - and I do not know who this question is for. It was mentioned that the treatment plans, there was only the assessment on the day that the child was admitted and the only reason why I took particular note of that because I am doing a bill on that. But who is actually responsible for the reassessment? Is it the agency, the health provider who supposedly is taking care of these kids? I am not clear on exactly because the way I have researched it, there's only one assessment and that assessment stays with that kid until they turn 18 and there is nothing that is in-between. They're operating on day one, they never operate on any adjustment of medication. The psychiatric plan has never reevaluated, I think I made the statement in, in the term finance that, the more complex a diagnosis, the more interested the groups are in having that child as a mule for money because they get the highest rate of reimbursement. I do not know who I should be addressing that question to. If that is to DCFS or to the Nevada Homes for Youth. Are those groups here?

Chair Dondero Loop:

Is there anybody here from either one of those groups? I think I see someone in Carson City. Please go ahead when you are ready.

Marla McDade Williams (Administrator, Division of Child and Family Services):

Good afternoon, Madam Chair, for the record. Marle McDade Williams. I serve as the Administrator for the Division of Child and Family Services. I think Senator Neal's question, if I might respond, is probably more complex than I am able to answer today. I mean, I understand the perspective that there's a point where a child comes into the system, and they are evaluated, and they have a psychiatric evaluation that does follow them for a very

long time through the systems. I believe they are reassessed at various points. When they are under the care of professionals, they are reevaluated for the medications that they need as they continue through their treatment. I think the ultimate diagnosis that someone might have might follow them for a very long time, whether they are reassessed or not reassessed. And I think that that is just an unfortunate part of the overall system, but I think there is constant evaluation of the youth, the kids, and their needs wherever they are at in, in the process.

Senator Neal:

Thank you for that comment. I guess what is concerning for me is if someone's placed into a facility because the child has substance abuse or some form of addiction abuse and from 2022 to 2023 you are finding marijuana, you are finding it is dirty, it is unkempt. To me, the individuals who supposedly are responsible, or professional or whatever, we are describing them as, they are falling short just on basic behavior that should not happen. If these individuals who are running these facilities are then responsible for an assessment, but then are allowing for substance abuse to actually occur, which we are supposed to treat. When does the liability kick in for the individuals who are managing these facilities and or shutting them down. Right. We're saying, oh my God, we found all this stuff, but what we are seeing is really disgusting and ridiculous. And actually, they should not be in business because if we went to a food establishment that had pictures of trash, writing, graffiti, and dirty bathrooms, we would close it. We actually would not go there anymore and eat their food. So why would we have a child go back to a facility and then say, we will we are doing remodeling. The issue is not whether or not you we are willing to do the remodeling is how did you get there to that state or that condition in the first place and then have children residing there? Right? And to me, what I have not heard is who got sued, who was fired? And what is the liability for the humans, the adults who are claiming that they are taking care of children on state dime who probably should not be in this business.

Marla McDade Williams (Administrator, Division of Child and Family Services):

Madam Chair, if I may respond? As you know, I have not seen a copy of the audit report at all. I am only affected. My division, Division of Child and Family Services is only affected at pages 14 through 17, the Bureau of Health Care Quality and Compliance and the division of Public and Behavioral Health ultimately has licensure oversight over those facilities. But I think as a system, I think we all are intended to work together to either make a decision as a placement agency that we will not place in a facility where there are those findings. Or as you noted, the entity responsible for the license has to make the decision of whether or not they have enough information to suspend the license, revoke the license, do whatever is needed to do to, to hold compliance to it. There are multiple parties involved in the system. You heard the one case where it is the Department of Family Services in Clark County who makes placements. Ultimately, you know, when you make a placement in a facility, you look at their license, you trust that their license is in good standing, but you also continue to monitor the care of those youth when you place them because that is our obligation, right? As a placing agency is to monitor the care of, of the youth in any facility, whether they keep their license or do not keep their license. So I can tell you from a DCFS perspective that if we were not comfortable with the placement, we would not make the placement and we would move kids out of the facility. Whether we would do it tomorrow, or whether it might take us some time, you know, with oversight is, is, is hard for me to say because it is all situational at this point, but none of us at least from my perspective in DCFS, we do not ever intend to keep children in places where they are not safe and where there's not proper oversight, once we are aware of those situations.

Senator Neal:

Madam Chair, a quick follow-up. I just want to go to the HELP of Southern Nevada Shannon West Homeless Youth Center. Although from the audit, they are not taking more children in this capacity or with this kind of, I am assuming, diagnosis. But what exactly? And you are saying you have not seen this because it was confidential. I just assumed that the agency knew but the public did not know that the complaint where the child filed a complaint in September of 2023 saying that they had an interaction with an adult in a common space where the children and the adults we are supposed to be separated where the child claimed that the adult touched their neck, thigh and hair on two separate incidences. What happened to the adult because what it says here is that there was no evidence in the file about the children's right, which seems to be across all agencies, the children not knowing their rights, but it does not matter that HELP says, ok, we are not taking these people anymore. What happened to the human who did the violation? Where are they, where is this child who probably had trauma? What is the responsibility for DCFS to go back identify this child? And then figure out what really happened so that they are not carrying forward whatever this incident was with an adult or whatever happened to the adult. And I go back to the liability question of the folks who knew about the complaint who then did not do anything to intervene and then put no evidence in the file. Like there are certain things that seem to cross over into criminal liability. And I, although this is the Audit Division is not, you know, going to say somebody should go to jail, but there is DCFS should be following up with the individuals who we are responsible because they may have gone to another facility. And the reason why I am saying that is because the strongest recommendation was there's no screening practices. There's nothing in place that asked the questions; have you been properly trained? Are you, have you ever abused a child? Neglected a child. these screening processes are not in place. So, these folks who worked at Shannon West can be working at another facility and we do not even know what is going on. But we do know from this audit that somewhere there was adult supervision that did not happen, there we are adults who we are responsible and then they are going to say, oh, I was never trained. Well, just regular common sense, you know that if an adult touches a child on the thigh, you know, that is inappropriate. You can say I was not trained and Jesus came and told me, talk to me later. But at the end of the day, where have we identified these people and made sure that they are not transferring to another facility and making sure that they are not working or being properly trained and screened? What have we created? Because I do not want to hear. Oh, well, you know, the contract was not renewed. That's not my issue. My issue are the human beings who are now being transferred from facility to facility and probably continuing to do the same failure of oversight around children who we are responsible for.

