

MINUTES OF THE MEETING OF THE
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION
MAY 24, 2016

This is the second meeting of the 2015–2016 Interim.

A meeting of the Audit Subcommittee of the Legislative Commission (NRS 218E.240) was called to order by Chair Kieckhefer, at 9:07 a.m., Tuesday, May 24, 2016, in Room 4100 of the Legislative Building, Carson City, Nevada, with a simultaneous video conference to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

AUDIT SUBCOMMITTEE MEMBERS PRESENT:

Carson City:

Senator Ben Kieckhefer, Chair
Assemblywoman Jill Dickman

Las Vegas:

Assemblywoman Maggie Carlton, Vice Chair
Senator Kelvin D. Atkinson
Senator David R. Parks

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Rocky Cooper, Legislative Auditor
Daniel L. Crossman, Audit Supervisor
Jane E. Giovacchini, Audit Supervisor
Todd C. Peterson, Audit Supervisor
Shannon Ryan, Audit Supervisor
Jennifer M. Brito, Deputy Legislative Auditor
Debra Clark, Deputy Legislative Auditor
Shirlee Eitel-Bingham, Deputy Legislative Auditor
Drew Fodor, Deputy Legislative Auditor
Sarah R. Gasporra, Deputy Legislative Auditor
Diana Giovannoni, Deputy Legislative Auditor
Tammy A. Goetze, Deputy Legislative Auditor
Sandra T. McGuirk, Deputy Legislative Auditor
Jelena Williams, Deputy Legislative Auditor
Susan M. Young, Office Manager
Michael K. Morton, Deputy Legislative Counsel, Legal Division

The roll was taken. A quorum was present. Agenda items taken out of order have been placed in the proper agenda order in the minutes for purposes of continuity.

Chair Kieckhefer stated agenda item 5a would be taken out of order.

For the purposes of continuity, the minutes appear in order of the agenda.

Item 1 — Public Comment

Chair Kieckhefer called for public comment. There was none.

Item 2 — Approval of minutes from November 19, 2015

Chair Kieckhefer called for a motion.

ASSEMBLYWOMAN DICKMAN MOVED TO APPROVE THE AUDIT SUBCOMMITTEE MINUTES OF NOVEMBER 19, 2015. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

Item 3 — Presentation of audit report (NRS 218G.240)

Mr. Cooper stated there were seven audit reports and one six-month report on the agenda.

a. State of Nevada, Single Audit Report

Shannon Ryan, Audit Supervisor, stated the single audit is performed under contract with Eide Bailly LLC. It is required by the federal government for entities who accept and expend federal dollars. Requirements include an audit of the State's financial statements and compliance with requirements related to Federal funds. The single audit is important because the State expends nearly \$5 billion in federal dollars.

The financial statements are comprised of the Independent Auditors Report, Management's Discussion & Analysis, the financial statements, notes to the financial statements, required supplementary information and related notes, and the Independent Auditors Report on Financial Reporting.

The opinion for the financial statements was unmodified, meaning the auditors have been able to access all needed financial information and that the information has conformed to generally accepted accounting principles.

Page 4 of the report begins Management's Discussion and Analysis, which provides a narrative overview of the financial statements and highlights significant information for readers. Pages 15 through 33 are the actual financial statements. Pages 34 to 77 are the notes to the financial statements, which provide further detail and information and should be read in conjunction with the financial statements.

On page 84 is the Auditor's report on Federal Compliance. The State had 43 findings related to federal compliance. The most significant findings are those considered material weaknesses with material non-compliance. The State had eight of these findings for fiscal year 2015.

Also noted on page 89 from the Auditor's Report on Federal Compliance for Each Major Program is that the Schedule of Expenditure of Federal Awards is fairly stated in relation to the basic financial statements. The Schedule of Expenditure of Federal Awards begins on page 90 and on page 124 shows nearly \$5 billion in federal expenditures for fiscal year 2015. Pages 126 and 127 detail the programs audited as major federal award programs for the fiscal year 2015 audit. Page 130 begins the findings and agency responses. The status of prior year's findings starts on page 225 in the report. You will notice here that agencies submit the status of any prior year findings. As part of their audit procedures, Eide Bailly LLC confirmed the status of these findings related to any programs being audited in the current year. Furthermore, federal entities are supposed to issue management decisions regarding state agency corrective action for any current year findings, essentially approving or denying the corrective action plan.

Ms. Ryan concluded her presentation and offered to answer any questions.

Chair Kieckhefer called for questions.

Responding to Assemblywoman Dickman's question regarding as to how partially corrected items in the single audit are addressed, Ms. Ryan was of the opinion that findings roll for 3 years. She noted if an agency with a previous partially implemented recommendations is included in the current year's audit, then the corrective action plan will be reviewed to determine if those findings are now fully corrected. It is up to the federal agency that has oversight over that particular state agency to follow-up to ensure those findings are corrected.

Chair Kieckhefer queried as to the two deficiencies found in internal controls over financial reporting within the State Controller's Office.

Referring to findings 2015-A and 2015-B, Ms. Ryan noted 2015-A related to incorrectly amortizing the expense of the bonds and was of the understanding the Controller's Office was in agreement and has made the necessary corrections; however, since such a large adjustment needed to be made, Eide Bailly LLC had to report the finding. The second finding was essentially just an error where a capital asset for land was recorded in a previous year and then when the project was completed, that amount was also included in the total for the current year. Since this was found by Eide Bailly LLC during the audit process and corrected, the finding is reported for the financial statements for the current year.

Chair Kieckhefer asked about the significance in the difference between the number of findings this year from previous years and for Ms. Ryan's perspective. In addition, he expressed concern over the possibility that federal awards could be jeopardized with an increase in the number of findings.

Ms. Ryan pointed out that the number of findings ebbs and flows from year-to-year depending on different compliance requirements for the major programs being audited. The number of findings had consistently been in the 30s for several years. She noted that the same types of issues are found often in the audits and that there was not

anything significantly different this year from years prior that would likely jeopardize federal awards.

Chair Kieckhefer pointed out concern for one finding where potentially not meeting maintenance of effort for SAPTA and whether that could have an impact on the ability to utilize future federal funds.

Ms. Ryan stated the agency would be best to respond to those concerns; however, those representatives were not at the meeting to offer a response. She noted it is up to the federal awarding agency to take action regarding any of these findings if they are considered to be significant.

Chair Kieckhefer called for further questions and there were none. He then called for a motion.

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

b. Report on Count of Money in State Treasury

Jelena Williams, Deputy Legislative Auditor, stated in accordance with NRS 353.060, the auditors counted the money and securities in the State Treasury on Tuesday, June 30, 2015, and prepared Ex. A with supporting Schedules 1 through 3 in the report. The Money Count included actual physical examination, direct confirmation with financial institutions, and other procedures considered necessary to fulfill the statutory obligation.

Ms. Williams stated in accordance with NRS 353.075 the report was filed with the Secretary of State on December 2, 2015.

Ms. Williams stated the count of money and securities on June 30, 2015, showed there was \$247.2 million on deposit with financial institutions, \$2.5 billion of state owned securities, and \$871.4 million of securities held for safekeeping, for a grand total of \$3.6 billion. Details of the exhibit are shown on pages 3 through 17 of the report.

Ms. Williams concluded her presentation. She offered to answer questions from the Subcommittee.

Chair Kieckhefer called for questions from the Subcommittee members and there were none.

Chair Kieckhefer was of the opinion that although statute requires that the report be conducted, the Money Count does not seem necessary nor like something that would need to continue. He asked the Subcommittee members if they had any concerns if the report was no longer conducted and no concerns were stated.

The Chair called for a motion.

ASSEMBLYWOMAN DICKMAN MOVED TO ACCEPT THE REPORT ON COUNT OF MONEY IN STATE TREASURY. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

c. Department of Public Safety, Division of Parole and Probation

Diana Giovannoni, Deputy Legislative Auditor, began her presentation with a brief overview of the Division of Parole and Probation. The primary mission of the Division of Parole and Probation is to protect the community and to reduce crime by supervising individuals who have been convicted of crimes but are living in the community. Offenders include individuals convicted of murder, kidnapping, crimes against a child, sex offenses, street gang activities, and other violent and non-violent crimes.

In February 2015, the Division reported a total caseload of 18,500, of which, approximately 12,400 were actively supervised by sworn officers. Ex. 1 shows the Division's active supervision caseload statistics by location and supervision level as of February 2015. The Division conducts supervision activities from the Northern urban, Northern rural, and Southern commands with 10 offices located throughout the state. The Division's headquarters are located in Carson City.

For fiscal year 2015, the Division operated with almost \$35 million from the General Fund and \$7 million in other revenue. The Legislature has provided 51 additional positions to the Division since the 2014–2015 Biennium. Sworn and nonsworn positions were added to address caseload projections and staffing ratios, as well as to address the backlog of presentence investigation reports. Ex. 2 shows the number of filled positions as related to offender management on June 30 for fiscal years 2012 to 2015, and the exhibit also shows 415 offender management positions were authorized for fiscal year 2016.

The audit objectives were to evaluate whether the Division complied with its stated directives regarding 1) personal home contacts for high-risk offenders classified as intensive supervision, sex offender, and house arrest, and 2) the intake process for offenders entering parole and probation.

Ms. Giovannoni continued her presentation and stated the audit found that the Division did not always conduct home contacts with high-risk offenders in accordance with stated directives. Specifically, ongoing home contacts with high-risk offenders, that is those classified as intensive supervision, house arrest, or sex offenders, were not always completed within the time frames detailed in Division directives. Of 50 high-risk offenders tested, 14 (28%) had one or more untimely ongoing home contact(s) between July 1, 2013, and March 31, 2015. In addition, of 141 ongoing home contacts that were required during this period, 19 (13%) were late by an average of 32 days. Although some home contacts were only late by a few days, other home contacts were late by months.

The importance of home contacts in identifying inappropriate behavior was evidenced throughout the audit sample. It was found that there were numerous instances of offenders being arrested during a home contact, and for many of those, the home contact was late. Management indicated that home contacts were often missed due to officer turnover and staffing difficulties. Staffing issues were noted in certain instances in the Offender Tracking Information System (OTIS). However, ongoing notification of activities needing immediate attention would be beneficial for busy officers. Division

management indicated an officer notification system is currently being considered with the approved upgrade to OTIS.

In the audit report, auditors explained the Division needs to implement a system to identify, monitor, and provide notifications of home contacts that are immediately due. In addition, the administration does not actively monitor the Division's compliance with home contact requirements through performance statistics or other reports to evaluate the Division's success at reaching stated home contact directives.

Auditors found the Division has less stringent requirements for ongoing home contacts with high-risk offenders residing in rural areas than for their urban counterparts. For example, home contacts are required every 60 to 90 days for high-risk offenders living in Las Vegas and Reno; however, caseload directives do not require home contacts for high-risk offenders living in Carson City and other less populated areas. This occurs because the Division uses general caseload directives to supervise high-risk offenders in rural areas. General caseload directives do not require periodic home contacts. Because of this distinction for high-risk offenders in rural areas, some rural high-risk offenders on mixed caseloads may not have contact with an officer on a routine, ongoing basis.

Auditors contacted five other Western states with comparable demographics. These states all indicated contact requirements are the same for all high-risk offenders, regardless of geographic location. All five states mixed offenders of varying classifications on rural caseloads. Rural management indicated that officers try to conduct home contacts for high-risk offenders according to the 60 or 90-day high-risk directive for urban areas. However, management added that rural officers face problems not found in urban areas such as having to travel greater distances to complete a home contact and staffing problems due to vacancies. Auditors understood that the Division faces difficulties regarding rural offender management; however, classifying offenders as high-risk, but supervising them under the general supervision standards negates the offender's risk status when supervising offenders in rural areas. Ex. 3 shows the high-risk offenders by rural office as of February 2015. The audit report contains two recommendations regarding improving home contacts for high-risk offenders.

Continuing her presentation, Ms. Giovannoni noted the Division had problems completing key intake steps that help ensure the proper foundation for new offenders on parole and probation. For instance, auditors noted initial home contacts were not always completed within the first 30 days of supervision, as required by the Division's directive. Specifically, it was found initial home contacts were untimely for 23 of 94 (24%) offenders tested. Ex. 4 and Ex. 5 show late initial home contacts by region and offender classification. The requirement for an initial home contact in the first 30 days of supervision follows best practices by focusing on the early period of supervision when offenders are at the greatest risk of reoffending.

Next, the importance of intake reviews, where sergeants perform a review of all of the processes associated with supervising a new offender, was discussed. Specifically, 10

of 50 (20%) cases either did not have an intake review or it was untimely. The Division implemented the sergeant review process for intake activities in response to the prior audit. Management does not consistently run reports that identify delinquent intake reviews and does not actively use other processes to monitor whether these activities are performed.

