MINUTES OF THE MEETING OF THE
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION

Legislative Building
401 South Carson Street, Room 4100
September 29, 2010

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

A meeting of the Audit Subcommittee of the Legislative Commission (NRS 218E.240) was called to order by Assemblywoman Sheila Leslie, Chair, at 9:36 a.m., Wednesday, September 29, 2010, in room 4100 of the Legislative Building, Carson City, Nevada, with a simultaneous video conference to room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

AUDIT SUBCOMMITTEE MEMBERS PRESENT:

Carson City:

Assemblywoman Sheila Leslie, Chair
Assemblyman Tom Grady

Las Vegas:

Assemblyman Joseph Hardy
Senator Dean Rhoads
Senator Bob Coffin

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Paul Townsend, Legislative Auditor
Donna Wynott, Office Manager
Eugene Allara, Deputy Legislative Auditor
Jane Bailey, Audit Supervisor
Rocky Cooper, Audit Supervisor
Shawn Heusser, Deputy Legislative Auditor
Tammy Goetze, Deputy Legislative Auditor
Rick Neil, Audit Supervisor
Todd Peterson, Deputy Legislative Auditor
Jill Silva, Deputy Legislative Auditor
Shannon Ryan, Audit Supervisor

The roll was taken. A quorum was present.

Chair Leslie began the meeting by recognizing Senator Coffin as this was the last meeting he would be attending as a member of the Audit Subcommittee. She expressed appreciation for his service on the Audit Subcommittee and in the legislature as well. She noted his knowledge and expertise would be missed by all and thanked him for his service.

Senator Coffin expressed appreciation for Chair Leslie's comments.

Item 1— Approval of minutes of the meeting held on April 13, 2010

Chair Leslie called for a motion.

> ASSEMBLYMAN GRADY MOVED TO APPROVE THE AUDIT SUBCOMMITTEE MINUTES OF APRIL 13, 2010. THE MOTION WAS SECONDED BY SENATOR COFFIN AND CARRIED UNANIMOUSLY.

Chair Leslie had received a request to begin the meeting with the six-month reports on the Department of Business and Industry's Division of Financial Institutions and Real Estate Division.

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

***Item 2*— Presentation of audit reports (NRS 218G.240)** – Paul Townsend, Legislative Auditor

A. Public Utilities Commission

Mr. Townsend introduced Tammy Goetze, Deputy Legislative Auditor; and Jane Bailey, Audit Supervisor, to present the report.

Ms. Goetze began the presentation with background information. The Public Utilities Commission (Commission) was created in 1911. The Commission regulates public companies engaged in electric, natural gas, telephone, water and sewer services; gas and electric master meter service at mobile home parks; and some propane systems. In addition, it monitors gas pipeline and railroad safety. The Commission's mission is to supervise and regulate the operation and maintenance of utility services in Nevada. The Commission is comprised of three commissioners who are appointed by the Governor to 4-year terms. The Commission maintains offices in Carson City and Las Vegas, and had 93 authorized positions in fiscal year 2009. The Commission is self-funded with two budget accounts funded primarily from annual assessments collected from public utilities. During fiscal year 2009, the Commission received about $10.7 million in revenues.

Ms. Goetze reported this audit focused on the Commission's financial and administrative activities and information technology controls for fiscal year 2009, and included certain activities through February 2010. The objectives of the audit were to determine whether the Commission's financial and administrative practices were carried out in accordance with applicable state laws, regulations, policies, and procedures, and whether information technology security controls were adequate to protect the confidentiality, integrity, and availability of its information and information systems.

Ms. Goetze reported the Public Utilities Commission substantially complied with state laws, regulations, and policies, and procedures significant to its financial, administrative, and information technology activities. However, better monitoring and updating of internal controls is necessary.

The Commission can improve controls over receivables by actively pursuing and properly reporting outstanding fines. Commission staff did not actively pursue the collection of administrative fines. During fiscal year 2009, 27 fines totaling $28,000 were assessed. Three months after the fiscal year, 24 fines totaling $24,000 remained outstanding. Timely and sufficient collection efforts are needed to remind companies of their obligations and consequences for nonpayment.

The Commission did not report fine receivables to the State Controller as statutorily required. As of June 30, 2009, Commission records indicate it had $24,500 in outstanding fines. A majority of Commission receivables are from assessed fines, which are included in the state's definition of an accounts receivable.

Ms. Goetze stated better enforcement actions are needed over delinquent assessment and fee reports. Analysis of delinquent reports revealed none of the ten reports tested were pursued in a timely manner. They were pursued 2 to 13 months after the due date. The reports show how companies calculated fees that are owed to the Office of Consumer Protection and the Office of Disability Services. The filings are not considered to be receivables because the Commission does not know the total amounts due, since the companies calculate their payments based on Commission approved rates. Although reports are due throughout the fiscal year, Commission staff wait for a few months after the end of the fiscal year to compile a listing of delinquent companies, and submit the list to the Commission's General Counsel for enforcement action. In September 2009, 92 companies were submitted to General Counsel. Auditors tested ten of these companies and noted that eight promptly responded after receiving a late notice from General Counsel. Therefore, enforcing assessment and fee reporting requirements would increase collections and result in fewer delinquencies at year-end.

Ms. Goetze reported controls over certain financial activities can be strengthened. Specifically, additional controls are needed over revenue received in Las Vegas. Revenue processing duties are not adequately segregated, and access to payments is not properly restricted. Improved controls are also necessary to ensure the accuracy of travel billings. The Commission did not accurately bill public utilities for out-of-state travel expenses. The Commission can improve the monitoring of certain expenditures to ensure cell phone use and employee travel is adequately reviewed. Further, improvements are needed over the tracking of agency owned vehicles. The Commission did not physically inspect vehicles during their annual inventory. As a result, the Commission's property and equipment records were inaccurate. Of 13 vehicles tested, 4 were located at a different office than specified on the Commission's inventory. Accurate property records are important to maintain accountability and enhance loss prevention.

Ms. Goetze explained that controls over the Commission's information systems also need improvement. Weaknesses existed in password controls. The system permitted passwords to be set at a minimum of seven characters and never force a change. State security standards require that passwords be a minimum of eight characters and be changed at least every 90 days. Longer passwords and requiring passwords to be changed reduces the risk of unauthorized access to the Commission's network and data. Additionally, staff lacked required security awareness training.

Recommendations were made to improve the Commission's financial and administrative activities and information technology controls. Ms. Goetze reported the Commission accepted the seven audit recommendations. The Commission had also indicated in their response that all seven recommendations have been implemented.