Hailey Cornelia-Swift (Child Welfare Specialist):

For the record, Hailey Cornelia-Swift, Child Welfare Specialist. Senator Neal, I would like to circle back to Nevada Homes for Youth just to clarify that DFS, Clark County Family Services is the entity that places at Nevada Homes for Youth. And HCQC is the entity that licenses Nevada Homes for youth and similarly, for HELP, while there are no licensure oversights, there are DFS and DJJS contracts. These questions would likely be better aimed at Clark County DFS. And I would also like to clarify that HELP is taking children under DFS contract and Youth Parole contract. Thank you.

Marla McDade Williams (Administrator, Division of Child and Family Services):

Madam Chair, if those representatives are there, I am happy to wait for them to come up. But I did want to address a portion of what Senator Neal just said. So as indicated in your

audit, from what I understand the CANS checks are not performed in HCQC licensed facilities. They are performed in facilities licensed by child welfare agencies. So anywhere where we have a placement where we have a license, a person who had an, an incident and report that was substantiated of inappropriately interacting with the child would be excluded from working in any facilities that we license; Washoe County Child Welfare Services as well as Clark County Child Welfare Services. The disconnect is in facilities not licensed by us as entities. But I do want to explain a situation that we had where we did have a finding, we did have a substantiated finding that an adult was inappropriate with a youth. And our only option is to engage with the district attorney in the county in which the facility was located and expect that they are going to move forward our findings and criminally prosecute someone who was in that situation. And I can tell you that I do not believe we have any prosecution in place now and we do not control the DA, all we do is give them our information and then that county makes a decision of whether or not to move forward and prosecute something. I do not know what the solution is there. But that is a potential loophole in the system where without that prosecution, that person who did, who we had a substantiation on, that substantiation I believe would be in our system; so that person would not be able to work in any facility again that is licensed by the child welfare entities. But if they are working in a facility licensed by someone else and they do not do that CANS check, then that person could potentially work there. But the ultimate prosecution is at the county level for rural child welfare, as well as Clark and Washoe County.

Senator Neal:

Thank you for that. Sounds like we have a lot of offline conversation on how to add to my existing BDR because this is a deep problem and, you know, without some kind of policy or law in place, we are going to continue to have this conversation. And what is crazy that in the research that I have been doing on just the assessment piece, we have been in this situation for a long time. And so, I look forward to the future conversation and the BDR language that we are going to work together on to address and try to adequately manage this issue.

Chair Dondero Loop:

Thank you very much. With that being said, very eloquently Senator Neal, I would accept a motion to approve the report.

SENATOR DALY MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE PRESENTATION OF GOVERNMENTAL AND PRIVATE FACILITIES FOR CHILDREN – INSPECTIONS, JANUARY 2024.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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Chair Dondero Loop:

I think prior to our next agenda item VIII, we will take a quick break for lunch. We will not be long. I think what we are going to do is try to come back at 12:50 if that works for everybody. Give us about a 20-minute break and we will regroup on agenda item VIII. Thank you very much.

RECESS @ 12:27:12

RECONVENE @ 12:53:34

AGENDA ITEM VIII. – REPORT ON THE COUNT OF MONEY IN THE STATE TREASURY, JUNE 30, 2023

Chair Dondero Loop:

Thank you for being patient with us and we will go to agenda item VIII, and we will have a Report on the Count of Money in the State Treasury, from June 30th 2023. And Ms. Goetze, I believe you are up again.

Tammy Goetze (Audit Manager):

Good afternoon, Madam Chair, and members of the Audit Subcommittee. For the record, my name is Tammy Goetze, Audit Manager. I would like to present the Report on the Count of Money in the State Treasury. If I could direct your attention to the transmittal letter page.

In accordance with NRS 353.060, we counted the money and securities in the State Treasury on Friday, June 30, 2023, and have prepared there from Exhibit A with Supporting Schedules 1 through 3.

The Legislative Auditor is required to count the money in the State Treasury at least annually. On the count day, the State Treasurer provided a vault inventory listing to perform our physical examination of the vault's contents. The State Treasurer also provided a listing of the State's holdings with various financial institutions. We confirmed the State Treasurer's account balances directly with these financial institutions and reconciled to the State Controller's records and the state's accounting system. In accordance with NRS 353.075, we filed this report with the Secretary of State on April 24, 2024.

Continuing to page 1 of the Money Count Report is the count of money and securities on June 30, 2023. There were: $59.9 million on Deposit with Financial Institutions, $9.6 billion of State-Owned Securities, and $2.2 billion of Securities Held for Safekeeping for a grand total of over $11.8 billion.

Pages 3 through 28 show this exhibit's detail.

That concludes my presentation. I would be happy to answer any questions.

Chair Dondero Loop:

Thank you very much. I am so disappointed you are not going to read every single one of these items and their amounts, but I appreciate that. Any questions from the committee?

Senator Neal:

Thank you, Madam Chair. So just this is for my education. I was looking at the list of state-owned securities in the corporate obligations and it was popping up, Amazon has tax incentives. I guess that makes sense because they're building and then we are getting money back and then we have Philip Morris who's trying to sell our citizens products. So, I just wanted to get, I do not know, I do not even know what I want to ask on this. How should I interpret these listings. Like, do you know how they are actually selected?