Auditors indicated that controls to identify nonresponsive offenders are necessary. Offenders did not always have contact with the Division in the first 5 days as stated in Division directives. Specifically, 7 of 40 (18%) offenders on probation did not have timely initial contacts. Of these, two offenders did not have contact with the Division for several weeks. Even though the Division cannot realistically develop controls to ensure all offenders report within this window of time, it also did not have a system to identify and monitor when offenders fail to report.

The initial contact, a process implemented in response to our prior audit report, is for new offenders to receive orientation with staff. This includes certain terms of supervision that must be complied with and instructions for making contact with the supervising officer. The Division's policy aligns with research, which identifies the period immediately following release as particularly vulnerable for offenders.

In addition, auditors indicated in the report that some supervision fees were not billed. The estimated total is about \$38,000. It was also noted that the Division should ensure users are removed from having access to OTIS when they are terminated.

There were six additional recommendations to improve the supervision of offenders, billing supervision fees, and updating access to information systems.

Appendix A shows the monthly contact requirements for offenders on general supervision, sex offenders, and those on intensive supervision. Appendix B contains the audit methodology. Appendix C is the Division's response. The Division accepted all eight recommendations.

Ms. Giovannoni concluded her presentation and asked if there were any questions.

Chair Kieckhefer called for questions. Assemblywoman Carlton spoke of the vacancy rate and was pleased it was being addressed. She queried as to the difference in vacancy rate of urban versus rural areas.

Ms. Giovannoni stated the vacancy rate is cited in the audit report with an overall rate of 8% to 13%. She noted the Division would be best suited to answer that question.

Assemblywoman Carlton expressed concern that it appeared supervision requirements are not as stringent for rural offenders when compared with the other states.

Ms. Giovannoni replied that the auditors checked with the five western states: New Mexico, Colorado, Wyoming, Idaho, and Montana. Their standards indicate that they have the same supervision requirements regardless of geographic area; however, those states all indicated similar problems that Nevada has with respect to the staffing levels and distances required for travel.

Assemblywoman Carlton stated that she understands that but the standards are the same; however, in the audit report it reads that the standard is different for rural versus urban.

Ms. Giovannoni acknowledged Assemblywoman Carlton was correct.

Assemblywoman Carlton expressed concern that there seems to be a separate standard. Nevertheless, everyone in the State should be protected in the same manner and offenders should be held to the same level.

In response to Senator Parks' question regarding previous recommendations in the prior audit of the Division, Ms. Giovannoni replied in the prior audit, the auditors found there was not contact being made timely with the offenders upon release. The Division did implement the process of having a staff person conduct an initial contact within the first 5 days. The offender was instructed to report to the Division and the staff person would give the offender an orientation and call back instructions to set up an appointment with a parole officer.

Senator Parks asked if those previous recommendations were based on procedures that were not followed.

Ms. Giovannoni remarked that the prior audit had a bigger problem with initial contacts not being timely, and at the time, the 5-day rule was not in effect. The rule was implemented after that audit. As a result, there were 7 out of 40 or 18% that did not have a timely contact and where the offenders failed to report within the first 5 days. The auditors recommended the Division develop a process to detect this rather than letting offenders fall through the cracks for longer periods of time.

Chair Kieckhefer asked if the standards used for visitation are set by policy or regulation and if the national standards are taken into account.

Ms. Giovannoni replied the standards are directives that are set internally. These standards have been ongoing with the Division for a long period of time and noted the Division would be better suited to answer the part on national standards.

Chair Kieckhefer pointed out on page 3 of the audit report the number of positions for offender management has been increased by a third over the past 5 years, over a 100 new positions for the Division have been authorized to try to ensure those on parole and probation are adequately supervised. He asked if parole and probation specialists were sworn or nonsworn individuals.

Ms. Giovannoni replied that they are nonsworn individuals and affirmed that the others listed are sworn positions.

Chair Kieckhefer queried as to whether the auditors had any indication of what the timeliness would be and if there would have been any improvement for home contacts had the standards between audits not changed.

Ms. Giovannoni replied that that type of comparison was not made during the course of this audit.

Chair Kieckhefer called for Division representatives.

Natalie Wood, Chief, Division of Parole and Probation, DPS, stated the Division has accepted all of the recommendations and was pleased with the audit and recommendations.

In regards to Recommendation No. 1, Chief Wood was of the opinion that vacancies are a contributing factor when ensuring ongoing home contacts. Such things as long-term vacancies and military leaves of absence impact workloads. When an individual goes out on leave for two weeks, that caseload still exists. This results in constant catchup with the work on that caseload. The Division is developing a crystal report to identify those offenders who have not had a home contact performed in a timely manner, and that while not all of the recommendations have been fully implemented, the Division recognizes the importance and is moving forward with developing that report.

Continuing her testimony, Chief Wood discussed Recommendation No. 2. She noted in the rural offices, the Division was operating under a general supervision guideline or a mixed-case guideline. The geography and travel distances are enormous and if there is a vacancy in a rural area, it has a greater impact on the actual region than it would in areas such as Las Vegas or Reno. The Division has updated its directive and documented the contact guidelines for a mixed caseload. Previously, the Division operated using a general supervision guideline. This did not mean that contacts were not being made. Supervisory oversight occurred with identifying high-risk offenders on those caseloads for those needing further attention when compared to those who were in compliance. The Division has since modified its directive.

In regards to Recommendation No. 3, Chief Wood was of the opinion this issue of initial home contact being made was primarily in the Las Vegas area. The Division recognized a crystal report can be created to identify offenders who are in need of initial home contact. There can be contributing factors sometimes where an offender might not have had an initial home contact such as the offender is back in custody, or the offender was granted supervision, but is serving out a lower sentence in a county jail. Developing a crystal report and having oversight by the first-line supervisors will improve this area.

Chief Wood addressed Recommendation No. 4., which is to develop controls to ensure intake reviews are performed timely. She noted that sometimes someone may report into the Las Vegas office, but wants to transfer to Winnemucca or Elko. Conducting the initial home contact is moot because the offender has reported to the Division and the offender is informing them of a move to a different area. There are also certain circumstances where the individual is rearrested before there has been time to report to the office, the individual has absconded, does not show up to the appointment, or has been granted probation to hold or parole to hold. The Division has a report that identifies offenders in need of initial review. She was of the opinion that there could be greater oversight of the first line supervision level and she will be working with staff to ensure the list is distributed statewide.

Chief Wood discussed Recommendation No. 5. She stated the reality is there are defendants who are not timely, show up late, have previously absconded, are rearrested, and even show up under the influence. The Division has to work with all types of defendants. Part of the lack of timeliness was due a delay in receiving the file from the court in order for the Division to setup its file. The Division expressed it can draft a directive change that will be submitted to their policy committee to determine if there are any internal procedures to expedite this process.

Addressing Recommendation No. 6, Chief Wood stated the DUI diversion court varies from region to region and no one region is the same. Some courts require the Division's input and supervisory oversight and some courts do not. The Division has already drafted a change in the directive that will provide language for the courts if supervision input and oversight is required by the Division.

Continuing her testimony, Chief Wood discussed Recommendation No. 7. According to her follow-up with the Division's fiscal staff, offenders were being billed; however, the billing did not always occur within the first 60 days during the initial stages of file setup. Instead, the billing occurred towards the end of their supervision. She was of the opinion the process can be streamlined. Currently, the Division has staff reviewing court minutes daily in order to facilitate a quick file setup that can be completed in order to start the billing process.

Concluding her testimony, Chief Wood discussed Recommendation No. 8 to develop written policies and procedures regarding periodically updating access to information systems. She stated this includes monitoring for the proper removal of users and ensuring access levels are appropriate, which is being done now. As people retire, are recruited, and transfer in and out of the Division, there is now greater oversight of the addition to and removal from the computer system as necessary, with the exception of the OTIS (offender tracking information system). The officers' position and control number will stay in OTIS there permanently because it is part of the record.

Chair Kieckhefer asked about the issue over rural offenders. He pointed out that he represents residents in both Carson City and Reno. He was of the opinion that residents in Carson City should not be afforded a lower level of protection from sex offenders from those constituents in Reno. He stated that Carson City does not have the distance challenges that were previously mentioned by Chief Wood. He queried as to why Carson City would be categorized as a general population or mixed offender system when the population could be visited on a quick basis.

Chief Wood replied that historically the officers travel a variety of distances. When there is an office that is staffed with six or seven officers, the sex offender population is not going to be the same as it would be in Las Vegas or Reno. Those officers in the rural areas are going to have mixed caseloads with general supervision and some sex offenders. It is not the same level that the Reno officers would have where it could be 45:1. She stated she has to entrust supervisors to provide case management oversight where they have the expertise to recognize the offenders who need the attention and the ones that do not. The reality is that not every sex offender is the same tier level, as

statutory sexual seduction is very different from aggravated rape. The officers need to be able to assess that case, look at the criminal and offense, and determine whether to contact them. There is not a lesser degree of supervision; however, the Division has to weigh the staffing needs with the type of offenders.

Chair Kieckhefer stated he understands weighing the staffing needs; however, wanted to clarify that judgement call by staff of perceived risk when visiting offenders is not in place in Reno or Las Vegas. There are guidelines followed for visitation of sex offenders regardless of tier level, based on classification in Clark and Washoe Counties. He commented that he is sure the officers effectively evaluate who needs a higher degree of supervision. This is one of those areas where human error can be costly.

Responding to Chair Kieckhefer's question requesting specifics on the updated directive for mixed caseloads for visitation requirements, Chief Wood stated if it is general supervision, the caseload would be required to have 15 personal home contacts per month and 15 casual contacts, which those could be personal contacts at the place of employment. If someone is on mandatory parole, there would be an additional contact, which would be any one of those casual or personal contacts or an employment contact. If there was a caseload of 100 people, it would be physically impossible to see 100 persons in a month. It is up to the discretion of the individual officer to focus on and manage their caseload.

The directive for mixed caseloads in rural offices was updated and took into account the travel distances and the geography. Sometimes the rural officers will travel several hours to conduct a home contact. For safety purposes, the contact is unannounced. For this purpose, general supervision guidelines were incorporated with 15 personal home or employment contacts or casual contact. The increase was to mirror the other specialized guidelines as an additional collateral or person contact on mandatory parole cases, which are considered a greater risk given their criminal history. Any intensive supervision or gang-related cases can be contacted every 60 days with surveillance as needed, and sex offender and house arrest cases with personal home contacts every 90 days with surveillance as needed.

Chair Kieckhefer confirmed with Chief Wood that supervision standards for rural offenders has been updated to mirror that of the supervision levels in the Las Vegas and Reno areas.

Assemblywoman Carlton queried about the supervision fees and asked for Chief Woods' perspective on the supervision fees. She commented that there are certain times when a person cannot pay the supervision fees. She also asked what the current perspective of the Division would be in terms of an honorable versus dishonorable discharge if there someone who has done everything correctly, is on the right path, and is about to be discharged, but has outstanding supervision fees. In addition, she queried as to flexibility the officers might have when working with a person and the Division's approach.

Chief Wood responded there is some officer discretion. If somebody owed \$60, \$90, even \$100 in supervision fees but has done everything else correct, and has made

every effort to pay even if \$5 per month, she opined the spirit of the law would provide for an honorable discharge. She noted it is important to work with the offenders. For many of the individuals, it has taken a significant amount of time to gain employment. It does not necessarily guarantee the offender will receive a dishonorable discharge if they are behind in supervision fees. It is the offender's overall performance while on supervision that matters.

Assemblywoman Carlton appreciated Chief Wood's comments and the Division's opinion on the subject. She expressed hope that those views were shared up and down the ranks, because with a dishonorable discharge it is very hard to get future employment and the offender would not be allowed to vote.

Chair Kieckhefer called for further questions.

Assemblywoman Dickman referred back to Chair Kieckhefer's previous question regarding home contacts and asked for more information.

Chief Wood stated that from a historical perspective, the Division had previously set itself up for failure. She was of the opinion the contacts established were not practical to achieve taking into account vacancies and the leave of absences discussed earlier. It was impractical to try to get the amount of contacts that were required of staff. The Division examined the number average number of contacts and compared that with what is practical and achievable to ensure proper supervisory oversight, which resulted in changes to the directive. The Officers have been given more discretion in how caseloads are managed. Internal standards have been set for the Division that are manageable.

Chief Wood commented on the other states that were mentioned in the audit. She expressed that the audit report did not state whether or not those states were in compliance with their own standards. The Division does its best and the changes that have taken place from the previous audit to this one was to set a new manageable standard.

Chair Kieckhefer asked if the Division has the capability within OTIS to set up systems to flag nonresponsive offenders or due dates for home visits or would that require a programming change.

Chief Wood stated the Division is transitioning into a new offender tracking system, which will enhance the current system and they can program in certain safeguards. Currently, a sergeant meets with the officer once a month and will review what is called an all-in-one-report. The sergeant will review the report line-by-line to determine when the last home contact, employment verification, and drug test was conducted on the offender. The sergeant prepares a write-up that prioritizes offenders in need of more contact. The officer is made aware of this and signs off on the all-in-one report that they are responsible for knowing who has had a contact and who has not. Based on crystal reports, more oversight at the management level could be provided by lieutenants and first line supervisors to address deficiencies.