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

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

Chair Leslie commended the Commission for taking immediate action to implement the seven audit recommendations. Ms. Leslie asked for comments and a confirmation of the implementation of the recommendations from the agency.

Ms. Crystal Jackson, Executive Director, appreciated the audit. She indicated the audit recommendations addressed small issues but they are extremely important. The agency took immediate action to implement the recommendations. She reported the Commission had revised procedures to ensure that all fees are monitored, collected, and are referred to the Office of the Controller in a timely manner. She added the Commission had gone back to fiscal year 2008, noting that the audit addressed fiscal year 2009. The Commission sent over all of the outstanding fines to the Controller for collection. She reported that $500 was collected on one outstanding fine.

Chair Leslie called for questions from the Committee.

Senator Coffin asked for assurance that the Commission would continue to stay on top of the IT security issue. He noted the Commission had implemented the audit recommendations in a timely manner. Senator Coffin emphasized the need to change passwords every 90 days, adding that the Commission had proprietary information that could be of value to someone in the business world if they were able to hack into the computers at the Commission.

Ms. Jackson thanked Senator Coffin for his comments. She agreed, noting that the IT staff had already set up all computers to ensure that passwords are changed every 90 days. She added that every employee had taken the security awareness training and measures are in place to ensure the training is completed annually.

Chair Leslie called for a motion.

> ASSEMBLYMAN HARDY MOVED TO ACCEPT THE REPORT ON THE PUBLIC UTILITIES COMMISSION. THE MOTION WAS SECONDED BY SENATOR COFFIN AND CARRIED UNANIMOUSLY.

B. State Department of Agriculture

Mr. Townsend noted that this audit was a special request by the Chairs of the Senate Finance and the Assembly Ways and Means Committees during the 2009 Legislative Session. He introduced Eugene Allara, Deputy Legislative Auditor; and Rocky Cooper, Audit Supervisor, to present the report.

Mr. Allara began the audit presentation. He explained the mission of the Department of Agriculture is to benefit the welfare of all persons residing in the State by encouraging the advancement and protection of Nevada's agriculture and related industries. The Department, organized into six divisions, manages numerous programs.

Exhibit 1 explains the Department's expenditures by budget account name for fiscal year 2009. He noted the Legislative Commission authorized this audit at the request of the Chairs of the Assembly Ways and Means and Senate Committee on Finance. Mr. Allara explained the committees were concerned the Department might be misaligning its resources to compensate for revenue shortfalls in various programs.

Mr. Allara stated the audit objective was to determine whether the cost allocation methods utilized to finance the various budget accounts within the Department were appropriate, based on how the Department is organized and where program responsibilities were assigned.

Mr. Allara reported the Department did not always align its payroll and other operating costs with the proper program funding source. Although several adjustments were made during the 2009 Legislative Session to align personnel costs and funding sources, additional adjustments are needed. The audit identified ten positions that were not in alignment. These alignment issues involved employees that provided services to programs different from where their payroll costs were recorded. Auditors estimate the annual misalignment of personnel costs for these positions was over $550,000. He added, examples of these misalignments are discussed in the report.

Mr. Allara stated the State's revenue shortfalls have forced the Department into difficult staffing decisions. Since 2009, full time equivalent positions have been decreased by 29% from 101 to 72 authorized positions. To continue its operations, the Department redistributed the duties of the vacant and eliminated positions resulting in some of the previously discussed staffing misalignments. In other instances, industry fees and federal funds supplemented services once supported by the General Fund.

The audit indentified 5 of 15 eliminated positions where duties once funded by the General Fund were redistributed to positions fully or partially funded by program fees and federal revenues. The report noted the State's revenue shortfalls have changed the funding structure of the Department. Exhibit 2 illustrates the changes in funding sources from fiscal year 2007 through 2010.

Mr. Allara reported the Department collected fees for registering and permitting fertilizer and antifreeze but did not perform required tests. These tests are important to verify the quality of the products and to ensure the product is safe for public use.

Mr. Allara stated the Department collected about $416,000 in fertilizer registration fees during fiscal years 2008 and 2009 without performing required testing. Additionally the Department collected about $26,000 in antifreeze registration fees during the same period without performing required testing. These fees contributed to a reserve balance for fiscal year 2009 of about $1.5 million in the budget account where the programs are recorded. Because the account contained a significant reserve balance, the Legislature established a reserve transfer of $800,000 to the General Fund to help address the State's revenue shortfalls.

The audit found the Department did not maintain accurate financial information of the results of its programs. During the 2009-2011 biennium, the Department transferred the Nursery and Pest Control Operator Programs from a General Fund supported budget account to an non-General Fund supported account.

Mr. Allara stated although approved by the Legislature, the money committees expressed concern that revenues from these programs would not be sufficient to support budget expenditures. Therefore, the money committees issued a Letter of Intent that the reserves from other programs could not be used to supplement the Nursery and Pest Control Operator Programs. Additionally, the Department is required to submit quarterly reports to the Interim Finance Committee (IFC) identifying each program's reserve level and revenue and expenditure activity. Auditor analysis indicates the reports submitted to IFC did not include all of the programs' revenues and expenditures due to the misalignment issues previously discussed.

Mr. Allara reported that Exhibit 3 illustrates the reserves as reported by the Department, for the Nursery Program, compared to the reserves adjusted for program related misalignments identified during the audit. For example, the March 31, 2010, reserve balance reported by the Department was $68,544, while auditor analysis found the balance was $4,955, a difference of $63,589. The reason for the difference was that administrative costs were not allocated to the Nursery Program in accordance with the Department's cost allocation plan and personnel costs for the Program Manager were not charged to the Program. Because the manager's personnel costs was funded by a General Fund appropriation, the Nursery Program continued to be funded by the General Fund and was not self-supporting in fiscal year 2010.

Mr. Allara stated auditor analysis of the Pest Control Operator Program indicates that revenues are sufficient to sustain the program. Exhibit 4 illustrates the reserves as reported by the Department, for the Pest Control Operator Program, compared to the reserves adjusted for program related misalignments identified during the audit. Auditors noted the reasons for the difference in the reported reserve balance were that personnel costs of the program manager were not included in program expenditures, administrative costs were not properly allocated to the program, and not all program revenues were included in the Department's calculation.

Mr. Allara reported misalignments associated with the Agricultural Grading and Certification Programs found that employees who performed the revenue generating inspections in this account, were funded by the General Fund in a different budget account. Because personnel costs were not always charged to the Grade and Certification Account, it appears to be self-supporting when the account is actually subsidized by the General Fund. Exhibit 5 displays the reserve balance in the account at the end of fiscal year 2009. Auditors determined that fees charged by the programs do not always cover the cost of inspections. Two examples from auditor testing revealed that the hourly inspection rate did not cover the hourly wages and fringe of the inspector and did not include travel costs.