Tammy Goetze (Audit Manager):

For the record, Tammy Goetze, Audit Manager. During our money count, we actually count the bond certificates, and all the security instruments in the vault. We do not look at which items they select for the securities. That would be a question that would be better suited for the Treasurer's Office. I do not believe we have anyone here in Carson, but there may be someone down in Vegas.

Chair Dondero Loop:

If you're here, stand up to be counted. No one from the Treasurer's department. Ok, Mr. Crossman, please.

Daniel Crossman (Legislative Auditor):

Thank you, Chair, for the record, Dan Crossman, Legislative Auditor. I just wanted to mention, now we do not audit any of these. We are simply just accounting for their existence, performing confirmations, so that part of it is not part of our process as defined in statute. It requires us to do this money count and just for the record, we, for this report, we generally do not ask the Treasurer's Office to come because we have not had such insightful questions in the past, Senator Neal. So, just wanted to put that on the record that I told them they probably would not need to be here to answer a question.

Chair Dondero Loop:

All right, seeing no more questions, I will accept a motion to approve this report motion to approve.

SENATOR DALY MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE REPORT ON THE COUNT OF MONEY IN THE STATE TREASURY, JUNE 30, 2023.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM IX. – PRESENTATION OF 6-MONTH REPORTS (NRS 218G.270)

Chair Dondero Loop:

All right, we will go on to item number IX. And we will do presentations of 6-Month Reports. Mr. Crossman, go ahead when you are ready.

Daniel Crossman (Legislative Auditor):

Thank you Chair. For the record, Dan Crossman, Legislative Auditor. The 6-Month reporting process was established in statute many years ago to help ensure that audit recommendations are implemented. I believe it is important to acknowledge that follow up process that the state of Nevada has in place, thanks to the Nevada Legislature, has been recognized as the best practice by the U.S. Government Accountability Office. Just for informational purposes, the follow-up process begins with a plan of corrective action by the audited agencies 60 working days after the report is made public. Statute then requires the

Director of the Governor's Finance Office, through the Division of Internal Audits, to submit a report to my office six months after the plan of corrective action, indicating the implementation status of those recommendations. After we receive that report, we review them, and we continue to work with and monitor the agencies until the recommendations are fully implemented. Today's reports include our updates after additional communication at times with those agencies as well as relevant documentation that we have reviewed. The first three items under this agenda item, all relate to NSHE. And while we only have questions on one of the reports, we will take them in order chair if that is ok with you and just make a brief presentation on each for the report where we do have questions. We would then ask NSHE representatives to respond at that time. With that chair, I will turn it back to you to introduce agenda item IX A.

AGENDA ITEM IX. A. – NEVADA SYSTEM OF HIGHER EDUCATION, SELF-SUPPORTING AND RESERVE ACCOUNTS (LA24-03)

Chair Dondero Loop:

Thank you very much and I will introduce agenda item IX A.

Daniel Crossman (Legislative Auditor):

Thank you, Chair, Dan Crossman for the record. Maybe that was not necessary. But hey, we will be formal today. For the record, Dan Crossman. For the members, in your packet under agenda item IX A., there is a letter we begin with the letter which includes our assessment of the status of recommendations behind the blue divider is the report from the office of the Governor's Finance Office on the actual 6-Month Report. And following that is the audit highlights page. For this report in January of 2023, we issued the audit report titled Nevada System of Higher Education, Self Supporting and Reserve Accounts. NSHE filed a plan of corrective action in April of 2023. As of October of 2023, the six-month report prepared by the Office of Finance indicated the 13 recommendations were partially implemented, and those recommendations are listed in our letter. In August of 2024 NSHE provided an updated status of these recommendations to us through our review of the status of those recommendations, review of other relevant documentation they provided, as well as responses to some of our additional questions we have assessed, NSHE as having made substantial progress towards addressing the recommendations. As a result, we have deemed all of these recommendations now to be fully implemented. However, as noted by NSHE in its update to us, the development and implementation of some of these corrective actions is a process of continual improvement and will be refined over time. The long-term impact and success of the audits recommendations truly depends on the ongoing refinement process and requires continued oversight by NSHE, the Board of Regents, as we will as cooperation by the institutions. We do not have any questions for NSHE on this report and that would conclude my report on this agenda item, Madam Chair.

Chair Dondero Loop:

Thank you. Any questions? See none.

I will take a motion to approve this 6-Month Report.

SENATOR NEAL MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE 6-MONTH REPORT ON THE NEVADA SYSTEM OF HIGHER EDUCATION, SELF-SUPPORTING AND RESERVE ACCOUNTS.

SENATOR DALY SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM IX. B. – NEVADA SYSTEM OF HIGHER EDUCATION, CAPITAL CONSTRUCTION PROJECTS (LA24-04)

Chair Dondero Loop:

We will go on to report IX B, Nevada System of Higher Education, Capital Construction Projects Chapter 467 Statutes of Nevada 2021 Assembly Bill 416. And Mr. Peterson, I believe you are up.

Todd Peterson (Chief Deputy Legislative Auditor):

Thank you, Madam Chair, for the record Todd Peterson, Chief Deputy Legislative Auditor. As mentioned by Mr. Crossman, we issued several reports on NSHE, they were issued at the same time. In January 2023, we issued an audit report on the NSHE capital construction projects and the system provided their corrective action plan in April of 2023. And then the six month follow up report by the Office of Finance was received in October of 2023 and it indicated that for the 18 recommendations that 17 of those were partially implemented and there was no action taken on one of the recommendations. In August of 2024 we discussed the status of all 18 recommendations with the with NSHE management and reviewed relevant documentation and as a result of those discussions and the additional documentation provided, we now recognize that 16 of the 18 recommendations are fully implemented. And it is, as mentioned by Mr. Crossman, the responsibility of NSHE and the Board of Regents to continue the implementation of those recommendations. We do have questions regarding two of the recommendations on page 3 of our letter, I will give a brief background of our concerns and what we have noted and then have questions for the agency to respond to or NSHE. For recommendation number three, NSHE management indicated a memorandum of understanding had been created and is under legal review by NSHE General Counsel and the Deputy Attorney General for the Public Works Division. Furthermore, it was represented the protocols in this draft MOU are being followed. A review of the draft MOU found it does not contain signature lines and only refers to projects in the current biennium. Therefore, we have the following questions for the system. First off, when does NSHE anticipate the MOU will be finalized. And then the second question is since the draft MOU is only for the current biennium, is it NSHE's intent to create a separate MOU each biennium.