At the request from Senator Parks, Chief Woods commented on turnover in the Division. She noted there are 17 sworn positions vacant in the Las Vegas Office and about 14 additional positions slated to be filled after the next academy. The Department is opening up a new academy in the south to capture suitable candidates to sign on with the Division, but are reluctant to come north for the academy. In addition, there are 12 retirees that have been brought back; however, there are about 42 vacant positions, which does impact operations. There are personnel supervisors whose full-time job is to monitor for the recruitment. Unfortunately, it is difficult to compete with local agencies' recruitments.

Senator Parks queried to the upgrades for the OTIS system and if there was any timeline that would give the Division assistance in better tracking.

Chief Wood stated the Division is working very diligently on the new upgrades. On July 1, 2016, the beta testing will begin. The beta testing will identify areas of programming that need improvement or need to be implemented. She noted it is a constant work in progress and there is an IT committee working with EITS to develop the new OTIS.

There were no further questions or comments. Chair Kieckhefer called for a motion.

ASSEMBLYWOMAN DICKMAN MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF PAROLE AND PROBATION. THE MOTION WAS SECONDED BY SENATOR ATKINSON AND CARRIED UNANIMOUSLY.

d. Department of Health and Human Services, Division of Child and Family Services

Tammy A. Goetze, Deputy Legislative Auditor, began her presentation with a brief overview of the Division of Child and Family Services (DCFS). She stated the Division was established in 1991 within the Department of Health and Human Services. The Division provides Child Welfare Services, Juvenile Justice Services, Children's Mental and Behavioral Health Services, Administrative and Support Services, and direct services as well as oversight for programs administered at the county and local levels. Ex. 1 in the audit report shows the types of services provided by each program area.

In fiscal year 2015, the Division had 23 budget accounts with revenues and expenditures of over \$227 million. As Ex. 2 in the report shows, the Division is funded primarily by state and federal funds, which amounted to \$120 million and \$89 million, respectively, in fiscal year 2015. As of June 30, 2015, the Division had 791 filled positions located in Carson City, Las Vegas, Reno, and various offices in rural Nevada. Ex. 3 in the audit report shows revenues and expenditures by program area. During fiscal year 2015, Child Welfare Services' revenues and expenditures amounted to over \$142 million, and Juvenile Justice Services and Children's Mental and Behavioral Health Services totaled \$31 million each.

Ms. Goetze stated the scope of the audit focused on funding, expenditures, and performance data for fiscal years 2010 to 2015, and performance measures for fiscal year 2014. During the 2015 Legislative Session, concerns were raised regarding the

Division's funding streams and how these funds were utilized. Therefore, these concerns were considered as the audit objectives were developed. The audit objectives were to analyze and describe funding and expenditures relating to services provided by the Division, including key controls and performance data; and to evaluate controls over performance measures.

She continued her presentation by describing funding and expenditures for Division services. Except for certain county payments for foster care and adoption assistance, auditor analysis included Division revenues and expenditures recorded in the state accounting system, and excludes financial information of other state agencies and counties providing child and family services. To analyze and describe funding and expenditures relating to services provided by the Division, auditors compiled financial data for each program area.

Additionally, auditors compiled program-related data for each program area. Child welfare agencies paid about \$29 million in foster care payments during fiscal year 2015. For fiscal years 2010 to 2015, Ex. 5 in the report shows foster care payments by child welfare agency, and Ex. 6 shows the monthly average number of children placed in foster care by child welfare agency and the average payment per child. Child welfare agencies paid about \$42 million in adoption subsidy payments during fiscal year 2015. For fiscal years 2010 to 2015, Ex. 7 shows adoption subsidy payments by each child welfare agency, and Ex. 8 shows the monthly average number of children with adoption agreements for each child welfare agency, those with special needs, and the average payment per special needs child.

Ms. Goetze noted improvements are needed over the Division's monitoring of county block grants. The Division awards a block grant to each agency, which provides child welfare services in a county whose population is 100,000 or more. Child welfare services in the urban counties are provided by Clark County Department of Family Services and Washoe County Department of Social Services. As shown in Ex. 9, during fiscal year 2015 these agencies received a total of \$64.6 million in block grant funding.

She described how the auditors reviewed the child welfare agencies' reports relating to fiscal year 2015 funding and found untimely submittals, incomplete reports, and undocumented reviews. Specifically, it was found four of eight reports were not submitted by the statutorily defined deadlines, three of eight reports were incomplete, and the Division did not review improvement plans and progress reports. Additionally, the Division's review of incentive applications and reports was not adequately documented, including the calculation of incentive payments.

State law specifies certain reporting requirements for child welfare agencies. The Division is also statutorily required to monitor the performance of child welfare agencies through data collection, evaluation of services, and review of agency reports. The Division sent periodic reminders of deadlines; however, staff did not actively enforce the requirements. For example, Division policy states incentive payment applications will not be accepted if submitted more than 60 days late; however, auditors found

applications submitted 92 and 120 days late that were accepted and incentive amounts approved. This occurred because policies do not mention the steps that should be taken and enforcement action for untimely submittals. Additionally, staff were unaware of their statutory duties for reviewing reports and the need to adequately document their review. It is imperative the Division adequately monitor the performance of child welfare agencies to ensure state and federal funds are being appropriately spent on child welfare services and help ensure the children and families served receive quality services.

For Juvenile Justice Services, the report describes Juvenile Correctional Care, the Youth Parole Bureau, and Youth Alternative Placement. The cost of operating the three state-operated youth centers was over \$18 million during fiscal year 2015. For fiscal years 2010 to 2015, Ex. 11 in the audit report shows costs by youth center, and Ex. 12 shows the monthly average number of children residing in each youth center and yearly cost per child. The cost of providing youth parole services was about \$5 million during fiscal year 2015. For fiscal years 2010 to 2015, Ex. 13 shows Youth Parole Bureau costs, and Ex. 14 shows the monthly average number of children receiving youth parole services and yearly cost per child. The state costs for operating the three county-operated youth camps was about \$4 million. For fiscal years 2010 to 2015, Ex. 15 shows state youth camp costs by camp, and Ex. 16 shows the monthly average number of children residing in each youth camp and yearly state cost per child.

Continuing her presentation, Ms. Goetze stated that for Children's Mental and Behavioral Health Services, the report describes treatment services provided by Southern Nevada and Northern Nevada Child and Adolescent Services. Southern Nevada Child and Adolescent Services' operating costs were almost \$23 million. For fiscal years 2010 to 2015, Ex. 18 shows operating costs by service type, and Ex. 19 shows the monthly average number of children receiving services and the yearly cost per child. As indicated in the report, Northern Nevada Child and Adolescent Services' operating costs were about \$8 million. For fiscal years 2010 to 2015, Ex. 20 shows operating costs by service type, and Ex. 21 shows the monthly average number of children receiving services and the yearly cost per child.

Two recommendations were made in the report to improve the monitoring of child welfare services block grants.

The reliability of performance measures could be strengthened. The Division reported 45 performance measures for fiscal year 2014, and control weaknesses were found in 8 of the 45 measures. Detailed supporting documentation was not retained for seven measures, and the methodology used for calculating one measure was not appropriate.

The State Administrative Manual requires records used in computing performance measures be retained for 3 fiscal years. Agencies are also required to assign staff the responsibilities of reviewing the performance measurement procedures and ensuring that they are followed. Division policy reiterates the state requirements for document retention and review of measurement calculations. A recommendation was made to improve the reliability of the Division's performance measures.

Concluding her presentation, she noted Appendix A in the report contains the child welfare agency statutes used during the audit, Appendix B lists the Division's fiscal year 2014 performance measures, Appendix C is the audit methodology, and Appendix D is the Division's response to the recommendations. She stated the Division accepted all three recommendations and asked if there were any questions.

Chair Kieckhefer called for questions.

Responding to Assemblywoman Dickman's question regarding the amount of \$330,000 in Ex. 19 for the Desert Willow Treatment Center, Ms. Goetze confirmed the amount was correct; however, further details on that amount would be better suited answered by the agency representatives.

Chair Kieckhefer commented that the numbers demonstrate the difference between community and residential based services. He then called for agency officials.

Kelly Wooldridge, Administrator, DCFS, Department of Health and Human Services, thanked the Subcommittee and the auditors for the chance to respond to the audit. She noted she had an opportunity to review all policies and processes related to the audit and new policies and procedures have been put in to place to better align with the Nevada Revises Statutes (NRS).

Although DCFS has an enjoyable working relationship with counties, DCFS acknowledged it has failed to correctly document oversight activities. All new policies and procedures related to Recommendation No. 1 will be fully implemented as of July 1, 2016. She reported the incentive applications for Clark and Washoe Counties that were due by May 1, 2016, were both submitted prior to the deadline.

Ms. Wooldridge pointed out that this audit report includes outcome measures reported to the state government; nonetheless, DCFS also reports to the federal government through the adoption in foster care analysis report or the Adoption and Foster Care Analysis and Reporting System (AFCARS). The 2016 report is expected to meet all AFCARS standards with the exception of one where DCFS was 1% below the 95% standard. In 2017, DCFS expects AFCARS to meet or exceed all standards. She was of the opinion the new policies and procedures related to Recommendation No. 1 will be beneficial to this.

As for Recommendation No. 2, Ms. Wooldridge reported all of the performance measures indicated in the audit report have been updated. She offered to answer questions.

Chair Kieckhefer thanked Ms. Wooldridge and asked her to address Assemblywoman Dickman's questions regarding the costs associated with certain treatment facilities.

To clarify, Ms. Wooldridge restated it was for the cost associated with Desert Willow Treatment Center in the amount of \$330,000. Assemblywoman Dickman affirmed she was correct.

Chair Kieckhefer directed Ms. Wooldridge to Ex. 19 in the audit report where the yearly costs per child is listed.

Ms. Wooldridge agreed with the amount listed for Desert Willow Treatment Center. She then spoke to the exorbitantly high costs of residential treatment centers. Part of the way to address these costs is through a system of care grants. The Division is hoping to realign services for youth before they need residential treatment services or acute care hospitalization. Desert Willow Treatment Center has both services available, which contributes to high expenses to run the facility. She urged that it is important to get help to children before such services are needed.

Assemblywoman Dickman queried as to why the costs per child was approximately three times higher in the south than in the north and she pointed out the cost of Family Learning Homes in the north at \$102,800 per child.

Ms. Wooldridge responded that is something the Division is currently reviewing. There are two distinct staffing models that are run in the south and in the north. In the south, there is awake staff 24 hours per day in treatment homes. In the north, there is staff that spends the night and sleeps 8 hours during certain shifts. Those treatment homes are secured with alarms and intercoms for safety. From these two models, staffing is an enormous contributor to the difference in cost.

Chair Kieckhefer called for additional questions.

Responding to Assemblywoman Dickman's question regarding what happens to the funding that is not used in its entirety by the end of the fiscal year by child welfare agencies. Ms. Goetze stated the funds are rolled over to the next fiscal year for continued use in those programs.

There being no further questions, Chair Kieckhefer called for a motion.

ASSEMBLYWOMAN DICKMAN MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD AND FAMILY SERVICES. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

e. Silver State Health Insurance Exchange

Jennifer M. Brito, Deputy Legislative Auditor, began her presentation with background information on the Silver State Health Insurance Exchange (Exchange). The Exchange was established in 2011 to create and administer a state-based health insurance exchange, facilitate the purchase and sale of qualified health plans, and provide for the establishment of a program to help certain small employers in Nevada facilitate the enrollment of employees in qualified health plans.

Ms. Brito pointed out that the Exchange opened to the public as Nevada Health Link in October 2013 as required by federal regulation. In May 2014, the Board approved the option to no longer operate as a State Based Marketplace and instead become a Supported State Based Marketplace starting in plan year 2015. This decision meant the Exchange would utilize the federal infrastructure for eligibility and enrollment functions via HealthCare.gov while retaining control over the marketplace including policy

decisions, insurance plan certification, consumer assistance, education and outreach, and marketing.

While the Exchange was initially funded by federal establishment grants, as of January 2015, they were self-sustaining from qualified health plan member fees. Member fees were assessed as a set dollar rate, per enrollee, in plan years 2014 and 2015. The Board changed the fee structure to a 3% fee assessed on all pre-credit insurance premiums as of January 2016. Ex. 3 in the audit report shows the reported enrollments over the last three enrollment periods have steadily increased from plan year 2014 through 2016.

She continued her presentation explaining the audit scope and objective. The audit focused on activities from January through October 2015. The audit objective was to determine if certain financial and administrative controls related to contract management and revenue collection were adequate.