Auditors noted the Department has not consistently used the State's Accounting System to track program costs. The Department can improve its program cost information by aligning personnel costs with the proper budget account in accordance with state budgetary laws and, by using unique job codes to track program operating and personnel costs.

Mr. Allara reported four recommendations were made to assist the Department in properly aligning revenue sources with their related expenditures.

The Department accepted all four of the audit recommendations.

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

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

Senator Rhoads noted that staff reductions affect the collecting of fees not only in this agency. He wondered if the auditors had looked into the impact of these staffing issues.

Chair Leslie stated the question would be how does the reduction in staff affect the agencies. She noted the Department was able to collect fees for the antifreeze and the fertilizer testing but the inspections were not done. She asked what impact does the reduction in staffing have on the agency completing its tasks.

Mr. Allara deferred the question to Department staff. However, from the auditor standpoint it was noted that management or other staff did attempt to collect the fees.

Mr. Tony Lesperance, Director, Department of Agriculture, stated the loss of personnel was making it very difficult for the Department, which he had noted in the audit response letter. He stated staff work weekends without receiving overtime, but are expected to work often times on weekends. Personnel had raised the issue that he was in error with this practice. He stated he had to survive and his response to being told not to follow this practice was that he felt obligated to keep the front doors open and serve the public to the best of their abilities.

Senator Rhoads noted it is a problem not only in this agency but in other agencies and between now and the 2011 Legislative Session that the state is losing a lot of money by cutting personnel, the people that go out and actually collect the fees and fines. He stated legislators should be aware of the issue.

Chair Leslie agreed.

Senator Coffin was concerned also because this is a fee based agency. He commented about the issue. Senator Coffin expressed concern that the Department was requiring staff to work overtime and on weekends without overtime compensation. He stated the Department could end up having to pay a lot more in damages should the employees decide to file a complaint.

Mr. Lesperance asked to respond. He did not believe the Department had missed collecting any fees. He commented about budget issues. Mr. Lesperance stated the Department was becoming more dependent on grants, fees, and other sources of income.

Senator Coffin asked for a response to his last question. He wanted to be assured that there were no cases or actions by people who are working overtime and are not being compensated.

Chair Leslie stated the Department could not be following this practice. She was sure Personnel had advised him of the same information.

Mr. Lesperance stated that Personnel had made it very clear that he could not do that.

Chair Leslie reiterated he could not do that.

Assemblyman Grady asked for verification that the Board had not taken compensation in the last few months to help out with the budget.

Mr. Lesperance stated that was correct.

Assemblyman Grady asked if the Department had placed this audit on the Board agenda and asked if the Board was working with the Department on deficiencies to help correct them.

Mr. Lesperance replied the Department worked closely with the Board, and the Board was aware of and appreciated the audit. He commented on issues within the Department.

Chair Leslie had questions in regard to the Department's response to the audit. One was in regard to fertilizer and antifreeze testing because as she understood it the Department was collecting fees to do the testing which was not being done. The State came in and swept the reserve account to help with the budget shortfall. She stated somebody paid that fee, not only did they not get the service, but the dollars went for something else.

Mr. Lesperance stated he believed the Department was in the process of conducting the tests.

Chair Leslie reiterated asking that the testing was actually happening.

Mr. Lesperance stated it was.

Chair Leslie asked for clarification that the annual report would be filed as required.

Mr. Lesperance stated he would be filing an annual report.

Chair Leslie noted the money committees were concerned about realigning those positions. She stated that staff would be following up on the issue prior to the next budget cycle.

Chair Leslie stated her last question was on the Department response to Recommendation Number 3. She reiterated the Department believed that fees needed to be increased for seed and organic certification to cover the cost of the program management. She asked if the increase had been built into their budget for the next biennium.

Mr. Lesperance stated no because, he felt that fees could be increased, especially in seed certification which would not totally resolve the problem but he thought the Department could charge more. This was not included in their current budget projections but stated he would like to see these fees become more realistic as far as private industry is concerned. He added organic producers consisted of small operatives of two to three acres. He stated he was unsure if the Department could significantly increase these fees. Mr. Lesperance stated the Department was attempting to work with larger producers to establish major organic programs in the amount of two to three thousand acres or several thousand dairy cows or whatever else it might be. He reported the Department was having some luck that way and he thought there would be more of that in the future. He stated the organic program will become fairly self-sufficient.

Chair Leslie concurred. She added examples of seeing more organic farmers from Nevada participating in the farmer's markets. Chair Leslie asked Mr. Townsend to refer this issue to the Fiscal Division for a review of the Agriculture budget fee structures. She stated although the Department did not request an increase in fees this was an area that could be reviewed by the 2011 Legislature.

Mr. Lesperance stated he suspected that the Department would be discussed and the door would be open from a legislative standpoint. He stated their effort had been through the Executive budget.

Chair Leslie appreciated that the Department had noted this information in their response to the audit recommendations.

Chair Leslie called for additional questions from the Committee.

Assemblyman Grady asked for information in regard to the Virginia Range horses crossing Highway 50.

Mr. Lesperance replied a temporary fix was in place. He provided additional information about the wild horse population especially in the area of Highway 50.

Chair Leslie called for a motion.

> ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON THE STATE DEPARTMENT OF AGRICULTURE. THE MOTION WAS SECONDED BY SENATOR RHOADS AND CARRIED UNANIMOUSLY.

C. Motor Pool Division

Mr. Townsend introduced Jill Silva, Deputy Legislative Auditor; and Rocky Cooper, Audit Supervisor, to present the report.

Ms. Silva began the presentation with background information on the Division. The Motor Pool (MP) was created in 1961 to ensure the economical utilization of state-owned vehicles, to eliminate the unauthorized use of state-owned vehicles, provide a ready means of transportation, to reduce the use of private vehicles by state employees, and to provide a facility for the maintenance needs of selected state-owned vehicles.

The Motor Pool maintains facilities in Carson City, Las Vegas, and Reno. The Division operated a fleet of 849 vehicles as of July 2009 with a cost of $13 million. Of these vehicles, 736 were assigned to state agencies and 113 were used for daily rentals. Exhibit 1 shows the distribution of Motor Pool vehicles as of July 2009. Exhibit 2 shows the Divisions' operating expenditures for fiscal year 2009.

The primary funding source is vehicle rental fees totaling approximately $4.8 million in 2009. Exhibit 3 shows the daily and monthly rental rates effective July 2009.