Chair Dondero Loop:

Good afternoon. Thank you. Go ahead when you are ready.

Chris Viton (Chief Financial Officer, Nevada System of Higher Education):

Hi, good afternoon, Chris Viton, Chief Financial Officer for the Nevada System of Higher Education. And thank you for the question that I actually asked our Deputy General Counsel if we could move this up on our priority list to get this resolved sooner than later. At this point I would be happy to share a copy back, when it is finally executed, with the audit staff. And regarding the process, we do contemplate renewing the MOU on a biennial basis. I think wanting to make sure that the current folks in positions at the time have an opportunity to review the MOU and provide any updates necessary that may be needed following each legislative session.

Chair Dondero Loop:

Thank you very much. Mr. Peterson, did you have a comment to make on that?

Todd Peterson (Chief Deputy Legislative Auditor):

Madam Chair,no. We will continue to work with the entity and with NSHE and look forward to seeing the full implementation of this recommendation at a later time.

Chair Dondero Loop:

Thank you very much and I appreciate you moving that up on your list of to do things. Thank you. All right. Any questions on this item?

Senator Daly:

I have one question; I think I do anyway. Yes. On number 15, developed statewide policy procedures for public private partnerships. I think there was a question I read in there on whether or not they, each individual institution had authority, and they said no, but the Board of Regents potentially does. What did they come up with on their policies and procedures on that? Is it only the Board of Regents? And then if I understand public private partnerships, and I understand them a little bit, what type of areas are they planning on, on using them? There's not a lot of, in my view, opportunities for a public private partnership at the university. Other than maybe housing or something like that.

Todd Peterson (Chief Deputy Legislative Auditor:

Senator Daly, Todd Peterson for the record. That, if I remember correctly, the institutions believe that they have the authority to enter into these types of agreements. And at this current time, they are not anticipating any future public private partnerships. That might be a question better answered by, by Mr. Viton.

Chris Viton (Chief Financial Officer, Nevada System of Higher Education):

Thanks again, Chris Viton. It is accurate. I think we are not anticipating any public private partnership agreements at this time. I think we also determined that the nature of the agreements we are looking at were really not actually public private partnerships, but just development agreements with a private partner. And so there, there was some discussion about the specificity of public private partnership, the looseness with which we use that term when we describe some of our agreements.

Senator Daly:

Understood in my understanding of a true public private partnership is I, know they were going to talk about it on Project Neon. They've done it on, where there would have been a toll and that they were the concessionaire, et cetera. I see some sewer development projects. Usually there's a revenue source for that private partner where they are not interested in putting their capital up in order to build it. So that is where I was curious on what type of partnerships that are true, public private partnerships versus development agreements on that. And that is why I ask the question because it is a murky issue. It is something that my personal view is, it is good for the private, bad for the public on those. And if they are not done correctly and it is only done if there's a revenue source for the private partner. And in my view, if there's a revenue source where they can pencil it out and finance it, the State can do it by saying, hey, we are going to have anticipated revenue off whatever it is they are going to use for the sales and cut out the middleman and just have the agency do it themselves. But that is my view of, of that, but I appreciate the answer. Thank you.

Chair Dondero Loop:

OK. Any additional questions. All right. Seeing none. I will take a motion.

Todd Peterson (Chief Deputy Legislative Auditor):

Todd Peterson for the record. We do have a few more questions regarding one of the recommendations. For recommendation number 16, this relates to developing procedures for capital construction solicitation to ensure they comply with laws and NSHE policies. We had some issues in the report regarding construction management at risk, the solicitation of those projects specifically, and the requirement and statute that they, in the RFP process, the weights for the criteria that the bids will be judged against so that be included in the documentation so that the bidders are aware. And so, we had some issues with compliance there and thus recommendation number 16 was made. And for recommendation number 16, NSHE management indicated it was not recommending changes to policy as the statutory noncompliance we noted was the result of oversights, not a lack of policies. The Board of Regents procedures and guidelines manual was referenced which defines capital construction projects and provides general policies for soliciting bids for capital construction projects. However, the manual does not specifically address construction manager risk projects where we noted statutory noncompliance. Furthermore, management provided a template specific to one institution to help ensure compliance with statutes related to the solicitation for projects utilizing the construction manager at risk process. Therefore, we have the following questions. First, does NSHE require all institutions use the template provided for soliciting a contractor utilizing the construction manager at risk process? And then second, how does the referenced section of the Board of Regent's guidelines address the recommendation to develop policies and procedures to ensure compliance with laws, specifically related to the solicitation of a contractor using the construction manager at risk?

Chris Viton (Chief Financial Officer, Nevada System of Higher Education):

Thanks again, Chris Viton. To answer the question in terms of do all the institutions use that same checklist; The three purchasing offices do maintain their own checklist. The system procedure and guidelines manual provide a template for a checklist that is then subject to the campuses being able to modify it for anything that may be specific to the campus. I did confirm with three purchasing offices that this item is addressed in their buying guidelines for their staff. Nonetheless, I appreciated the feedback from the Audit staff's review of our

update, and I am looking at our procedure and guidelines manual and that checklist is in our procedure and guidelines manual, chapter five, section 8. And I anticipate taking the opportunity to update that checklist, again, based on the feedback, to make sure we have got this item addressed there as well.