With respect to the findings and recommendations regarding contract management, auditors found that the Exchange needs to improve its contract monitoring process, specifically its processes for monitoring navigator entities' activities to ensure entities are providing the intended services, which include outreach, education, and enrollment assistance to the uninsured and underinsured populations. First, auditors found the Exchange's monitoring process is not sufficient to determine whether the navigator entities' outreach and event reports supported the hours reportedly worked.

The auditors found that between May and October 2015, the nine navigator entities reported attending 360 events. While some entities submitted supporting documentation related to the self-reported number of events attended, the majority did not, nor did the Exchange request further details as part of the contract monitoring process. To understand what specific services were rendered, auditors requested supporting details for all events and activities from May through October 2015. Based on the auditors' review of this information, they found that documentation for reported events supported about 17% of the staff hours paid. Based on the details provided, auditors were unable to determine whether the remaining 83% of the paid hours were spent on Exchange related activities.

Examples are provided in the report that demonstrate the need for additional review and insight into the activities of the navigator entities. One of the examples shows that although one entity reported working 5,070 hours from May through October 2015, outreach events only accounted for 197 hours of that time. Other than a list of social media posts, no further support was given as to how the remaining time was spent on behalf of the Exchange. As a result, without having the navigator entities identify the time spent on specific duties performed on behalf of the Exchange, it is difficult for the Exchange to ensure the entities are only compensated for Exchange-related activities or to know what services are being done by the navigator entities on its behalf.

Auditors found that the outreach and event reports submitted by the navigators do not provide sufficient insight into the navigators' activities. For example, the monitoring process did not require the entities to provide a list of events they would be attending in

order for the Exchange to gauge whether the events are the most effective use of time, and if they adequately serve the targeted audience. However, staff indicated the Exchange began requiring the entities to provide a monthly calendar of planned events. We also found inconsistencies between what navigator entities are reporting as an outreach event.

Ms. Brito continued her presentation and discussed the improvements that are needed for the Exchange's review of navigator payment requests. Auditors found that the basic information obtained from the entities does not always provide enough detail to ensure claimed hours are directly related to activities benefitting the Exchange. By establishing improved reporting requirements and enhancing the review process, the Exchange could help ensure it is only paying for those services rendered on its behalf.

Beginning at the bottom of page 15 and on page 16, auditors found the Exchange's process for monitoring navigator entities' enrollments is not sufficiently detailed to ensure reported enrollments and impartial guidance is provided to enrollees to evaluate enrollment efforts for each plan type.

Auditors found that the Exchange's performance monitoring standards should be better defined. The navigator entities established their own performance targets that were not realistic and the Exchange did not make timely adjustments to establish routine monitoring of progress towards goals. Based on the reported results, we found that between May and October 2015, the entities only performed about 7% of the targeted number of events and 5% of the enrollments during the non-enrollment period. Without defined, realistic expectations, it is difficult to assess their progress towards meeting established program outcomes.

In the report, the auditors discuss the Exchange's monitoring of the outreach and education subcontractor's invoices and reported activities. It was noted that the invoices provided by the subcontractor are not sufficiently detailed to understand what specific services were performed for the Exchange. From June through October 2015, auditors found that only 270 hours of the 4,725 hours paid were related to outreach and education events per reported information. While the invoices indicate in general terms that other services including planning, strategizing, and related activities were performed, the Exchange should have requested additional information to understand what specific activities were being performed for the hours reported.

Ex. 4 in the report shows that monthly compensation was a flat fee of \$45,000 although the actual hours spent working on behalf of the Exchange varied significantly. The Exchange's agreement with the marketing contractor did not specify a monthly amount the Exchange would pay for the outreach and education services. Ex. 5 shows the subcontractor's June 2015 invoice which shows the employees and the hours worked and below that, a description of the services provided. Additional scrutiny should be given to the invoices to determine what services were rendered before issuing the payment. Requiring the marketing contractor to submit detailed billing information from the subcontractor would ensure payment requests are sufficiently supported.

Ms. Brito stated that in the report, auditors addressed the need for policies and

procedures regarding the payment of unlicensed navigators and associated potential risk factors. It was found that 25 of the 64 individuals employed by navigator entities from March through October 2015 were paid prior to being licensed. These unlicensed individuals were paid for periods ranging from a couple days to as many as 86 working days. Furthermore, there was a wide variation in navigator representation between Northern and Southern Nevada.

There were nine recommendations made to improve contract management practices.

She pointed out the findings and recommendations regarding revenue collection and noted that the Exchange did not have proper separation of duties in the revenue collection and deposit process, receivables were not always collected timely, reconciliations were needed over cash receipts, and accounting policies and procedures need updating.

There were four recommendations made to improve the revenue collection process.

She concluded her presentation and stated Appendix A in the report contains the audit methodology, Appendix B contains the Exchange's response, and Appendix C contains the Legislative Auditor's comments regarding the Exchange's response. She note the Exchange accepted all 13 recommendations and offered to answer any questions.

Chair Kieckhefer called for questions. He then called for agency officials.

Bruce Gilbert, Executive Director, Silver State Health Insurance Exchange (SSHIX), began his testimony and stated the unique nature of the state-based market place and the fact that the Exchange is a young organization, coupled with the lack of generally accepted standards and benchmarks to be applied though Exchange activities, made the audit very difficult. He appreciated the efforts of the auditors and his staff for taking on a difficult task. The Exchange accepted the recommendations and has begun to develop policies and procedures in order to implement the recommendations.

On an operational level, the Exchange has made some specific changes. Because the concern expressed in the audit with respect to the depth of the Exchange's management and oversight of outreach and consumer education efforts, staff reached out to Centers for Medical and Medicaid Services (CMS) and other state-based exchanges and requested information on the nature and extent of the reporting required to be provided by their grantees. CMS shared information on its administration of the navigator program in other states, which included forms required to describe activities and verification processes. He stated the intention of the Exchange is to review those reporting protocols and forms used by other states' marketplaces and the federally facilitated marketplace (FFM). Mr. Gilbert commented that on a fiscal level, the Exchange recognized and appreciated the need to appropriately manage revenues and expenses.

Continuing, Mr. Gilbert stated they have begun to implement operational changes to improve processes as recommended. The required documentation for payments on requested funds have been modified and collaboration has taken place with the Budget Division to revise policy and procedures related to revenue collection to ensure the

appropriate separation of duties. Furthermore, policies and procedures have been revised for the check and accounts receivable logs.

The Exchange is in the process of reviewing policies and procedures of agencies that perform similar duties within and outside of the state. Mr. Gilbert introduced Heather Korbolic, Chief Operations Officer, to provide more specifics into strengthening fiscal and operational oversight management. He offered to answer any questions.

Chair Kieckhefer requested Mr. Gilbert discuss the relationship between the contractor and the subcontractor.

Mr. Gilbert stated there is a new marketing contract that began in June or July of 2015. It included a marketing component and an outreach and education component. He recalled that those items are priced separately. Because of the unique nature of the Exchange's budget, he implied it is difficult to know from month-to-month how many people are with the Exchange to have a clear picture of the revenue. He spoke with the previous fiscal officer to determine if the outreach and education funds could be budgeted on a monthly basis instead, which is similar to how the Exchange handles its marketing. He was of the opinion it would increase continuity and decrease pressure on the Exchange when enrollment numbers are in decline.

He stated the marketing provider is new. The company that partnered with them for outreach and education was previously a navigator entity; however, they were paid solely as a navigator. Because the breath of the contract with the marketing was expanded from this time to specifically include consumer outreach and education, it was made part of that contract.

Chair Kieckhefer expressed that he thought the opposite would be more beneficial to the entity. He commented that if the revenues of the Exchange could not be certain, then if the Exchange had something other than a flat fee arrangement, the number of hours under the contract could be reduced if there are revenue declines.

Mr. Gilbert surmised that Chair Kieckhefer was correct. He expected this would be a good year with a significant number of enrollees. When it was suggested that this practice should not continue because it was simply a budgetary policy, the Exchange changed it.

Chair Kieckhefer expressed concern that running navigators is a requirement under the ACA. On this issue over the outreach education coordinator, he stated it seemed there was a significant outlay of resources to develop a plan that was not followed up on and not fully implemented. To be spending that level of money without an appropriate level oversight to ensure the work product is commensurate with the needs or responsibilities of that vendor is trouble. He wanted to know if there was anything in the contract that required demonstration of work product, work product received, or demonstrated throughout the term of the contract.

Mr. Gilbert responded that if the Chair was asking about specific deliverables, he was not aware if there were any.

Chair Kieckhefer stated that was problematic considering the generalities within billing statements that are demonstrated within the audit. He noted he has worked for a service industry company and billing statements are specific, because the clients expect it and deserve it. Furthermore, he wanted to know the length of the contract.

Mr. Gilbert replied it is a 2-year contract and the Exchange is heading into the second year now.

Heather Korbolic, Chief Operations Officer, testified that to better adhere to the recommendations in the audit, multiple levels of documentation have been added to the requirements for the subcontractor and the marketing company.

Chair Kieckhefer asked if there any responsibility within the Exchange's office to ensure the proposed plan was implemented.

Mr. Gilbert responded that it was a difficult question to answer. He surmised the Exchange is one of the smallest state agencies and the staff of 13 has to wear multiple hats. He was not aware if there was a specific individual tasked with that responsibility.

Referring to the example of the navigator, he explained none of the staff positions were established in order to specifically oversee that program, notwithstanding the fact that it is a significant portion of the Exchange's budget. The Communications Officer is required to work with the marketing company and to work with the consumer outreach and education in addition to other job duties.

Chair Kieckhefer stated it was his understanding that in the first couple of months of the contract, the outreach education subcontractor developed a plan of approximately 64 events that should be attended and used as education opportunities for the general public to identify their needs and opportunities within the Exchange. In the end, only nine of those identified events were attended. And of a gross total, only 27 events were attended out of the 64. He asked Mr. Gilbert if he considered the terms of the contract were met.

In Mr. Gilbert's opinion, he believed the terms of the contract were met because of the time period in which that was examined. Most of the events were held May through October when there was no open enrollment period. From Exchange's perspective, it was more important to maximize exposure during the open enrollment period that goes from November through January.

Chair Kieckhefer called for questions from other Subcommittee members.

Assemblywoman Dickman queried as to the maximum amount of \$45,000 per month in the contract that the subcontractor would be paid.

Mr. Gilbert responded that the amount is set in the contract for marketing and outreach, which is an annual amount.

Assemblywoman Dickman remarked that the subcontractor would then automatically receive \$45,000 a month regardless of their performance.

Mr. Gilbert stated that over the course of the year, the subcontractor receives X number of dollars, whether it is paid \$45,000 one month, \$0 the next, and \$90,000 the following month. It is a contracted amount and the subcontractor will receive the total amount.

Chair Kieckhefer asked of the total marketing contract, what percentage is accounted for the education and outreach component.

Ms. Korbolic stated it is a \$2 million contract annually.

Chair Kieckhefer referred back to the questions of the navigators and asked about the number of different entities with which the Exchange has navigator contracts during the course of the audit.

Ms. Korbolic noted there were a total of 10, which included call center staff as a navigator entity. The call center was only in Northern Nevada. The agency hired another enrollment facilitator for Northern Nevada; however that person only stayed for a few weeks and there was no other presence in the North.

Chair Kieckhefer called attention to the Exchange's response regarding the navigator contracts and their concern about the level of oversight and possibly crossing a threshold into an employee/employer relationship. He saw this as a bit of a stretch and asked what controls were in those navigator contracts to ensure payments made were for actual services rendered. He was of the understanding that these individuals work for other organizations and part of the organizations' responsibilities will then become navigator responsibilities.

Ms. Korbolic responded that it was difficult to answer this question as she was not employed by the Exchange at that time; however, she was of the opinion that documentation was required to support attendance at events and for enrollments.

Mr. Gilbert verified there was a level of documentation required, but the Exchange did not require significant detail to indicate that a navigator entity had attended such events. At that time, he did not have more detail.

Chair Kieckhefer inquired if the Exchange now had more detailed information.

Ms. Korbolic guaranteed there was now additional documentation and support for request for payment. The documentation includes outcome measures that were set by the Exchange along with monthly checks, and supportive evidence such as photographs of events attended and signed timesheets.

Chair Kieckhefer expressed concern that the Exchange could have overpaid some of the navigator entities.

Mr. Gilbert did not think navigators were overpaid; however he based this on the results instead of detailed knowledge.

Chair Kieckhefer asked agency representative to discuss those results that are required to identify how many people were registered in qualified health plans.

Mr. Gilbert stated the Exchange does not use the navigators for that functionality at this point. One of the things the Exchange learned in the first two years of existence was

that the navigators are good at many things, particularly dealing with the community and consumer education. Unfortunately, one of the things they are not particularly good at is enrolling people in health plans. As a consequence, the Exchange has moved them to consumer and education efforts as opposed to enrollment efforts.

Chair Kieckhefer asked if the navigators are now duplicating the outreach and education coordinator's services were in the marketing contract.