Ms. Silva stated the audit scope covered the agency's fleet management activities for fiscal years 2008 and 2009. The audit objectives were to determine whether the Division had controls in place to ensure economical utilization of Motor Pool vehicles and whether the Motor Pool's internal controls provided reasonable assurance that fuel card and purchase card transactions were safeguarded against loss and misuse.

Ms. Silva reported the audit findings and recommendations. The Motor Pool can improve the economical utilization of its fleet. The Division does not adequately monitor the fleet for elimination or reassignment of unneeded vehicles. Auditors estimate the agency could save about $1.6 million by delaying vehicle purchases. Additionally, vehicles are not always maintained in accordance with established maintenance schedules. Finally, additional savings may be realized by determining the most cost-effective time to replace vehicles.

Ms. Silva reported inadequate monitoring of vehicle utilization included 162 (22%) of agency assigned vehicles that did not meet the minimum use requirements of 6,000 miles per year during fiscal year 2009. State policies require the Motor Pool to monitor vehicles for low use and reassign them if necessary. Management did not follow Division policies for investigating low use vehicles.

Exhibit 4 shows the range of miles driven for the 162 low use vehicles. Exhibit 5 shows examples of 10 vehicles with low annual mileage for fiscal year 2009.

The State Administrative Manual requires monthly assigned vehicles be driven 500 miles or 18 days per month. It also requires the Motor Pool administrator to contact an agency not meeting the guidelines and review the vehicle usage for possible reassignment. Motor Pool did not follow its policies and procedures to implement the State Administrative Manual requirements.

Ms. Silva stated low-use vehicles result in agencies spending too much per mile driven. This occurs because agencies pay a fixed monthly fee plus an additional per mile fee. Exhibit 6 illustrates how the average cost per mile decreases as the miles driven increase. The audit provided examples of the high transportation costs agencies are paying associated with low-use vehicles.

Ms. Silva reported agencies can reduce their transportation costs by eliminating certain vehicles and shifting necessary miles to other vehicles. In addition, agencies should consider eliminating low-use vehicles and reimbursing employees for using their personal vehicle when this option is available. Exhibit 7 shows for a compact sedan, the breakeven mileage that the Motor Pool cost equals the personal vehicle reimbursement cost is 10,870 miles.

Auditors estimate the Motor Pool could save $1.6 million in future vehicle replacement costs by reducing the fleet by 73 vehicles assigned to state agencies. Auditors considered the following factors: (1) the number of annual miles driven, (2) the number of other vehicles available, (3) the accessibility to renting daily Motor Pool vehicles, (4) vehicle type and use, and (5) vehicle location.

Ms. Silva noted that agencies have a shared responsibility for ensuring their transportation budget is spent efficiently. The elimination of vehicles may require the assistance of agency financial managers and the Budget Division.

Two recommendations were made to reduce the number of low-use agency assigned vehicles.

Ms. Silva continued the presentation with a discussion on untimely preventive maintenance. Auditors noted that preventive maintenance was not timely for 30% of required services. Motor Pool's preventive maintenance policy requires certain services every 5,000 and 25,000 miles. The cost of these services are included in the monthly rate. The description of the services provided under each maintenance schedule are provided in the report.

Ms. Silva noted that 50 of 80 vehicles tested had at least one untimely service during the two years tested. Auditors identified 10 vehicles that were in excess of 10,000 miles overdue for preventive maintenance 'A' service. Examples are included in the report.

Motor Pool relies on the vehicle's driver to monitor when service is due. Management indicated that staff telephones agencies when service is past due, however, there was no documentation to verify that this occurs. Ms. Silva noted that staff could use a report from the fleet management system to monitor vehicles due for maintenance and notify agencies by email.

One recommendations was made to improve vehicle maintenance.

Ms. Silva stated that Motor Pool's vehicle replacement policy established in April 2009 is not supported by a cost analysis, but is based on policies of similar government fleets. The audit explained the benefit of determining the optimal point of replacing a vehicle and the costs incurred when replacing a vehicle too late or too soon in their useful life.

Exhibit 8 shows the replacement policies and practices. Auditor review found that Motor Pool replaces vehicles based primarily on mileage. The 51 sedans and small trucks retired during fiscal year 2009 averaged 89,410 miles and 9.2 years of service. Exhibit 9 shows the average years in service and mileage for 25 Chevrolet Cavaliers retired in fiscal year 2009 were 8.8 years and 90,386 miles, respectively.

Ms. Silva stated that some states are extending their replacement policies due to budget constraints. Because Motor Pool also extended the mileage requirements in April 2009, management should determine whether the change is cost effective.

Ms. Silva discussed the difficulty of recovering the initial cost premium of approximately $8,600 paid for hybrid vehicles. As of December 2009 Motor Pool had 40 hybrid vehicles with a cost of $870,000. Ms. Silva reported the first hybrid vehicles were purchased in 2001 and retired in 2009. During the 8-year period these vehicles were in service, gasoline prices averaged $1.80 per gallon making it difficult to generate sufficient fuel cost savings to recover the cost premium.

Exhibit 10 shows a cost comparison over the service lives of three Toyota Priuses and three Chevrolet Cavaliers. The average net cost of the Prius was approximately $3,800 more than the Cavalier. To recover the full cost premium, the hybrids would need to be driven 115,000 miles based on the gasoline price of $2.79 per gallon.

The audit cited examples of hybrid vehicles not placed in higher-use situations make it likely that the initial cost premium would not be recovered. According to Motor Pool, the hybrid vehicles retired in fiscal year 2009 were not kept in service longer due to the battery warranty of eight years or 100,000 miles.

Two recommendations were made to help improve vehicle replacement practices.

Ms. Silva discussed internal control weaknesses over fuel cards and purchase cards. Fuel purchases totaled more than $900,000 in fiscal year 2009. Auditors identified 16 vehicles that should have been investigated for improper fuel card use.

Ms. Silva reported the Attorney General's Office investigated a fuel theft of approximately $5,000 that occurred over the course of one year. Motor Pool did not become aware of the problem until they received an exception report from the fuel provider showing three purchases in one day. Unusual fuel purchases for this vehicle should have been identified sooner since this was the agency's only Motor Pool vehicle.

Ms. Silva stated the report described how to identify improper fuel card use by monitoring a vehicle's average miles per gallon. If a vehicle's average miles per gallon is unusually low, it is likely the fuel card was used for another vehicle.