Todd Peterson (Chief Deputy Legislative Auditor):

Todd Peterson for the record. At this time, Madam Chair, we have no further questions for the agency.

Chair Dondero Loop:

Ok. All right. Any questions from the committee? If not, I will accept a motion to approve this report.

SENATOR DALY MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE 6-MONTH REPORT ON THE NEVADA SYSTEM OF HIGHER EDUCATION, CAPITAL CONSTRUCTION PROJECTS.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM IX. C. – NEVADA SYSTEM OF HIGHER EDUCATION, INSTITUTION FOUNDATIONS (LA24-05)

Chair Dondero Loop:

We will move on to IX C, Nevada System of Higher Education, Institution Foundations, Chapter 467 Statutes of Nevada 2021 Assembly Bill 416 and Ms. Otto, welcome. Go ahead when you are ready.

Jennifer Otto (Audit Manager):

Good afternoon, Madam Chair and members of the Audit Subcommittee. My name is Jennifer Otto, Audit manager, for the record. In January 2023 we issued an audit report on the Nevada System of Higher Education Institution Foundations, which included three recommendations. In the October 2023 6-Month Report, the Office of Finance indicated the three recommendations are partially implemented. In June 2024, we discussed the status of these recommendations with NSHE administration and reviewed relevant documentation from NSHE institutions. Our review indicated that NSHE has now fully implemented these three recommendations. Therefore, we do not have any questions for agency officials. This concludes my presentation.

Chair Dondero Loop:

Thank you very much. Any questions from the committee?

SENATOR GOICOECHEA MOVED TO ACCEPT THE PERFORMANCE AUDIT REPORT ON THE 6-MONTH REPORT ON THE NEVADA SYSTEM OF HIGHER EDUCATION, INSTITUTION FONDATIONS.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION WAS PASSED UNANIMOUSLY.

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AGENDA ITEM IX. D. – DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, REHABILITATION DIVISION (LA24-02)

[This agenda item was not heard.]

AGENDA ITEM IX. E. DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF HEALTH CARE FINANCING AND POLICY, DUAL ENROLLMENTS AND SUPPLEMENTAL DRUG REBATES (LA24-01)

[This agenda item was not heard.]

AGENDA ITEM IX. F. DEPARTMENT OF TAXATION, INFORMATION SECURITY – SERVERS, OPERATING SYSTEM AND DATABASE APPLICATION SOFTWARE (LA18-23A)

[This agenda item was not heard.]

AGENDA ITEM X. – INFORMATIONAL ITEMS

Chair Dondero Loop:

Now we can jump all the way to agenda item X. Alright, Mr. Crossman. Agenda item X. You're on. Thank you.

Daniel Crossman (Legislative Auditor):

Thank you, Chair, for the record Dan Crossman, Legislative Auditor. I would like to provide just a quick overview of what these informational items are before we move into them specifically. The first three items under agenda item X are agencies that had outstanding audit recommendations from past meetings that they've been working on to implement. We've asked them to return today to answer a few questions regarding the progress that they've made. In the event that we received an update from them since the publication of our meeting packets. We may have adjusted some of the questions we will actually ask in our presentations. I also wanted to note that for the benefit of the Subcommittee, these are not actionable items. At the discretion of the chair, we could ask these agencies to return again at another date if the Subcommittee so desired. Regardless of whether or not they come back, we will continue to monitor the progress of implementation. And finally, the last two items under agenda item X. D and X. E. we will just make a brief presentation on some of the other functions that are not reports that we typically bring to the Audit

Subcommittee, but wanted to put on the record for the information of the Subcommittee to provide a broader understanding of some of the duties that our office fulfills with that Chair with your permission, I will continue to X A.

AGENDA ITEM X. A. – UPDATE REGARDING THE AUDIT OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF WELFARE AND SUPPORTIVE SERVICES (LA20-11)

Chair Dondero Loop:

Please go ahead.

Daniel Crossman (Legislative Auditor):

Thank you for the record, Dan Crossman, Legislative Auditor. In February of 2020 we issued an audit report on the Department of Health and Human Services Division of Welfare and Supportive Services. The division filed its plan for corrective action in May of 2020. The 6-month report from the Governor's Finance Office was received in November of 2020, and was presented to a meeting of the Audit Subcommittee in January of 2021. Based on communications with the division and review of relevant documentation, we had determined that three recommendations remained partially implemented as noted in our letter in the packet under agenda item XA. These three recommendations are detailed in the memo. Agency officials have represented that recommendations number one would be implemented in December of 2024 and number three and number four would be fully implemented this month. A recent conversation with agency officials after our meeting packet had been finalized, suggests that additional progress has been made on those three recommendations. However, I will just pose the question as included in the memo and allow for those agency representatives to provide us that update live in person today. Our question to the Division of Welfare and Supportive Services is, does the division anticipate full implementation of the three outstanding recommendations in these timelines they had represented?

Chair Dondero Loop:

Thank you very much and please go ahead when you are ready.

Kelly Cantrelle (Deputy Administrator, Division of Welfare and Supportive Services):

Good afternoon, for the record, I am Kelly Cantrel, Deputy Administrator of the Division of Welfare and Supportive Services. I am actually happy to report that as of August 19th, of this year, we actually went through our first phase of modernization of our computer system, and we actually have met these deadlines sooner than anticipated. So, these are primarily about alerts that our system was generating for our staff. And so all alerts have been moved to the DWSS eligibility system which now notifies staff when there's a change that could affect eligibility. Can I answer for all four or the three at once? The second one talked about duplicate or low value alerts. And so, when we went through this first phase of modernization, we built the system to eliminate duplicate alerts, there should be no duplicates. And we also have implemented a suppression system that will suppress low value alerts or alerts that maybe do not need to be seen at all honestly. And so that answer should cover all three of our audit findings that were remaining, but I am certainly happy to answer any other questions.