Ms. Korbolic stated the Exchange was are working in conjunction and collaboration with the outreach and education subcontractor.

Chair queried where would an individual go if he had questions about how to enroll for insurance and which plans may be best suited for him on the Exchange. He surmised that under the ACA, that was the roll of the navigator.

Ms. Korbolic confirmed Chair Kieckhefer's statement about the navigator. An individual can visit with a navigator, have an in-person assistor, or see a licensed broker/agent to discuss options.

Adding to Ms. Korbolic's response, Mr. Gilbert replied that the Exchange has tier one and tier two events. Tier one events are generally handled by the outreach and marketing entity. Tier two events are for the most part handled by the navigators.

Ms. Dickman asked about the unlicensed navigators and if there was a plan in place so personal information was not accessed.

Ms. Korbolic thanked Assemblywoman Dickman for her question. The enrollment facilitators, who are pending licensure, have a written policy written of what tasks can be performed, which primarily is that they can attend events but they cannot talk to people about their personal information or they can shadow another navigator.

Chair Kieckhefer wanted to know the total amount of money that has been spent on navigators and how much was budgeted for that annually.

Mr. Gilbert deduced approximately \$2 million dollars was budgeted annually on navigators for marketing, outreach, and education.

Chair Kieckhefer asked if the enrollment numbers has increased each year for the past 3 years and what would be the expected numbers for the upcoming enrollment period.

Mr. Gilbert replied that the first year there were approximately 32,000 enrollees, 73,000 the second year, and 88,000 the third year. He stated the Exchange's Board and the Office of the Governor wanted the Exchange to enroll over 100,000 in the next period.

Chair Kieckhefer pointed out there was a note at the beginning of the audit regarding some grant funds that were rolled over from a previous year of the \$4 million dollars previously referenced. He asked if that was partly from the rollover of federal grant funding or if it was part of insurance premium fees.

Ms. Korbolic stated the Exchange rolled over some of its initial establishment grant funds for the purpose of targeting specific populations with outreach and education efforts. And as a result of that grant, applications were solicited for in-person assistors

to conduct outreach and education on behalf of the Exchange for populations including rural communities, tribes, self-employed, millennials, and Hispanic populations. This is in addition to overall general contracts with the marketing vendors and navigators.

Responding to Chair Kieckhefer's question regarding of the federal government was going to charge the state to use its infrastructure, Mr. Gilbert replied that for 2017, it has been indicated there will be a user's fee of 1.5% of premium. It has been indicated to CMS that the Exchange will remain on the federal exchange and pay that money that particular year. However, in 2018, the fee is scheduled to go up to 3%. There have been a number of conversations with the CMS, the Board, and potential vendors who would like to step in and assist the Exchange to move away from the federally facilitated platform.

Chair Kieckhefer asked if Mr. Gilbert had an estimate of the amount 1.5% of the premiums would be for the upcoming fiscal.

Mr. Gilbert recollected the amount would be in excess of \$4 million.

Chair Kieckhefer requested clarification of \$4 million if it would be added on top of the 3%, or if it would be subtracted from the 3%.

Mr. Gilbert replied that the answer to the question was neither. The amount would not be added, nor was it as an additional fee. There has been a minor fee increase to 3.15% to take into account. That coupled with robust enrollment and money reserves, the Exchange will be able to handle the fee; however, in subsequent years, the 3% fee would be difficult for the Exchange to maintain.

Assemblywoman Dickman requested Mr. Gilbert provide a percentage of people who are still paying premiums by the end of each year.

Mr. Gilbert hypothesized that over the course of an entire year, there is a loss somewhere between 10% to 15% or 18% of the enrolled population.

Chair Kieckhefer commented that the Exchange's response to the audit report at the meeting was much more in agreement with the auditors' findings than what was stated in the Exchange's written response. He noted the Exchange accepted all the recommendations.

Ms. Brito commented that the auditors appreciated the efforts of the Exchange to implement necessary changes.

There being no further questions, Chair Kieckhefer called for a motion.

ASSEMBLYWOMAN DICKMAN MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE SILVER STATE HEALTH INSURANCE EXCHANGE. THE MOTION WAS SECONDED BY SENATOR ATKINSON AND CARRIED UNANIMOUSLY.

f. Nevada State Board of Dental Examiners

Shannon Ryan, Audit Supervisor, called attention to the transmittal letter in the audit report and noted the audit of the Nevada State Board of Dental Examiners was

conducted pursuant to a special request by the Sunset Subcommittee of the Legislative Commission and was authorized by the Legislative Commission on February 19, 2016.

She began her presentation with some information regarding the background of the Board and stated the Board's mission is to protect the dental health interests of Nevadans by ensuring qualified professionals are licensed and violators of the regulating laws are sanctioned as appropriate. The Board consists of 11 members.

The audit report provides some financial information. Ex. 1 shows revenues for fiscal year 2015 were slightly over \$1.3 million, and Ex. 2 shows the Board expenditures reflect about \$1.1 million in expenditures.

For the complaint resolution and disciplinary process, the Board receives complaints from the public which must be verified and in writing. The Board can also authorize investigations if it receives sufficient verifiable information that some provision of NRS or NAC 631 has occurred. Ex. 3 shows the board received 374 complaints from July 1, 2013, to December 31, 2015, and of those, about 64% were remanded.

Remands occur when an investigation, performed by a Disciplinary Screening Officer (DSO) determines that a preponderance of the evidence does not exist. In these instances, licensees are not charged for the investigation. Corrective action by the Board occurs when the DSO determines that it is likely that a violation has occurred. When the Board enters into corrective action agreements, investigation costs are recovered. Ex. 4 provides a breakdown of the Board's investigation costs by area for calendar years 2014 and 2015. There is a flowchart in the report that details the complaint resolution process.

In the report, auditors provide some information regarding the difference between a non-disciplinary agreement and a disciplinary agreement, since the Board enters into both. For purposes of the report, auditors refer to the process as the disciplinary process. For the scope and objective, auditors focused on the Boards' disciplinary process and costs assessed for investigations for calendar years 2014 and 2015. The audit objective was to determine whether the Board had assessed reasonable costs to licensees for investigating and resolving complaints and disciplinary matters.

Continuing her presentation, Ms. Ryan stated auditors found the Board did not always assess reasonable costs to licensees for investigating and resolving complaints and disciplinary matters. NRS 622.400 allows the Board to recover fees from licensees for costs incurred as part of its investigative, administrative, and disciplinary proceedings. These costs may be recovered when the Board enters into a final consent or settlement agreement. The Board overcharged licensees for investigations including several over \$1,000. Overcharges were likely due to the Board lacking an effective process for determining investigation costs. Forty-six percent of the 53 licensees were overcharged for a total of about \$28,000, including nine licensees that paid at least 25% more than the costs actually incurred by the Board.

Conversely, 54% of cases were not assessed the full amount of incurred costs. Undercharges totaled over \$41,000, and 11 licensees received discounts of more than

25% with one licensee receiving a discount of 73%. In total, the Board assessed costs of over \$400,000 in the last 2 years, averaging about \$8,000 per case.

The Board does not have policies regarding costs that can be assessed to licensees and has not set travel limits. This includes determining if costs related to remanded cases should be assessed when multiple complaints are at issue. Furthermore, auditors found hotel charges in excess of state per diem rates and dictation costs of \$810.

Moving to charitable contributions not allowed under NRS, four licensees paid over \$140,000 to charitable organizations that provide health-related services as part of provisions in stipulation agreements. However, charitable contributions are not allowed under NRS 631.350. The auditors requested Legislative Counsel review this activity by the Board. Legislative Counsel concluded the Board is not authorized to provide for a charitable contribution by the licensee as a condition of a stipulation agreement.

Six recommendations were related to costs, lack of policies, and charitable contributions. The Board rejected Recommendation No. 3 related to refunding amounts overcharged and Recommendation No. 6 related to discontinuing charitable contributions as a condition in stipulation agreements.

In the report, auditors indicate the Board's legal expenses were higher than reported. The Board paid \$200,000 more on average in legal fees than shown in its financial statements for fiscal years 2014 and 2015. This occurred because the actual amount paid for legal expenses was reduced by the cost recoveries related to disciplinary matters. Ex. 6 shows the actual and reported legal expenses for these periods. Auditors also pointed out that cost recoveries, which included non-legal expenses, created additional problems. Cost recoveries included amounts related to non-legal investigation costs; however, the Board did not distinguish between legal and non-legal recoveries when it applied the reduction to legal expenses.

The practice of reducing actual legal expenses also affected the Board's contract with outside counsel. The contract approved in October 2013 stated payments will not exceed \$175,000 per year. Nonetheless, payments exceeded \$300,000 in both calendar years 2014 and 2015, the first two full years under the new contract terms. Since contract maximums reflected the reduced amount of expenses, both the Board and the Board of Examiners did not have accurate information when approving the contract.

She stated the Board could save approximately \$100,000 per year by hiring a general counsel. This estimate assumes the Board would continue use outside counsel about 20% of the time. Boards have a fiduciary duty to be an effective steward of resources. Moreover, a reduction in legal expenses would reduce assessments passed on to licensees.

Three recommendations were made regarding legal expenses and those were all accepted.

The last area reviewed in the report begins on page 16. This area discusses the need for investigation results to be reviewed by supervisory personnel or an independent review committee. A review process would help verify conclusions and recommendations are based on clear and sufficient evidence.

Ms. Ryan stated that the DSO is the sole authority for determining whether violations occurred and the associated sanctions with each investigation. Preliminary conclusions and recommendations are reported directly to the Board's outside counsel as instructed in the assignment letter. As a result, this documentation was rarely received by the Board.

A review is important for ensuring complaints are resolved consistently. Our analysis found certain DSOs executed actions more frequently than others. For instance two DSOs accounted for 49% of all disciplinary actions from July 1, 2013, to December 31, 2015, but were assigned 31% of the cases. Variations in DSO decisions can be found in Ex. 7. Furthermore, other boards contacted by auditors, such as Nevada medical boards and other states' dental boards, indicated a review of investigations is important. Of those boards that assign a staff member or agent to conduct investigations, all had a review process by at least one other independent party.

Although the Board's outside counsel indicated a review process would make it more difficult to achieve the Board's goal of resolving complaints within 90 days, auditors found the average time to resolve disciplinary matters involving Board actions was already over 400 days.

Auditors found that the Board's files were incomplete and disorganized. Auditors found only one of the nine Informal Hearing notices in Board files and all of the transcripts from those hearings had to be obtained from the Board's outside counsel. The report also states the auditors could not always find DSO preliminary conclusions, the verified complaint, the authorization for release of records, and subpoenas for records in Board files. When the Board's files are not complete, it cannot ensure compliance with statutes regarding disciplinary proceedings.

Five more recommendations were made, of which the Board rejected Recommendation No. 10 to institute an independent review process.

Concluding her presentation, Ms. Ryan pointed out that Appendix A in the report lists the 53 Board actions during Calendar Years 2014 and 2015, and Appendix B shows incurred costs versus assessed costs. Appendix C contains the complete legal opinion from Legislative Counsel regarding charitable contributions which starts on page 25. NRS 622.400 and 631.350 are detailed in Appendix D. Appendix E contains the methodology and Appendix F is the Board's response. Finally, the Legislative Auditor's rebuttal to the Board's response is in Appendix G. She noted she would be happy to answer any questions.

Chair Kieckhefer called for questions. He asked about the issues surrounding the amount of legal fees that were set in the contract with the Board and if the amount was not to exceed \$175,000.

Ms. Ryan replied that Chair Kieckhefer was correct. The legal fees are set at an annual maximum of \$175,00, and the entire contract is capped at \$725,000.

Chair Kieckhefer inquired about the issues with the same attorney or firm also conducting the investigatory work. It appeared the billing from the single firm is blending its legal work on behalf of the Board with the investigatory fees.

Ms. Ryan replied that the Board has contracted with two outside counsels; however only one of the firms performed the majority of the work. The secondary counsel is very minimal in relation to total legal expenses. The majority of counsel is performed by one firm who handles all the legal needs of the Board, including anything related to investigations and disciplinary matters. The Board has secondary counsel, but it only performed approximately 1% of the work, which totaled about \$3,000.

Chair Kieckhefer asked if there would be a conflict when the work product being provided by the investigatory unit is the same person providing counsel to the Board.

Ms. Ryan stated the complaints are investigated by Disciplinary Screening Officers (DSOs), who are licensed dentists. The DSOs are obtaining and reviewing the records to determine whether or not a violation likely occurred.

Chair Kieckhefer called for further questions.

Assemblywoman Carlton asked if there was a list of charities to which the donations were made.

Rocky Cooper, Legislative Auditor, stated a list of charities could be provided. The list was not with staff at the meeting.

Ms. Carlton noted Board representatives were at the meeting and could provide that information. She was interested to know which charities were benefiting from the donations.

Chair Kieckhefer pointed out there is a list of charities in located in the additional supplement that was provided, under Ex. E, the Adoptive Dental Program; however, a complete list would be appreciated.