Exhibit 11 shows how the average miles per gallon can be calculated from the fuel billing statement and mileage reports. The exhibit shows several unusual transactions for a Chevrolet Cavalier. For example, on June 23, 2008, 11.58 gallons was purchased at 9:52 AM and about one hour later 11 gallons were purchased at another location.

Exhibit 12 provides examples of the 16 vehicles identified with unusually low average miles per gallon. Motor Pool indicated most vehicles low average miles per gallon could be explained by fuel cards being used in other agency vehicles. Auditors found this may not always be correct.

Ms. Silva stated Motor Pool management started to establish a process for reviewing fuel billings by developing a report that electronically combines the billing statements from both fuel providers. Auditors discussed the poor controls over fuel card sharing and lack of odometer readings. The State Administrative Manual prohibits the sharing of fuel cards. As such, Motor Pool should attempt to enforce the requirement.

Motor Pool fueling procedures require the driver to enter the odometer reading when obtaining fuel from NDOT facilities. Auditors noted the odometer reading is not provided on the monthly billing statement. This information would be helpful for identifying the vehicle a card is used for. She noted the statewide fuel dispensing provider includes the odometer readings on its billing statements.

Four recommendations were made to address improving controls over fuel purchase cards

Ms. Silva stated supervisory reviews of purchase card transactions were not documented as required by the Division's procurement card internal control policies.

One recommendation was made regarding purchase card transactions.

Motor Pool has not periodically reviewed its system of internal controls relating to fleet management activities as required by Nevada Revised Statutes and the failure to do so was a contributing factor to most of the problems identified in the audit.

One recommendation was made to ensure internal controls are effective.

Ms. Silva reported the Motor Pool Division accepted the 11 recommendations.

Ms. Silva concluded the report. She offered to answer questions from the Committee.

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

Mr. Keith Wells, Administrator, Motor Pool Division, thanked auditors for the information provided in the audit. He stated the Division had implemented almost every one of the recommendations already. Mr. Wells stated in his opinion the biggest finding auditors had was just a lack of documentation. He stated the Division had most of the findings already in place, but just did not document them properly. He stated changes have been made to ensure the Division has documentation for the next audit.

Chair Leslie had a question in regard to the issue of the use of fuel cards. The audit noted that procedures were in place but were not being followed. She stated the Division was unable to detect acts of theft. She asked for comments on the issue.

Mr. Wells accepted responsibility that the Division had not followed procedures as they should have. He stated the challenge with fuel cards is that they have 850 vehicles assigned to drivers. He noted that Motor Pool policies are in place and are provided to drivers along with the fuel card, adding the Division does not have control of how the driver uses the fuel card. Mr. Wells admitted the Division needs to closely manage what they are doing and this is now being done. He stated the Motor Pool has set up a program that works to blend the outside contractor with the Department of Transportation (DOT) information which is reviewed monthly.

Mr. Wells noted that he contacts every agency monthly. He stated this was a huge priority but the documentation side is where the Division failed. He stated the procedures they have put in place will work well. The Division implemented procedures and continues to refine the process monthly.

He commented on the $5,000 found by the Attorney General's Office, stating the only reason that happened was because the Division was in a transition of switching from one state fuel provider to another. The reporting capabilities were not there at that time. He was aware of the liability and stated the Division is watching it better.

Chair Leslie called for questions from the Committee.

Chair Leslie commented on the issue of low-mileage vehicles in the agencies. She stated agencies have assigned vehicles that they are paying for through the Motor Pool Division and yet they do not really need them as documented in the audit report. She noted Mr. Wells had testified the Division had some policies in place but they were not being documented with the agencies. Because there is no documentation and if it was true, it was not working because there are many vehicles listed in the report that were not needed for which the State could have saved a lot of money. She asked for comments on the issue.

Mr. Wells replied she was absolutely correct and he had been working on that problem for years. The Motor Pool's policy for utilization is inadequate. He inherited that policy and he had been in the process of changing it. The problem the Motor Pool has is as an internal service fund he has to satisfy the customers and make sure they have what they want because they can go somewhere else. There is no statute that they have to use the MP. When he goes to an agency and discusses the fact that their vehicle is underutilized he viewed this act as one in which he is essentially reprimanding his customer. So then he has to tell them that the Motor Pool provides outstanding customer service and please come back and use my services. Mr. Wells stated he had been working with Andrew Clinger, Director, Department of Administration, for years. He stated they had established a fleet committee to review all state-wide fleet policies and the number one topic was utilization. He stated because there are many underutilized vehicles there needs to be a state-wide policy, not just a Motor Pool policy. Once there is a state-wide police he can aggressively enforce that because it would not be originating from the Motor Pool Division.

Chair Leslie stated she understood what they were doing.

Mr. Wells added the policy would be completed in October 2010.

Chair Leslie called for comments on the issue from Mr. Townsend. She asked if they needed to work with the Budget Division to have a more stringent policy in place so that agencies are more appropriately acquiring vehicles.

Mr. Townsend replied yes, auditors had identified 162 which did not meet the Department of Administration's standards and of those, auditors found 73 did not need a fleet vehicle after considering a number of factors. He added the point made was that going through agency budgets, for example, one agency budget was paying $5,000, another was paying $33,000, and another was paying $4,800 for vehicles. He suggested the budgets throughout the 2011 Legislative Session should be addressed in regard to this issue. He stated the issues in the report go beyond documentation in several areas.

Chair Leslie agreed, stating it is easy for the Division to say they are implementing policies, that they just do not have the documentation, but she was unsure that was the case in all areas addressed in the audit. Chair Leslie stated the Legislature and the Department of Administration should be more attentive to this issue when agency budgets are reviewed.

Mr. Wells commented the Department of Administration was attentive to the issue. He noted the addition of the fleet committee by the previous legislature. Mr. Wells added Mr. Clinger would be requesting a statewide utilization policy during the 2011 Legislative Session. He added utilization is complicated, in that all vehicles had to be reviewed for its mission and the ramifications of not having a fleet vehicle. He stated the goal of the fleet committee was to establish an effective utilization policy and once in place it would be a tool for statewide use.

Chair Leslie emphasized the State had lost a lot of money.

Assemblyman Grady commented on the issue. He stated it was up to Mr. Wells to implement the process to establish stronger rules.

Mr. Wells stated he had taken pride and a lot of time to work on the committee which he had wanted to establish for a long time. He stated it would solve a lot of the state's problem. He stated the return on the investment in that committee would be significant to the state, not only to the Motor Pool.

Chair Leslie stated the Committee would see this in the next audit.

Senator Coffin commented on the subject of vehicle replacement and asked for additional information on the issue.