AGENDA ITEM X. B. – UPDATE REGARDING THE AUDIT OF THE OFFICE OF THE GOVERNOR, NEVADA OFFICE OF THE WESTERN INTERSTATE COMMISSION FOR HIGHER EDUCATION (LA20-10)

Chair Dondero Loop:

Thank you very much. Are there any questions from the committee up north down South? Ok. Thank you very much. All right, with that, this is not an actionable item, so we will go on to X. B. Go ahead Ms. Barlow.

Amanda Barlow (Deputy Legislative Auditor):

Good afternoon, for the Record, Amanda Barlow, Deputy Legislative Auditor. In February 2020, we issued an audit report on the Nevada Office of the Western Interstate Commission for Higher Education. The Office filed its plan for corrective action in May 2020. The 6-Month Report from the Governor's Finance Office was received on September 28, 2020, and presented to the Audit Subcommittee on January 14, 2021. As the original audit report was issued more than 4 years ago, implementation of these recommendations has been significantly delayed. This delay was largely a result of staff turnover and changes in the structure of the Office and its programs in the 2021 and 2023 Legislative Sessions. Additionally, the Office was moved from the Office of the Governor to be an independent agency with oversight by the Nevada Office of the Western Interstate Commission for Higher Education. The Commission signed a MOU with the Nevada System of Higher Education to provide location and administrative services, starting in fiscal year 2022. We have continued to monitor the Office's progress towards full implementation of the outstanding audit recommendations. Based on our recent review of the status of the recommendations, we have deemed them all to be fully implemented and thus do not have any questions for the Office. However, we have invited the Director of the Nevada Office of the Western Interstate Commission for Higher Education here today to briefly discuss its efforts to implement the audit recommendations and touch on the changes to the structure of the agency.

Chair Dondero Loop:

Thank you very much.

Patty Porter (Director, Nevada Office of WICHE):

Hi, I am Patty Porter. I am the Director of the Nevada Office of WICHE. I have been the director since May 2022. And I just want to mention as far as the recommendations, I found that the 2020 audit was very helpful guidance, and when I started to find out the issues that had needed to be addressed for a while, and also in light of the move from the Governor's Office to being independent, and then with a contract with NSHE, we had to also change a lot of our processes and procedures because of utilizing the administrative services provided by NSHE. In doing that, we were able to achieve all those items that we are on the recommendations. Also, I have to commend the support I get from NSHE because I am a one-person office, actually, I have another position, but I am in the process of trying to get it filled and I have some temporary help, which is awesome. But it has been helpful having those services there to get up to speed to implement a database system which we are doing to take us from paper to electronic, to be able to create a more efficient practice questionnaire to follow up with students as far as when they are in school, and out of school and meeting compliance with the requirements, making sure that they do fulfill them. And if not, then they get converted to a loan, with penalties and interest. And I have

done a couple of those since I have been the director. Ultimately, the goal is that we want people to stay in Nevada and especially areas of high need and health occupations. This is an important program and we want them to do that. The goal is not to collect money from them and get more loans. The goal is to keep them in our state and help fill those underserved areas as well. In 2023 a bill was passed S.B. 342 for veterinary medicine to increase the number of veterinarians in our state. And we are in the process of starting implementation of that as well. So there are a lot of new projects for us. A lot of issues that we want to make sure we have processes in place to make sure that we are being responsible and being helpful to the citizens in Nevada and meeting the goals this agency was created to do. I would like to thank also the Legislative Counsel Bureau and Daniel and all the individuals that I have met along the way in doing this and having conversations because it has been out there for a while, this audit. It was helpful to have history and background and so I want to thank them as we well.

Chair Dondero Loop:

Thank you very much. Any further questions Ms. Barlow?

Amanda Barlow (Deputy Legislative Auditor):

Amanda Barlow, Deputy Legislative Auditor, for the record. No, I do not have any further questions at this time.

AGENDA ITEM X. C. – UPDATE REGARDING THE AUDIT OF THE DEPARTMENT OF CORRECTIONS, USE OF FORCE (LA22-11)

Chair Dondero Loop:

Thank you very much and we want to thank Senator Goicoechea for his bill for the veterinarians and Ms. Porter, I am sorry, I will not be able to join you for the WICHE meeting, but I am here for Interim Finance on Thursday. Too many things going on at the same time. So, thank you very much. And with that, this is not an actionable item, so we will not make a motion, but we will move on to X. C regarding the audit of the Department of Corrections Use of Force. and the progress made in the audit recommendations, and we will ask Mr. Bains and Mr. Allara to join us. Go ahead when you are ready.

Jeet Bains (Deputy Legislative Auditor):

Good afternoon, Madam Chair and members of the Audit Subcommittee, for the record I am Jeet Bains, Deputy Legislative Auditor. In March of 2022, we issued an audit report on the Department of Corrections, Use of Force. The audit report contained 16 recommendations. The Governor's Office of Finance indicated in their 6-Month Report issued on December 15, 2022, that all 16 recommendations remained outstanding. The Legislative Counsel Bureau – Audit Division monitors the status of all its recommendations until fully implemented. Audit Division staff note full implementation of these recommendations was anticipated well before our current Audit Subcommittee meeting as the original report was issued 2.5 years ago. Audit Division staff has been working with the Department since November 2023, in preparation of this meeting, to ensure full implementation of our audit recommendations.

Subsequent to the submission of our letter to the Audit Subcommittee, which you will see in your binder under Agenda Item X C, the Department provided us a copy of the new regulation pertaining to their authorized weapons list. Therefore, we now consider recommendation number 9 fully implemented. As of the date of this meeting 2

recommendations remain outstanding. The recommendations outstanding are numbers 8 and 10.

The Department provided some updated information to us at the last minute indicating additional efforts were taken regarding these outstanding recommendations. Because of the timing with which they provided the update, we have not been able to adequately review the information provided and were unable to adjust the questions in the already published meeting packet. As such, we will pose our original questions and allow the Department to provide its update.