Chair Kieckhefer called for Board representatives.

Debra Shaffer-Kugel, Executive Director, Nevada State Board of Dental Examiners, stated the Board has provided its response to the audit report along with the recommendations. There were 14 recommendations made in the report and the Board accepted 11 of the recommendations.

Ms. Shaffer-Kugel addressed Recommendation No. 1. She stated the Board added classes and subclasses to its QuickBooks so that when an expense is paid out to that licensee under an assigned complaint number it would be associated with a particular licensee. At any point in time, the Board would be able to recall the actual costs. A class/subclass has been implemented to match its tracking system in Excel for the complaints with QuickBooks.

Regarding Recommendation No. 2, she pointed to Ex. B where the Board has made it easier for the DSOs and Board staff to process invoices. The DSOs can detail their hours on the invoices.

Recommendation No. 3 was rejected by the Board. Ms. Shaffer-Kugel stated this recommendation was rejected due to the fact that, in the Board's opinion, no licensee has been overcharged. The amounts are agreed to by the licensees through corrective action, disciplinary stipulation agreement, or by order of the Board. The amounts the licensees agreed to are identified in each of the stipulation agreements and are inclusive amounts for investigation and monitoring costs. The amount covers both future monitoring costs and the amount of the investigation. The licensees identified for 2014 and 2015 and the amounts that they agreed to are the amounts actually paid the Board.

Chair Kieckhefer queried as to how future monitoring costs were calculated into the stipulation agreements.

Ms. Shaffer-Kugel replied when the licensees negotiated the fees, they wanted to know what the cost of the monitoring would be. For example, the Board would inform the licensee the amount would be \$600 for six month and \$1,200 for twelve months. In those costs, it was not specified how many times per month the licensee would be visited. There is no discussion as far as how much monitoring is needed. The monitoring is to ensure the measures in the stipulation agreement are enforced and deficiencies are addressed. The monitoring gives the Board the ability to make sure there is continuing education for those deficiencies.

Chair Kieckhefer stated it was his understanding that the opinion of the Legislative Counsel Bureau's legal counsel was the penalties that can be assessed must be based on actual costs. He asked how can the cost be averaged when including ongoing monitoring costs without knowing the actual cost.

John A. Hunt, Esquire, Board Legal Counsel was of the opinion that these are stipulated agreements. Under the Attorney General's (AG's) Manuals and the Nevada Administrative Code (NAC), boards are always encouraged to enter into stipulations. During the course of a negotiation process, the Board might have five complaints and two might not substantiated. This negotiation process ends up in a stipulation that is agreed to by the licensee. In approximately 99% of the cases, the licensee was advised by counsel. He implied that the licensees would prefer to enter into a stipulation agreements so they have an idea of the total costs; however, no one is compelled to enter into the stipulation agreements. The licensees are informed that they are entitled to go forward with a full Board hearing if they are not in agreement with the recommendations of the DSO.

Continuing, Mr. Hunt stated the Board takes its mission very seriously. The Board is to take appropriate measures to make sure that the due process of the individuals is protected. He pointed out that the AG reviewed and vetted the Board's disciplinary process. If there is a full board hearing, the AG advises the Board of what actions it can and cannot do. As far as costs are considered, it is important to have a system that

protects the licensee and the patient. The cost is something that is negotiated and agreed to, unless there is a full-board hearing. If every case went to a full board hearing, it would literally collapse the system. He wanted to point out that the actual cost can be assessed, but that is when a full board hearing occurs and every single cost that the Board assessed is dated and verified.

Chair Kieckhefer asked if it was Mr. Hunt's opinion that the Board can charge more than the actual cost in a stipulation agreement.

Mr. Hunt replied the Board cannot charge more than the actual cost, because the actual cost has never been charged in a stipulation. He thought that the audit report was skewed in the wrong direction. He felt if all of the cases were examined, the costs would be less. The only time actual cost are charged is if it is a full-board hearing.

Chair Kieckhefer stated data from the auditor does not demonstrate that. Furthermore, the data from the auditor looks like people are paying more than actual cost about half the time. He acknowledged the amount may be stipulated to, but that did not mean it was the actual cost.

Mr. Hunt replied that on the actual cost, the big issue is the monitoring cost. As a result, the licensee can choose to be charged one time for monitoring, even if there are multiple trips, instead of charged for each trip.

Ms. Shaffer-Kugel called attention to Ex. A of the Board's response, which identifies over and under payments, are the numbers provided by the auditors. The spreadsheet has the 53 identified stipulations agreements that were approved during calendar year 2014 and 2015. These are the 53 stipulation agreements that were entered into and that includes the monitoring cost, court reporter fees, the attorney fees, and the DSO travel. The difference over and under is identified in columns K and L.

She expressed her difference of opinion on the amounts. At the bottom of the column it showed that difference over was \$14,207 and of that there was \$6,500 that was not credited to the Board for incurred expenses, although the Board paid the amount. The auditors did not credit the Board for that amount because it was not specified on the DSO expense summary form with who was being monitored. She was of the opinion the Board should be credited for the \$6,500, because it was an investigation cost. The reason the DSO did not identify who was being monitored was that it was not of importance to the Board, because the costs were already paid in advance. There is no argument that monitoring did occur, reports were submitted, costs were incurred; however, she felt the Board should have gotten credit for the \$6,500. These licensees were not going to be charged any additional amounts. Therefore, it did not matter whether those were on the expense summary form when paying out those expenses.

In addition, when the auditors calculated the cost for the investigations, they ended the cost at the date the licensee entered into the agreement and that is not a final disposition of the case because the Board had not approved it. If the Board did not approve that stipulation agreement, the cost would incur and the Board would

reconvene with the informal hearing. An additional \$4,500 would have been identified as shown in Columns N and O.

Ms. Shaffer-Kugel stated she went through each individual file. These costs were from the time the stipulation was signed by the licensee to the time the board approved it and notified the licensee of that agreement being approved. These are the additional costs. The licensees will only be charged for the costs that they agreed upon the day that they executed the stipulation agreement, but that does not mean the Board has not incurred additional expenses. According to her, the over amount came to \$3,100 and changed and the under difference amount to \$47,921.

Chair Kieckhefer noted that the Board had outlined that in its response. He pointed out it was interesting that Mr. Hunt indicated no one had been overcharged. Yet, the Board provided a spreadsheet outlining the differences over and under the actual costs. He noted this seemed contradictory.

Ms. Shaffer-Kugel testified that Mr. Hunt meant the amount paid was the amount agreed to and not over that amount.

Chair Kieckhefer reiterated that the amount was not the actual costs.

Ms. Shaffer-Kugel testified that these agreements are sometimes signed 2 months before they are brought to the Board for approval. Although there could be additional expenses, those are not charged to the licensee, because the licensee agreed to that amount. She took the position that there was an overcharge of \$3,100 for calendar years 2014 and 2015. She did not think anyone was overcharged; however, she acknowledged there were some differences in the calculations.

Mr. Cooper stated this was discussed with LCB legal counsel. It is of the understanding that estimated future costs cannot be charged per NRS. The bigger issue is in the auditor's rebuttal on page 58 of the audit report. The Board took the auditor's cost calculation and manipulated those figures in such a way that the numbers are now inaccurate. Audit staff completely disagreed with the Board's Ex. A. Page 58 provides details on these errors. Three of the five column totals are not correct including two that are incorrect by several thousand dollars. Then, the Board's cost analysis reduced over charges by \$6,500 for monitoring costs that occurred. However, the Board does not know whether the monitoring cost relate to licensees that were over charged or undercharged, but they applied the entire amounts against the overcharge total.

Ms. Ryan added that the Board does not necessarily know whether or not any of that amounts relates to the 53 licensees in Appendix B because it was not detailed on the DSOs invoices. Therefore, the auditors do not specifically know who the Board monitored and if that person is included in the list of 53.

Mr. Cooper stated in the third bullet point the cost analysis also reduced the overcharges by \$4,500 for investigation costs incurred. However, the auditor analysis found that \$2,333 of that amount was for licensees who were undercharged. Therefore, the Board reduced the wrong column. The Board also netted cost of \$10,600 for licensees. Two other assessed costs were incorrect by \$1,200 and \$871 and they also

included a licensee that is not on our schedule. Mr. Cooper stated to manipulate the auditors' costs and represent those as accurate is misleading. As previously pointed out by the Chair, the Board still ended up with overages and underages.

Chair Kieckhefer thanked Mr. Cooper. He asked the Board representatives to respond.

Ms. Shaffer-Kugel responded that the confusion appears to come from underages and overages. From the perspective of the licensee, that licensee agreed to this amount and that was the amount received regardless of whether that amount was for investigation costs or monitoring costs. The stipulation agreement does not say the person is reimbursing \$X for investigation \$X for monitoring. These were negotiated amounts in the stipulation agreements and it was an inclusive amount. One of the concerns that she had brought up to Ms. Ryan was where auditors stated this person was undercharged for investigation cost but overcharged for monitoring. When the two amounts are added together, there would not be an overcharge.

Chair Kieckhefer acknowledged that the Board is stating when a stipulation agreement is entered into, it is a single cost to incorporate all costs; however, NRS 622.400 does not allow for the Board to include future monitoring costs. The Board indicated they are no longer including future monitoring costs.

Ms. Shaffer-Kugel noted this issue was resolved prior to the audit. When this concern was raised, it was added as an invoiced amount. The licensee will be invoiced not to exceed \$50 per hour by the Board.

Assemblywoman Carlton spoke to the costs incurred for the investigative proceedings under NRS 622.400. She expressed concern about the monitoring. There is a cost of doing business and there is a cost of the Board getting things done. Just because a licensee agrees to the stipulation with a threat of a full board hearing does not necessarily mean they are agreeing. Most likely the licensee simply does not want to pay the costs for a full board hearing. She wanted to know what statutory authority the Board has to charge for this monitoring as it moves forward. She voiced it should be discussed if there is not any authority in NRS. She noted it is very rare for an agency or board to argue so vociferously against audit staff on clear-cut issues. The statute says that the Board cannot do this.

Mr. Hunt replied when someone enters into a stipulation they are doing so for one or two things. If it is a corrective action, then there is sufficient evidence to go forward. The licensees are informed if they do not agree with the DSOs findings they can proceed to a full board hearing. He was of the opinion these are people who have harmed citizens in Nevada. Every single board has monitoring and probation expenses. In those instances, the licensee is sent a bill after proceedings have concluded. In order for these boards that are self-funded to have the resources to protect the public under NRS 622.400 the boards were given the authority to recoup those costs during the process. For someone to say they are somehow compelled or forced to do any of these things this is absolutely false. If a person looked at the stipulations, those individuals who have harmed our fellow citizens have either agreed to, admitted to their

wrongdoing, or agreed the Board had sufficient evidence. The corrective action is to help them.

Chair Kieckhefer addressed Mr. Hunt. The important regulatory functions of the Board in terms of the public safety aspect of our communities is not in question. The processes to accomplish that goal is the issue.

Ms. Shaffer-Kugel referred to Recommendation No. 4. The Board has remanded cases, because there is not a set Board policy and it gets confusing. When a DSO investigates a case and there is no validity or there is no evidence that a violation has taken place, the matter is remanded to the file with no further action. There are cases where the licensee may have multiple complaints going and during the course of the investigation that case may be remanded. During the negotiation process at the informal hearing, there are times when cases are remanded. For instance, there could be two cases that are denture cases; one is very egregious the other one is kind of iffy. The one that is iffy would have probably been remanded originally, but because the other one is more egregious, it shows a pattern that the licensee may not be able to fabricate a denture properly. Historically, investigation costs are included at the informal hearing when the Board does remand a case. The licensee is not charged those costs if the remands do not rise to the level of an informal hearing.

Chair Kieckhefer called for questions on Recommendation No. 4. There were none.

Ms. Shaffer-Kugel addressed Recommendation No. 5. In NRS 631.180, the Board can determine the cost when they have a consultant, appoint investigators, employees, and so forth. There are times that travel does exceed the limits. The Board was advised to set a maximum limit for travel cost for DSOs that are traveling from north to south to monitor and for Board members who travel to meetings out of state. This item will be placed on the Board's agenda for July 15th.

Ms. Shaffer-Kugel discussed Recommendation No. 6. There were four stipulations for corrective action consent agreements for licensees in where the licensee hired illegal (unlicensed) people or had illegal (unlicensed) persons performing dentistry or dental hygiene in their office. Historically when these cases are investigated, the Board does ask for recovery of the economic benefit that the licensee received when charging patients for that service when that service was performed unlicensed, which is usually a large amount.