Mr. Wells replied he had conducted a cost analysis. He stated the hybrids are not cost effective vehicles. He explained they are purchased because the federal government and the State mandates that Motor Pool must have alternative fuel vehicles. He added there are only a few vehicles that Motor Pool is authorized to buy that meet clean air requirements. Mr. Wells had worked with the Nevada Department of Environmental Protection (NDEP) to expand the guidelines to allow Motor Pool to use less expensive vehicles that would still meet the criteria to reduce the financial impact to the State. He agreed that Motor Pool needs to move the hybrids around more. He added, in the future Motor Pool will purchase less expensive vehicles that perform the same function.

Senator Coffin encouraged Mr. Wells to look into the life cycle costs of the vehicles.

Chair Leslie agreed. She stated that Mr. Wells was on a different track than Senator Coffin was commenting on.

Mr. Wells apologized.

Chair Leslie commented on the life cycle of vehicles in MP.

Mr. Wells assured the Committee that the Division paid close attention to their fleet. He asked the Committee to understand that one cannot compare a personal vehicle to a fleet vehicle because of the use and the driver.

Chair Leslie understood that fact. She instructed Mr. Wells to re-read the audit report and not be so defensive. As a word of caution Chair Leslie noted the audit report contained good suggestions to the Division. She stated the default seems to be that the Division is already doing that, they just do not document it. She stated there was more information contained in the audit report than he was giving it credit for.

Mr. Wells agreed the report was excellent.

Chair Leslie stated the Division's response to the audit recommendation was glib. She emphasized the report is intended to provide the Division ideas to consider, not just for the agency to state they already do it but do not document it.

Chair Leslie called for a motion.

> ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON THE MOTOR POOL DIVISION. THE MOTION WAS SECONDED BY ASSEMBLYMAN HARDY AND CARRIED UNANIMOUSLY.

D. Programs for Innovation and the Prevention of Remediation

Mr. Townsend stated this audit is an ongoing statutory requirement of the Audit Division, which covers grants allocated for fiscal years 2008 and 2009. He noted the program did not receive an appropriation during the 2009 Legislative Session, which makes this the last audit that the Committee would see on this issue for a period of time. He introduced Shawn Heusser, Deputy Legislative Auditor; and Shannon Ryan, Audit Supervisor, to present the report.

Mr. Heusser began the presentation with the introduction section of the report. He noted that Senate Bill (S.B.) 404 of the 2005 Legislative Session created the Commission on Educational Excellence (Commission). The Commission is responsible for activities related to increasing student achievement. S.B. 404 also created the Account for Programs for Innovation and the Prevention of Remediation (Account). S.B. 185 of the 2007 Legislative Session made certain changes to the administration of the Account. These changes included school districts no longer being eligible to apply for grant funding and adding eligibility for consortiums, or groups of schools, to apply for funding. Further, S.B. 185 required the Commission to establish guidelines for the review, evaluation, and approval of grant applications, and that funding not be allocated until the entire Commission had reviewed and approved the application.

Mr. Heusser reported the 2007 Legislature appropriated $79.3 million for fiscal years 2008 and 2009 to the Account. Exhibit 1 shows that 563 grant applications were reviewed by the Commission, with 442 receiving some funding. Exhibit 2 provides a breakdown of funding that was awarded for each district in the State. During fiscal years 2008 and 2009, a total of $73.6 million was awarded to schools and consortiums of schools.

Exhibit 3 shows that the total expenditures from the Account were $38.4 million during fiscal years 2008 and 2009, while $35.2 million was not spent. Exhibit 4 shows that districts used $31.3 million in Account allocations to address Distributive School Account budget cuts during fiscal years 2008 and 2009.

Mr. Heusser stated the audit covers grants allocated for fiscal years 2008 and 2009. The objectives of the audit were to determine whether program expenditures were in compliance with laws; Commission and Nevada Department of Education (NDE) policies and procedures; and the terms of the grant awards. The audit was also to determine whether grant allocations were awarded, distributed, administered, and reported in accordance with laws, Commission and NDE policies and procedures, and the terms of the grant awards.

Auditors found that while administration of the Account has improved, additional efforts can be made to provide greater assurance that funding is allocated and controlled as intended by the Legislature. The audit noted that the Commission's grant allocation process needs improvement. Application scores do not always correlate with award amounts. The Commission established allocation guidelines that funding for each grant was to be based on the quality of the application, reasonableness of request, and points earned from the grant budget and executive summary.

Mr. Heusser stated auditor analysis of grant scores and funding found a lack of correlation between the two. Exhibit 5 provides examples of inconsistent grant awards identified through auditor analysis. Inconsistencies in funding allocations occurred because the Commission did not have a process whereby applications were organized based on application score prior to determining funding levels.

Auditors noted that although certain review teams awarded funding based on the application score received, other teams had a weak or no apparent relationship between score and amounts awarded. Exhibit 6 provides a comparison between a review team with no apparent relationship and a team with a relationship between application score and funding. The first chart shows data points varying greatly from the trend line, while the second chart shows data points with a tight distribution around the trend line.

Exhibit 7 shows that applications receiving the highest score did not always receive the highest amount of funding. For example, Team A had the highest average application score when compared with the other review teams; however, Team A awarded the lowest percentage of funding compared to the other teams. Further, grants reviewed by Team C were awarded on average $30,000 more per grant than Team A, even though Team C's average scores were 6 points lower and requests were $60,000 less.

Mr. Heusser reported that S.B. 185 of the 2007 Legislative Session specified that money must not be allocated from the Account until the entire membership of the Commission had reviewed and approved the application for the grant. Although the Commission implemented some procedural changes, which improved the consistency between amounts funded and application scores, more can be done to provide greater assurance of consistency in grant awards.

Auditors noted that the first allocation of funding occurred in June 2007 and included elementary and secondary grant applications. This allocation did not include a review by the entire membership of the Commission prior to grant awards. A second allocation was completed in August 2007 for consortiums. While this allocation included the entire Commission reviewing applications to ensure the amount recommended by individual review teams was appropriate, auditors identified examples where awards did not correlate with application score.

Mr. Heusser reported that adjustments to grant allocations were not always reviewed and approved by the Commission. NDE reduced Commission allocated consortium grant awards by 50% because less funding was reverted from the prior grant cycle than anticipated. The reduction in available funding resulted in many school districts suspending implementation of consortium grants. Further, NDE restored some funding to certain school districts in the spring of 2008 when a few districts requested more of the Commission approved funding be made available for use. Changes to approved allocations should be reviewed and approved by the entire Commission to ensure changes are appropriate and equitable.