For Recommendation number 8, the Department indicated related administrative regulations have been drafted but had not been approved by the Director or the Board of State Prison Commissioners. Any draft signed by the Director becomes effective as temporary regulation until presented to the Board of State Prison Commissioners, and if approved becomes a permanent regulation.

Chair, with your permission, I will pose both questions we have and then department representatives can address both questions?

Chair Dondero Loop:

Please go ahead when you're ready.

Bryan Shields (Acting Inspector General, Department of Corrections):

My name is Brian Shields, for the record. acting Inspector General for the Department of Corrections. I am going to defer the questions to the North staff. That's associate Warren Clark and Lieutenant Malm.

Jeet Bains (Deputy Legislative Auditor):

We have one question for Department representatives related to recommendations number 8: What is the cause of delays in the codification of this regulation and when does the agency expect the regulations to be codified?

For recommendation 10, the Department has developed internal weapons inventory tracking documents and a process to physically verify weapons inventory monthly. Additionally, the Department is working to update the weapons inventory records in the state accounting system and ensure that inventory records at all facilities are current.

We have the following question related to recommendation number 10: When will weapons inventory records at all facilities match the Department's authorized weapons list?

Benu Clark (Associate Warden, Department of Corrections):

Good afternoon, Madam Chair, committee members, this is Benu Clark, Associate Warden, for the record. In response to the first question, we have had numerous changes in leadership over the last couple of years. We recently had AR362 presented at the last Board of State Prison Commissioners meeting. It was pulled at the last minute due to position by the Correctional Officers Union. That has since been revised. AR362 and 412, which is our armory and weapons control, have been approved as temporary and are updated on the Department of Corrections website. As signed by the Director, they will be presented at the next Board of State Prison Commissioners meeting. In terms of the second question, we

anticipate that our internal inventories will be accurate and updated with the State inventory system within the next two months. We have currently isolated all obsolete weapons within our employee development division and are working to get those processed through state purchasing to be removed from our fixed assets.

Chair Dondero Loop:

Any additional questions?

Eugene Allara (Audit Manager):

For the record, Eugene Allara, Audit Manager, that is all the questions we have for the agency at this time.

Chair Dondero Loop:

Thank you very much. Any questions from our members up North? Down South? With that, this is not an actionable item, so there's no motion needed. Thank you very much for attending today and we appreciate the information.

AGENDA ITEM X. D. – CHILD FATALITIES AND NEAR FATALITY REVIEWS, JANUARY 2023 TO DECEMBER 2023

All right, we will go to X. D, Child Fatalities and Near Fatality Reviews, January 2023 to December 2023. And Ms. Otto, go ahead when you are ready.

Jennifer Otto (Audit Manager):

Good afternoon, Madam Chair and members of the Audit Subcommittee, my name is Jennifer Otto, Audit Manager, for the record. This informational item is related to Assembly Bill 261 from the 2007 Legislative Session, later codified in NRS 218G.550, which has required child welfare agencies to submit to us the case files of children who suffered a fatality or near fatality, if the agencies had prior contact with the child or family. We review the case file, and the case information stored electronically in the centralized child welfare system to determine whether the case was handled in a manner consistent with state and federal law, and whether any measures, procedures, or protocols could have assisted in preventing the fatality or near fatality. We frequently discuss questions and concerns identified in our case reviews with the child welfare agencies to seek understanding and clarification. This process is not an audit and is not required to be reviewed or accepted by the Audit Subcommittee. However, the product of our reviews is a letter issued to the Legislature summarizing the results and notable concerns we identified.

The most recent letter for the review period from January 1 through December 31, 2023, is included in your packet under Agenda Item X. D. In summary, we identified some concerns with child welfare agencies' compliance with certain regulations and statewide policies. This lack of compliance prior to an incident may have increased the risk a child welfare agency did not properly intervene when an allegation of abuse or neglect was received. On page 3 of the letter, we include a summary of the deficiencies noted in our reviews. As part of our process, we issued a letter to a child welfare agency to express our concerns with management about how several cases were handled. To improve compliance, the agency indicated its intent to perform a review of overall practices, regular case reviews, supervisory consultations, and continuing training efforts.

We are happy to answer questions the Audit Subcommittee might have regarding our work.

Chair Dondero Loop:

All right. Up North, do we have any questions? Senator Daly, Senator Goicoechea? No questions. Down south? Ok. Thank you, Senator Neal.

Senator Neal:

Thank you, Madam Chair. I just have one question when I was reading this, on page 2, in the summary where it says the number of fatalities and near fatality incidents - when it said in 18, which was 32 percent of the cases - it determined that abuse or neglect was not a primary factor, but it said that these 18 incidents we caused by other factors such as medical issues, suicide, or other accidents. I wanted to know what other accidents meant. I put a box around it.

Todd Peterson (Chief Deputy Legislative Auditor):

For the record, Todd Peterson, Chief Deputy Legislative Auditor. The one that comes to mind, Senator Neal, is a traffic accident. The family had had prior contact with the child welfare agency but then was later involved in a traffic accident that was not the fault of the caregiver. And so that is the one example I am thinking of. As for some others, we could give you that information later, as to what other accidents refer to.

Senator Neal:

Thank you for that because I was curious about and whether or not the suicides, I mean, because they could be related to abuse - that the suicide incidents could have been related to neglect or abuse. And, do we not track or ask the agency to do a correlation between the suicides and the neglect that maybe preceded it?

Todd Peterson (Chief Deputy Legislative Auditor):

For the record, Todd Peterson, Chief Deputy Legislative Auditor. That's a good question, Senator Neal. The agency does a review. They do, once they receive a report that a death has occurred, they do go in and they investigate and through their investigation process, they determine whether or not the caregiver had any responsibility related to an act of suicide. And as we receive these cases and we receive notice of how the Child Welfare Agency, whether they've determined that there is an allegation of abuse or neglect against the caregiver, we review that at a high level to ensure that we are comfortable with the decision that they have made regarding whether or not there is a correlation between the suicide and the care of the caregiver or the actions of the caregiver.