In one case, the unlicensed person was working in one office for over 2 years. The unlicensed person manipulated the Board's pocket card and wall certificate to present evidence to the licensee that the unlicensed person appeared to be licensed. When the licensee went to the Board's renewal portal to see if the licensee had renewed, the licensee realized that certificate and license number was not assigned to that person and the documents had been manipulated. The Board was notified and began an investigation. The licensee had a responsibility under NAC 631.230 to verify with the Board that this was a licensed person, but waited 2-years to do that. Therefore, it resulted in patients being treated for 2 years by an unlicensed person and that dentist received an economic benefit. The licensee could have refunded all the patients and

insurances involved or performed community service. The problem with licensees who are under stipulation agreements and perform community service is there are community service entities that prefer to not have dentists who are under stipulation or Board actions perform work. The third option was that the licensee could contribute to a dental nonprofit in the sum that would benefit the public for his/her wrongdoing. This would have an economic effect on the dentist who received the economic benefit for having this unlicensed person in his/her office and would be able to help the public. These organizations are all nonprofit. There is the Adopt a Vet Dental Program, Huntridge Family Clinic, and the UNLV School of Dental Medicine. These were through the negotiations and corrective action stipulations in lieu of performing community service. Sometimes the entities prefer to not have these dentists treating the underserved and this was a way that helped the public and resolved the economic benefit of the licensee.

Mr. Hunt expressed community service can have a definition including a monetary contribution that would allow the community to benefit. There are hundreds of disadvantaged veterans' and other people who would not have any access to dental care. In each of these cases, those licensees did not want to perform 2,000 hours of community service nor go to a full board hearing, because it could possibly result in license revocation. The licensees had a variety of excuses; however, they had an obligation under regulations to verify licensure before treatment.

Referring to LCB's legal opinion written James W. Penrose, Senior Principal Deputy Legislative Counsel, and Michael K. Morton, Deputy Legislative Counsel, Legal Division, Mr. Hunt stated legal opinions are something that anyone can have. He then referred to his legal opinion. He was of the opinion that there is nothing illegal about the use if charitable contributions in lieu of performing community service and every board has a right to enter into stipulation agreements. He postulated as to how could the Subcommittee members not want to help veterans and others in need of dental care. Mr. Hunt surmised that charitable contributions are permissible.

Chair Kieckhefer expressed that the qualities of the charities themselves are not in question. He asked if there is any obligation for the provider to notify a patient if the patient is the victim of care from an unlicensed provider.

Mr. Hunt stated one positive things of entering into a stipulation agreement is it becomes public record. If a person makes a complaint it then becomes part of the stipulation. When a complaint is made, the licensee has to reimburse that patient. The patient has administrative and civil rights. If an individual is treated by an unlicensed dentist or unlicensed hygienist, he can sue the person who performed the work and the licensed individual who employed the unlicensed person.

Chair Kieckhefer queried if it was fair to assume then that entering into a stipulation agreement should require these providers to notify every patient, inform them of their rights, and that they are entitled to compensation.

Mr. Hunt stated it is important to note the stipulation is a public record. The way it is resolved is that the stipulation clearly indicates that this individual from this timeframe

was illegally practicing at Doctor X's office. If any other patients make a complaint, it becomes part of the stipulation. He appreciated Chair Kieckhefer's suggestion and would try to get that included in the future.

Assemblywoman Carlton referred back to LCB's legal opinion. The LCB's legal counsel write the NRS. Their opinions are extremely valuable and highly regarded. She noted that the charitable contributions made to the charities benefitted those who need dental care; however, the amount donated was probably minimal compared to the 2.5 years where unlicensed work was performed by the individual. She took issue with the fact that the Board continued to reject the recommendation and that is a problem. She expressed concern that the Board had not tried to find a way to fix the issue regarding charitable contribution; conversely, the Board just denied they are erroneous.

Ms. Shaffer-Kugel acknowledged Chair Kieckhefer's solution and stated that in lieu of charitable contributions, part of the stipulation will be that the provider/licensee who is entering into the stipulation agreement would be required to notify all the patients. If the patients requests reimbursement, then provider/licensee would have to submit proof to the Board the patient and/or insurances were appropriately reimbursed within a certain time period.

In response to Assemblywoman Carlton's question that the Board was then withdrawing its opposition to the recommendation, Ms. Shaffer-Kugel stated that was correct.

Ms. Shaffer-Kugel referred to Recommendation No. 7. She stated the Board contacted its auditor, Pamela Jones, and posed the question to her. Ms. Jones reported that according to the general standards, it should be reported as revenue and henceforth will be reported as revenue. With respect to statements of accounts for the Board, the Board will report as revenue, but then we will also be able to show what reimbursements the Board received on our financial statements.

Ms. Shaffer-Kugel continued to Recommendation No. 8. She testified that this related to the audit reporting and the offset, which was her responsibility. Because of the offset, when the maximum amount of \$175,000 a year was not met, Ms. Shaffer-Kugel thought the Board was still within its parameters. An amended contract went before the Board on May 20th to adjust that contract and the Board approved that amendment.

Chair Kieckhefer thanked Ms. Chaffer-Kugel for making this correction.

Ms. Shaffer-Kugel reviewed Recommendation No. 9. She stated this item will be placed on the Board's agenda for consideration at the July 15, 2016, meeting.

Ms. Shaffer-Kugel addressed Recommendation No 10. The Board rejected this recommendation and was of the opinion that NRS outlines the disciplinary process and currently the process did not include an independent review. She further opined that Recommendation No. 10 could only be implemented following a change in statute.

Assemblywoman Carlton asked Mr. Cooper for clarification on Recommendation No. 10. She was of the opinion that an independent review process can be a valuable tool.

Mr. Cooper stated that under NRS 631.190, the Board can adopt rules and regulations and appoint such committees, examiners, officers, employees, agents, and investigators as it deems necessary to carry out the provisions of this chapter. The Board does have the authority to hire outside counsel and would just need to put together a review function. Board members could be placed on a small panel and it would be independent to review these activities. Staff did not find in statute where the Board would be prohibited from reviewing its own activities. These would be considered internal controls and review, which is done in almost all state agencies. He stated it should be done with the Board.

Mr. Hunt noted his interpretation of NRS 631.313 to say the board shall assign its agents and allow for a review process. He offered his view of how the system works and what is required in the AG's manual to strictly comply with statutes and regulations. He opined that the Board must give a licensee the right to challenge the Board in the district court regarding the due process. The due process is specifically stated statute and a regulation cannot negate a statute. He reiterated for the Board to accept Recommendation No. 10 would require a change in statute. He surmised that if the Board used regulations to make the change, an individual could sue the Board in judicial review citing noncompliance with the statutory scheme. As the review process is discussed, nothing is done without the Board's approval, which means the DSO has no authority to sanction somebody nor does the Board's legal counsel. Ultimately the recommendation was rejected to protect the Board from exposure to liability for failure to protect the due process of licensees.

Michael K. Morton, Deputy Legislative Counsel, Legal Division, LCB, provided clarification on the statute. The disciplinary screening manual the Dental Board used is not a statutory scheme and it is not even in regulation. The manual was put together by the Board informally to deal with disciplinary matters. The Board has authority to put that screening manual in place. It is the opinion the Legal Division that Board would also have authority to put in place an independent review process. Many of the other boards in the state have that process already.

Mr. Hunt responded that unlike other boards in the state, the Board has a manual with information of what a person can expect from start to finish, what to expect will happen, and how DSOs are selected. The DSO manual is important because it follows the statutory scheme. He was of the opinion that the manual was created by the Board to inform every one of the precise process, which is contained within the NRS. He felt that the LCB should not attempt to adopt a regulation that would deviate from the NRS; however, there is oversight since no action is ever taken without final approval by the Board.

Assemblywoman Carlton was of the opinion that LCB staff would never implement a regulation in contradiction with the NRS. She further opined that NRS 631.190 does give them the opportunity. That is an important component of this audit. This issue needs to be resolved and to get everyone in agreement.

Chair Kieckhefer agreed with Vice Chair Carlton.

Assemblywoman Dickman voiced concern of the Board's comments. She noted that in the audit report there were two DSOs who accounted for 49% of all disciplinary actions from July 2013 to December 2015. She asked if the Board thought it would be helpful to have an independent review process.

Mr. Hunt expressed appreciation for Ms. Dickman's comments. He stated the Board is comprised of licensed dentists, hygienists, and one public member. The DSO assigned to investigate does not have authority to enter sanctions. The Board members who are dentists and hygienists have expertise. The DSO, who is either a dentist or a hygienist, makes findings and recommendations to the Board. The Board then uses its own personal expertise and knowledge in the area of dentistry and dental hygiene.

Ms. Shaffer-Kugel pointed specifically to NRS 631.363, which addresses the appointment of a member of an agent to conduct an investigation and hearing. The Board may appoint one of its members and any of its employees, investigators or other agents to conduct an investigation and informal hearing concerning any practice by a person constituting a violation. The investigator designated by the Board to conduct a hearing shall notify the person being investigated at least 10 days before the set date for the hearing. The notice must describe the reasons for the investigation and must be served personally on the person being investigated or by mailing it by registered or certified mail. After the hearing, if the investigator determines that the Board should take further action concerning the matter, the investigator shall prepare written findings of fact and conclusions and submit it to the Board. A copy of the report must be sent to the person being investigated. If the Board, after receiving the report of its investigator pursuant to this section, holds its own hearing on the matter, it may consider the investigator's report but is not bound by his or her findings or conclusions. The investigator shall not participate in the hearing conducted by the Board. If the person who was investigated agrees in writing to the findings and conclusions of the investigator, the Board may adopt that report as its final order.

She testified the Board had concern it would expose itself to potential litigation if a licensee did not like the outcome at a full Board hearing because statute was not followed. The Board is not against the added oversight; however would prefer the language be clarified in statute to remove the concern of litigation.

Chair Kieckhefer opined that the statute did not prohibit the Board from creating a subcommittee to which, the investigators need to present its findings, and have a discussion. This would allow the investigator to present his opinion without the power to override the investigators' opinion. Regardless, he stated it did not appear a consensus would be reached. He asked LCB Audit staff to continue to work with the Board to see if a consensus can be reached or if it would be better to pursue a change to the statute. An update will be provided at the time the 6-month report is presented.

Ms. Shaffer-Kugel testified to Recommendation No. 11. She stated Ex. C and Ex. D in the Board's response contained the updated information that has been added to the complaint file that is maintained at the office and the work product DSO file. The DSO would have his own checklist. When the file is returned to the Board, the Board would

be able to determine if all the necessary documentation is contained in the file. The recommendation has been implemented.

Ms. Shaffer-Kugel referred to Recommendation No. 12. She stated it has now been broken out so that each complainant has their own complaint file. Once it gets to the informal hearing, the number of complaints (if more than one) can be included in the informal hearing file. This recommendation had been implemented.

Addressing Recommendation No. 13, Ms. Shaffer-Kugel stated the file checklist has been prepared (Ex. D). This recommendation has been implemented. Furthermore, Recommendation No. 14 has also been implemented, which related to the Board retaining and obtaining all records to support disciplinary activities.

Chair Kieckhefer summarized that with the change on Recommendation No. 6, there were two outstanding issues (Recommendation Nos. 3 and 10). Staff was asked to continue to work with the Board on the two issues. These items will be addressed at the 6-month report update.

Mr. Cooper thanked the Chair and stated staff will work the Board on these issues and follow-up when the 6-month report is presented. Audit staff will point out the errors in the Board's calculation.

There were no further questions or comments. Chair Kieckhefer called for a motion.

ASSEMBLYWOMAN DICKMAN MOVED TO ACCEPT THE PERFORMANCE AUDIT ON THE NEVADA STATE BOARD OF DENTAL EXAMINERS. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

Of note, the audit report on the Nevada State Board of Dental Examiners will be forwarded to the Sunset Subcommittee of the Legislative Commission.

Item 4 — Presentation of Review of Governmental and Private Facilities for Children, May 2016 (NRS 218G.575)

Jane Giovacchini, Audit Supervisor, began her presentation on Review of Governmental and Private Facilities for Children with an introduction to the report. She stated the report includes the results of our reviews of 5 children's facilities, unannounced site visits to 11 children's facilities, and a survey of 59 children's facilities, in accordance with NRS 218G. The statutes require reviews of both governmental and private facilities for children. Auditors have identified 19 governmental and 40 private facilities in Nevada. Ex. 1 shows the number of different types of facilities, the facilities maximum capacity, average population, and staffing levels as of June 30, 2015.

An additional 125 youths were placed in out-of-state facilities by local governments or the State as of June 30, 2015. These youths were placed in 22 different facilities in 13 different states across the United States. Ex. 2 shows the number of youths placed out of state by the different placing entities over the past 3 years.

Statutes require children's facilities to forward to the Legislative Auditor copies of complaints filed by children in their custody or on behalf of those children. Auditors

reported receiving 1,183 complaints from 36 facilities in Nevada for the year ended June 30, 2015. Twenty-three facilities reported that no complaints were filed during the year. Generally, the reason a facility may report no complaints is due to the type of facility or the age of the youths served. For example, younger youths in a residential setting are more likely to discuss complaints rather than write a formal complaint.