Auditors found in some instances revised grant budgets and budget amendments were approved by NDE when they should have been approved by the Commission. Also, NDE did not conduct a complete reconciliation of the Account at the conclusion of the fiscal years 2008 and 2009 grant cycle. Of the 16 school districts receiving Account funds, 6 (38%) had significant variances between amounts distributed, reported as grant expenditures, and reverted to the Account as unused. Because a complete reconciliation had not been completed, NDE was unaware of most of the variances until auditors brought them to their attention.

Exhibit 8 includes four of the six districts auditors identified with significant variances. Approximately $77,000 remained outstanding from Clark and Eureka County School Districts. Mr. Heusser noted that Lander and Lincoln County School Districts may have returned a total of $75,000 more than they should have. NDE staff was unable to provide a sufficient explanation regarding the noted variances.

The report included a continuation of findings noted in the prior audit report. While additional strengthening of controls is needed, auditors identified fewer errors and weaknesses than in the prior audit of fiscal years 2006 and 2007, indicating the Commission has improved its oversight of the Account.

Recommendations were made to improve the administration of the Account. Mr. Heusser noted that Recommendation 5 includes a continuation of several recommendations from the prior report.

Mr. Heusser stated Appendix B includes information on the allocations and expenditures for each of the districts included in the audit sample.

Mr. Heusser reported the Department accepted all five recommendations.

Mr. Heusser offered to answer questions from the Committee.

Chair Leslie noted that four of the five recommendations would be moot since funding no longer existed.

Mr. Heusser stated that was correct as there was no longer funding for audits.

Chair Leslie stated the audit offers a good structure for the future if the state is able to re-fund the program. She asked when the existing money ended.

Mr. Heusser replied the existing funding ended at the end of fiscal year 2009, adding that funding for the program was not allocated during the 2009 Legislative Session.

Chair Leslie called for agency personnel to testify.

Assemblyman Hardy stated this report is a good framework to utilize when funding is again available. He wanted to be assured on Recommendation 2 and throughout the report that stated "the entire Commission" that the entire Commission actually meant a quorum of the Commission. He wanted to make sure that the Legislature was not asked to approve the word "entire" but to show that it works with a quorum system.

Chair Leslie responded this was a good point.

Dr. Keith Rheault, Superintendent of Public Instruction, Department of Education, noted the Department accepted all of the recommendations even though funding ended in 2009. The Department agreed that the thoroughness of the audit recommendations in regard to the need for better oversight could be utilized for other grants and if this program was continued, the Department would follow the procedures.

Dr. Rheault noted that funding had already been allocated in 2007 before the first audit report recommendations could be implemented. He stated the Department had shown some improvement, noting there were also issues that needed to be corrected. He stated the Department would put together the corrective action plan and it would be ready to implement if funding becomes available. He stated he would accept a recommendation added to this audit that the Committee suggests that the 2011 Legislature fund the program.

Dr. Rheault complimented the auditors for the thorough review of the program. He stated the findings and the recommendations were on target and would be utilized to make improvements.

Dr. Rheault commented about the Commission. He explained the Commission reviewed over 520 applications. Also, at that time he thought the Commission had two vacant positions and that replacements had not been appointed. He explained that was how the Commission ended up with six subcommittees. One commissioner on each of the committees reviewed approximately 90 grants. He stated most of the Commissioners with him as the exception, worked full-time jobs outside of the Department. He stated 520 applications at about 50 to 100 pages each is a big job to complete.

Chair Leslie stated his comments would be reflected in the record.

Chair Leslie called for questions from the Committee.

Chair Leslie called for a motion.

> ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON PROGRAMS FOR INNOVATION AND THE PREVENTION OF REMEDIATION (2010). THE MOTION WAS SECONDED BY ASSEMBLYMAN HARDY AND CARRIED UNANIMOUSLY.

E. Department of Transportation

Mr. Townsend introduced Todd Peterson, Deputy Legislative Auditor; and Rick Neil, Audit Supervisor, to present the report.

Mr. Peterson began the presentation of the report with background information. He stated the Department is responsible for the planning, construction, operation, and maintenance of about 5,400 miles of roadway and over 1,000 bridges that make up the state highway system. It is divided into three districts that are responsible for supervising all state transportation activities within their area. The Department's revenues and expenditures are recorded in the State Highway Fund. This is a special revenue fund that is mainly funded through state fuel and motor vehicle taxes and fees, and fuel tax and other highway-user revenue collected by the Federal Government. Federal funds are available to reimburse expenditures on approved projects.

Exhibit 1 shows a 5-year trend from 2005 through 2009 of Department expenditures by type. As shown in the exhibit, the majority of expenditures relate to capital projects.

Mr. Peterson discussed the history of legislation in Nevada regarding design-build contracting and the difference between design-build and design-bid-build contract methods.

Exhibit 2 shows a hypothetical example of how design-build proposals' costs and technical factors would be weighted and scored to establish an overall score, indicating which proposal offers the best value according to evaluation factors and their relative weights. Mr. Peterson stated as of May 2010, the Department had awarded two contracts totaling about $500 million using the design-build method. The report explained the two projects and indicated the Department plans to continue using the design-build process, as the Department received approval to use the design-build process for two more projects at its Board meeting in March 2010.

Mr. Peterson stated the audit focused on the Department's two design-build contracts awarded as of May 2010, benefit-cost analyses and performance measures reported to oversight bodies for fiscal years 2008 and 2009, and purchases of light and heavy equipment from 2004 to 2009.

The objectives of the audit were to determine whether the Department awarded design-build projects in accordance with laws and prudent contracting practices; reported performance measurement results and benefit-cost analyses to oversight bodies, as required by law, that were reliable and timely; and used specifications for light and heavy equipment that did not unnecessarily limit competition.

Auditors concluded that the Department's process for awarding design-build projects has improved in the short time the design-build method has been used. However, further improvements are needed. For the first project awarded by the Department, the evaluation method established in the Request for Final Proposals, was not followed. This project's award amount was about $242 million.

Exhibit 3 shows the evaluation factors and relative weights for the first design-build project as described in the Request for Final Proposal document. The exhibit shows that the overall cost and technical factors' weights were to be equal and the overall technical factors were further defined into five areas, with each area receiving a portion of the overall technical factor weight.

Although the Department rated the technical factors for the proposals, it did not apply the relative weights to the ratings as indicated in the Request for Final Proposals. The Department never applied these relative weights to the technical factors or the cost factor. In addition, the Department did not rate each proposal's cost. It is important to evaluate proposals in accordance with the Request for Final Proposal to ensure transparency in the process.