Senator Neal:

Thank you. Thank you, Madam Chair.

Chair Dondero Loop:

Thank you very much. And I just have one real quick question; Do these numbers fluctuate much or do they stay consistent? How do these numbers change over the years?

Todd Peterson (Chief Deputy Legislative Auditor):

For the record, Todd Peterson, Chief Deputy Legislative Auditor. Chair Dondero Loop, these numbers are pretty consistent since I have been involved in the process. We used to report on a biannual basis. And the numbers in previous letters we are probably about twice what they are here, but 60 cases a year, around 60 cases each year, is about what we receive and then review those where there is a substantiation of an allegation of abuse or neglect if that answers your question.

AGENDA ITEM X. E. – BIANNUAL STATUS REPORT ON AUDITS OF CERTAIN STATE BOARDS

Chief Dondero Loop:

Thank you very much. Any additional questions? All right, if not, this is not an actionable item, so no motion. We appreciate your time again. We'll go on to X E which is a Biannual Status Report on Audits of Certain Boards. Ms. Goetze, welcome back.

Tammy Goetze (Audit Manager):

Thank you. Good morning, or afternoon now, Madam Chair Dondero Loop and members of the Audit Subcommittee. For the record, my name is Tammy Goetze, Audit Manager. I would like to take the opportunity to provide you a high-level overview of the Audit Division's oversight of state professional licensing boards.

NRS 218G.400 requires certain boards be audited annually or biennially by contract auditors. The audit report must be submitted to us by the board on or before December 1st of the year in which the audit is conducted. Boards with revenues less than $200,000 for any fiscal year must complete a self-reported balance sheet and submit it to the Legislative Auditor and the Chief of the Budget Division.

The Audit Division receives and reviews three types of financial reports from the boards. The first type of report is the annual audited financial statements prepared by CPA firms contracted by the boards. The audited financial statements provide an opinion as to whether the entity's financial statements are presented fairly in all material respects. Financial auditors also review internal controls and occasionally include findings in their audit reports.

The second type of report, also for boards with annual revenues of $200,000 or more, is a biennial audit prepared by CPA firms. Instead of an annual audit, biennial audits are performed every two years. Boards that elect to complete biennial audits may not receive complete information on financial activities for a period of 2 years. This is because the completeness of the financial information depends on the quality and accuracy of self-generated, unaudited financial information reported to the board between audits.

The third type of financial report we receive from the boards is the balance sheet. The smaller boards, with annual revenues less than $200,000, are required to provide self-reported balance sheet information on a form developed by the Audit Division. The balance sheet provides an overview of financial information, but this information is not audited. For example, we do not review invoices or other information to verify their revenues and expenditures. Although the balance sheet is not equivalent to an audit, we do review year-end bank statements, the fund balance, a schedule of revenues and expenditures, and other documentation that supports the balance sheet information. We also compare the balance sheets to prior years to identify any concerns with these entities.

In addition to reviewing the financial information submitted, we communicate frequently with some boards, mostly the balance sheet reporters, to assist them in understanding how to submit complete and accurate financial records. These efforts have grown in recent years due to turnover and lack of experienced accounting staff at certain boards.

Based on our reviews of boards' financial information, we report areas of concern in our biannual status report letters issued in January and July of each year. These letters are available on the Audit Division website. Included in our analysis are the professional licensing boards.

Our review does not include boards whose budgets fall under the Executive Budget, as they have oversight through that process. Our most recent January biannual status report letter discussed a financial report not filed by one board, and that the board has not submitted financial statements timely for several years. For other boards, we noted some financial issues for which additional information was requested to clarify. Our letter also included a summary of findings reported on board audits by external auditors. Furthermore, our letter mentioned compliance with regulatory and disciplinary filing requirements.

Each regulatory body is required by NRS 622.100 to electronically submit a quarterly summary of disciplinary actions, in addition to application and licensee information. Finally, included as an attachment to our letter, we show basic financial information such as revenues and expenditures for the occupational licensing boards that we review.

Each year in July we provide updates on the outstanding issues we have identified in our January letter. Our most recent July biannual status report letter is included in your packet under Agenda Item X. E. Typically, the issues reported in January are resolved by the time we issue our July letter, which was the case this year.

Madam Chair and member of the Audit Subcommittee that completes my presentation, I would be happy to answer any questions.

AGENDA ITEM X. I. – PUBLIC COMMENT

Chair Dondero Loop:

Thank you very much. Any questions up North, down South? Ok, looks like there are none and you covered it. Thank you very much, appreciate your time today. And this is not an actionable item so there is no motion. Thank you very much again for being with us today. We are going to move on to agenda item number XI, which is public comment.

Do we have anybody in the Las Vegas audience for public comment? Anybody in the Carson City office or conference room for public comment? None, there's none. Thank you very much. And anybody on the phone? BPS, go ahead when you are ready.

BPS:

Chair, the public line is working; however, there are no callers

Chair Dondero Loop:

Ok. Well, that was mighty quick and to the point. Thank you very much. That concludes our meeting today. I appreciate everyone's time, especially the Audit Division. I know that these are not always easy, and you do a lot of leg work before we get to this meeting, so thank you very much for all your assistance to all of you and thank you members for attending. And everyone in Reno, please be safe and in the Washoe Valley. We are adjourned.

XII. Adjournment @ 13:50:05

RESPECTFULLY SUBMITTED:

_____

Jennifer Graves and Deborah Anderson

Office Manager and Secretary

APPROVED BY:

_____

Senator Marilyn Dondero Loop, Chair to the Audit Subcommittee of the Legislative Commission

_____

Daniel Crossman, Legislative Auditor and Secretary to the Audit Subcommittee of the Legislative Commission

Date: _____