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

Sandra T. McGuirk, Deputy Legislative Auditor, continued the presentation with an overall conclusion in the report. Based on the procedures performed and except as otherwise noted, the policies, procedures, and processes in place at four of the five facilities reviewed provide reasonable assurance that the facilities adequately protect the health, safety, and welfare of the youths at the facilities, and they respect the civil and other rights of the youths in their care. During the 11 unannounced visits conducted, auditors did not note anything that caused them to question the health, safety, welfare, or protection of the rights of the children in the facilities.

Auditors concluded that the policies, procedures, and processes in place at Northwest Academy need to be improved to provide reasonable assurance that it adequately protects the health, safety, and welfare of youths, and respects the civil and other rights of youths in its care. The Academy's policies and procedures were incomplete and not incorporated into a comprehensive set of policies and procedures.

Ms. McGuirk stated the Academy is a privately owned residential center, licensed by the Bureau of Health Care Quality and Compliance (Bureau) as a childcare facility. Regarding health and medication administration, auditors found the Academy had not developed a comprehensive and complete set of policies and procedures related to the administration of medications as required by statutes. The consent form used by the Academy to obtain consent from the person legally responsible for the psychiatric care of youths does not meet statutory requirements; practices and policies for the disposal of medication are not adequate and are not consistent with federal laws; and the process to review medication records is not documented in policies. Auditors also found that the mental health and substance abuse policies did not address mental health screening at intake, treatment plans, or suicide prevention.

In addition, the Academy has not established official, documented, and approved policies and procedures for youth, employee, or visitor complaints or describing youths' civil and other rights. None of the eight youth files reviewed contained evidence the youths were informed of their right to file a complaint. In addition, privileges and personal items checklists are not comprehensive and have not been added to the policy and procedure manual.

Auditors found the Academy had not developed a full set of policies and procedures related to the safety of youths and staff. In addition, auditors observed some practices that may not minimize risks to the safety of youths and staff. For example, some clearly

marked exits were securely locked so as not to allow staff or youth to exit; unsupervised youths were observed in the kitchen, using outdoor gardening tools, and walking between buildings. None of the eight youth files reviewed contained complete information in their identity kit for use during an emergency, and four of eight youth files reviewed did not contain evidence to support whether disclosures of allegations of abuse or neglect were reported timely to the proper agency.

The Academy had not established comprehensive policies and procedures to ensure the welfare of youths residing at the Academy. For example, the Academy had developed a classroom structure document, which had not been included in policies and procedures. In addition, the facility had not developed policies and procedures addressing isolation or room confinement.

Since the auditors' review, the Academy stated it has either revised or improved existing policy or has written and developed new policy for procedures that were being carried out daily, but never documented. Auditors found that while some of the policies and procedures submitted after the review have been added or improved, others still need improvements, and some were either not included in the information submitted or have not been developed.

Continuing her presentation, Ms. McGuirk stated many of the facilities had common weaknesses. For example, two facilities did not have a comprehensive set of policies and procedures for the administration of medications, as required by statutes, and medication records were not always complete or contained errors. In addition, three facilities did not have adequate policies and procedures for screening employees for criminal convictions.

Serious concerns persist over medication administration and background checks that could potentially impact the health and safety of children at several of the facilities reviewed. Medication administration concerns include consent to administer psychotropic medication and the destruction of medications. Three of five facilities in the report needed to improve the processes and procedures for obtaining consent to administer psychiatric medications to youths from the persons legally responsible for the psychiatric care of the youths. Two of the facilities' forms for obtaining consent did not contain the information required by statute, and the third facility's policies require the youth to sign the form rather than the person legally responsible. This or a similar concern has been repeated during several of our recent facility reviews. For example, two prior reports included reviews of 13 facilities. Of those, four either did not have an adequate process or procedure for obtaining the required consent or did not have documentation that consent was obtained for some youths. In addition, four of the five facilities included in this report and nine of 13 facilities included in the two prior reports needed to improve methods and documentation of destruction of expired, unused or wasted medications.

There were serious concerns from the auditors that persist over fingerprint based background checks. Some mental health treatment facilities licensed by the Bureau have not been able to obtain fingerprint based background checks of current or potential

employees using the requirements found in NRS 449.123. During the 2011 Legislative Session, the Legislature passed Assembly Bill 536, effective October 1, 2011, which included a requirement that all medical facilities that provide residential services to children obtain fingerprint based background checks of employees at least every 5 years. The term "medical facility" includes a psychiatric hospital per NRS 449.0151. However, since the term "residential services" is not defined in statute and was not defined in Assembly Bill 536, the Bureau has interpreted "residential services" according to the definition used by Medicaid and Medicare. As a result, facilities that provide acute psychiatric services to children are not required to obtain fingerprint based background checks for employees working with children even though the children may spend more than a week at the facilities. Six of the eight mental health treatment facilities subject to review by the Legislative Auditor under NRS 218G provide acute psychiatric services to children. However, four of those facilities have not completed fingerprint based background checks of employees.

Ms. McGuirk stated that auditors recommended the Legislature consider enacting legislation to amend NRS 449 to include a definition of "residential services" to encompass all psychiatric hospitals that provide inpatient treatment and services to children.

Concluding her presentation, Ms. McGuirk pointed out Ex. 3 shows a map of the five facilities reviewed and the report contains more detail on issues noted at each facility, as well as each facility's response. The report contains numerous appendices, including Appendix D, which provides some background, population, and staffing information on the 59 facilities in Nevada.

Chair Kieckhefer called for questions from the Subcommittee members.

Chair Kieckhefer responded that the site visits for the facilities outside of Amargosa Valley appeared to be primarily focused on policies and procedures deficiencies. He asked what was the general response from the staff at those facilities to address these deficiencies in a timely manner.

Ms. McGuirk replied the consensus was staff agreed to the principle observations and were working on improving policies and procedures. Sometimes the auditors and staff have differences of opinions on the meaning of certain words; however an agreement can usually be made.

Responding to Chair Kieckhefer's question regarding if it would be stated in the report if the reviewers observed specific instances where children were not in a safe environments, Ms. McGuirk stated that something of that nature would be included in the report. For example, in the past when a certain foster care agency was reviewed, a home was found to be not safe. The auditors contacted Child Protective Services and the licensing agency. Subsequently, the issues with the home were resolved.

Chair Kieckhefer asked for Ms. McGuirk's opinion regarding the response received from Northwest Academy (Academy).

Ms. McGuirk was not satisfied with the response received from the Academy. She opined that the Academy adopted the perspective that their policies and procedures were completely adequate. However, as previously discussed and is noted in the report, their policies and procedures are quite weak. The auditors were not able to obtain reasonable assurance regarding the health and safety of the youths. The Academy needs to work on improving its processes. The information submitted by the Academy did not contain all of the information requested by the auditors.

Chair Kieckhefer asked what types of youths are placed in the Academy and if they are there by court order or voluntarily.

Ms. McGuirk responded that the majority of the facilities examined by the auditors are where youths have been sent by court order. Those youths are files are examined specifically. However, all of the applicable policies and procedures and operations at those facilities are examined to determine if best practices are met regardless of whether or not it pertains to a court order.

Chair Kieckhefer queried as to the number of youths that have been court ordered to that facility.

Ms. McGuirk replied that she did not have that information, but she could obtain it for the Chair.

Chair Kieckhefer asked that of the four facilities not conducting background checks if it was because it was not a requirement. Moreover, would it be something that could be done voluntarily.

Ms. McGuirk stated that at least one of the facilities had voluntarily completed background checks. That information had not yet been submitted for fingerprinting, because they were given direction by the licensing agency that it could not be submitted under NRS 449. However, if some of those facilities choose to, they could discuss with the Bureau for the opportunity to submit the fingerprints under the national crime prevention law. NRS 449 requires the licensing agency to review the background checks and determine if any of the potential or current employees have committed a disqualifying crime of employment. Under the other statute, the employer would be the one determining whether their current or potential employees have committed a disqualifying crime of employment.

Chair Kieckhefer called for representatives from HCQC.

Leticia Metherell, Health Facility Inspector, Division of Public and Behavioral Health, DHHS, proposed that psychiatric hospitals that provide inpatient services to children be added to NRS 449.119 to resolve this issue. This would clearly identify this as a facility type that requires background checks in accordance with NRS 449 and it would require all psychiatric hospitals that meet this condition to background check employees, independent contractors, and staff working at this facility for a temporary employment service, in addition to any newly licensed facilities that meet the condition. As NRS 449.119 reads, if residential services are provided to children in medical facility or

facility for the treatment of alcohol or drugs, this should apply to other facility types besides hospitals.

The Bureau does not have this issue with their medical facility types because they are specifically stated in NRS 449.119. For example the facility for skilled nursing is a medical facility. If they are licensed as a skilled nursing facility then background checks have to be completed regardless. Not all hospital types are listed in NRS 449.119. This issue could be clarified if psychiatric hospitals that provide inpatient services to children were added as a facility type to NRS 449.119.

Chair Kieckhefer stated the Audit Subcommittee does not have any bill draft requests (BDRs); however, it might be possible to have someone else request it as a BDR.

Chair Kieckhefer called for facilities representatives to provide comment if desired.

Ross Armstrong, Deputy Administrator for Juvenile Services, DCFS, DHHS, stated NYTC falls under his purview. He thanked the audit staff for visiting the facilities. He pointed out DCFS' responses in the audit report noted they worked on all the policies identified. In addition, he stated one item of most concern was medication management. Additional steps have been taken by appointing one of the nurses to be the supervising nurse for three facilities so there is consistency with medication management and disposal at all three facilities.

Dave Doyle, Director, Eagle Quest of Nevada, Inc., thanked the auditors and agreed with the stated suggestions. He noted this was the second audit in 5 years for Eagle Quest. There has been significant progress since the first audit. He encouraged providers who have not gone through an audit to be receptive and amenable toward the process.

Mr. Doyle offered a few suggestions regarding the process. One suggestion is to recognize that foster care parents are not employees, but rather contractors and some of the standards can be challenging. He added that specialized foster care could be a good answer to some of the challenges of providing in-patient psychiatric care. He was of the opinion that since Assembly Bill 348 and other legislation, there has been a reduction in the amount of applicants for specialized foster care. Another suggestion would be to encourage accreditation for specialized foster care providers. Thirdly, he surmised that it would be helpful if areas where improvement had been made was noted in the review. Finally, there is a federal initiative called Quality Parenting Initiative (QPI) and it is aimed to increase normalcy for children in foster care. It could be beneficial to have a discussion with the Audit Subcommittee and providers to discuss such things.

Chair Kieckhefer thanked Mr. Doyle for his comments.

Assemblywoman Dickman asked Mr. Doyle that if there was a change to NRS 449, if it would adversely affect his type of facility.

Mr. Doyle replied that he conducts background checks on all of his foster parents, employees, and volunteers. Therefore, it would not create an adverse effect.

Ms. McGuirk clarified that NRS 449 is specific to medical facilities and substance abuse facilities. As for Mr. Doyle, he operates a foster care agency that falls under the parameters of NRS 424, which has the same fingerprint background check requirements.

Chair Kieckhefer called for a motion with the direction to the Audit Division staff to continue to press Northwest Academy to try to make progress.

ASSEMBLYWOMAN DICKMAN MOVED TO ACCEPT THE REVIEW OF GOVERNMENTAL AND PRIVATE FACILITIES FOR CHILDREN. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

Item 5 — Presentation of Six-Month Reports (NRS 218G.270)

a. Department of Health and Human Services, Division of Health Care Financing and Policy

Rocky Cooper, Legislative Auditor, stated in May 2015 an audit report was issued on the Department of Health and Human Services, Division of Health Care Financing and Policy. The Division filed its plan for corrective action in July 2015. NRS 218G.270 requires a report be issued within 6 months outlining the implementation status of the audit recommendations.

The six-month report prepared by the Governor's Finance Office has the status of the six recommendations contained in the audit report. As of January 29, 2016, the Finance Office indicated that five recommendations were fully implemented and one recommendation partially implemented.

The partially implemented recommendation related to developing computer edits to identify behavioral health claims requesting payment for services that exceed daily-allowed hours. The Division has reported that they have fully implemented this recommendation. Based on a follow-up discussion with Division management in February 2016, edits are in place and working as intended. Because this recommendation is now fully implemented, Audit staff does not have any questions for agency officials.

Chair Kieckhefer called for questions and there were none. He then called for a motion.

ASSEMBLYWOMAN DICKMAN MOVED TO ACCEPT THE ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF HEALTH CARE FINANCING AND POLICY. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

Item 6 — Public Comment

Chair Kieckhefer called for public comment. There was none.

Chair Kieckhefer thanked the Committee and the staff for their hard work.

Chair Kieckhefer adjourned the meeting at 1:04 p.m.

Respectfully submitted,

Susan M. Young, Office Manager

Senator Ben Kieckhefer
Chair of the Audit Subcommittee
of the Legislative Commission

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