Mr. Peterson stated the Department's second design-build project was awarded for about $246.5 million. For the second project, the Department evaluated proposals in accordance with the Request for Final Proposal; however, the evaluations of the proposal costs for this project were not given the weight required by law, and proposal costs were scored subjectively instead of using objective scoring methods. NRS 408.3886 requires the Department to assign the proposed cost a relative weight of at least 30% when evaluating design-build project proposals. These problems did not affect the outcome of who was awarded the second design-build project; however, future projects could be affected.

Exhibit 4 shows the evaluation factors for the second project with the maximum points assigned by the Department, and the relative weight in percentages that correspond to those points. Price, or cost, was given a relative weight of 10 %. Auditors found the Department requested clarification from its legal counsel as to the weighting of proposal cost. The Department's legal counsel indicated the evaluation factors "Scope of Work" and "Price" must be considered together, and by doing so the statutory requirement that cost be given a relative weight of 30% was met. However, auditors asked the

Legislative Counsel for clarification regarding this issue and they concluded the law does not allow the "Scope of Work" and "Price" evaluation factors to be combined to satisfy the 30% requirement. An excerpt of the opinion is provided in the report and the entire legal opinion is found in Appendix E.

Mr. Peterson continued the presentation with a discussion on design-build information provided to the Department's Board. The Department should provide its Board with additional information about its evaluations of design-build project proposals. Providing the Board with more complete information about the project proposals will help ensure projects are awarded in a transparent manner and the Department obtains the best value from its limited resources.

Recommendations were made to improve the evaluation and awarding of design-build projects.

Mr. Peterson stated the next section of the report was in regard to information reported to oversight bodies. In the 2007 Legislative Session, Assembly Bill 595 was passed that required the Department provide performance measurement and highway capacity project benefit-cost information to oversight bodies. The audit noted how key performance measures reported annually to the Department's Board and the Legislature's Interim Finance Committee were often not reliable. Specifically, four of five measures examined were unreliable because they lacked supporting documentation, were based on inappropriate methodologies, or included incomplete information. In addition, auditors found the description for three measures did not reflect what was reported. The Department recognizes the need for relevant and meaningful performance measures and has developed some useful measures. These include measures on the percentage of miles traveled on congested highways, the percentage of highways needing preservation work, and the percentage of projects designed and constructed on time and within budget. However, additional control procedures are needed to improve the reliability of these measures.

Mr. Peterson discussed how required benefit-cost analyses for highway capacity projects were not consistently performed or made available to the Department's Board and the public. Benefit-cost analyses measure the social and financial benefits of a proposed project in monetary terms and in relation to the costs. The analyses provide decision-makers an economic framework on which to base decisions about which highway projects to provide funding for and when.

Assembly Bill 595 required the Department perform benefit-cost analyses on highway capacity projects exceeding $25 million and make them available to the Board and public. For 4 of 16 projects tested, the Department did not perform benefit-cost analyses. In addition, some analyses have been performed, but were not presented to the Board. Exhibit 6 shows capacity projects that have not had a benefit-cost analysis presented to the Board, and project expenditures between July 2007 and April 2010. Exhibit 7 shows capacity projects where the benefit-cost analysis was presented to the Board. However, the time from the first expenditure and amount of expenditures until presentation to the Board was not consistent. In one instance, the analysis was not provided to the Board until over $5.7 million was spent. For another project, the benefit-cost analysis was not presented to the Board until 29 months after expenditures were first recorded to the project.

Information that is not reliable and timely can impact decisions made by the Department's management, its Board, and the Legislature. Although the Department needs to improve controls over the reliability and timeliness of the information it provides, the extent of information provided by the Department to the Board and the Legislature is an improvement over what was available prior to Assembly Bill 595.

Recommendations were made to improve the reliability and consistency of information provided to oversight bodies.

Mr. Peterson began the final section of the report. Auditors found the Department did not always follow best practices when preparing specifications for equipment purchases. As a result, the Department used specifications for light and heavy equipment purchases that unnecessarily limited competition. Auditors tested the specifications for approximately $5.6 million in equipment purchases and found the specifications included overly restrictive requirements that in many cases targeted specific manufacturers' models or specified brand names. Overly restrictive specifications limit competition, waste bidders' and state employees' time, and often increase the price of equipment purchased.

Exhibit 8 shows the purchases tested and the related expenditures. Exhibit 9 shows that specifications for a roller purchased by the Department were identical to the manufacturer's published dimensions.

Mr. Peterson reported auditors reviewed specifications used by other governmental entities and found that instead of using detailed specifications they used broad specifications that listed functional requirements and did not include brand names. Exhibits 10 and 11 compare certain specifications for equipment purchased by the Department against those of another governmental agency.

One recommendation was made to improve the Department's equipment procurement process.

Mr. Peterson provided a brief explanation of appendices in the report, and noted that Appendix G includes the Department's response to the audit report.

Mr. Peterson stated the Department accepted all six recommendations.

Mr. Peterson concluded the report presentation. He offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee.

Senator Coffin commented on the bidding process. He had given a report on the capital improvement projects at a recent Interim Finance Committee (IFC) meeting. He stated problems had been reported to legislators in regard to the design-build bidding process. He stated concerns were not on the acquisition of materials by the agency but rather on the construction. Senator Coffin stated IFC heard testimony from the Associated Builders and Contractors that there are drawbacks to the design-build process. He expressed concerns for the selection process. Senator Coffin could see how this might be surfacing in regard to large projects as reported in the audit. He suggested that the 2011 Legislature take a closer look at how design-build really works to ensure that, even though time and possibly money might be saved, that the process was not excluding people from participating in the bidding process. He could see that inconsistencies existed in how purchases have been made. Senator Coffin emphasized serious problems could develop if care is not taken in regard to the issue.

Chair Leslie stated Senator Coffin had set the tone for testimony on the issue.

Chair Leslie called for agency personnel to testify.

Mr. Scott Rawlins, Deputy Director, Department of Transportation, thanked the audit staff for the thorough job during the audit process. He stated the Department accepted and agreed with the audit recommendations and looked forward to improving operations. He commented improvements to procedures and policies on the design-build contractor selection process had been implemented based on the audit recommendations and had been forwarded to the Department's Transportation Board for approval.

Mr. Rawlins stated the Department was in the process of implementing the recommendations and was optimistic they would be fully implemented within 6 months. He looked forward to improving Department operations based on the audit recommendations.

Chair Leslie called for questions from the Committee. She commented on the Department's willingness to work on the issues presented in the audit report.

Chair Leslie called for a motion.

> SENATOR RHOADS MOVED TO ACCEPT THE REPORT ON THE DEPARTMENT OF TRANSPORTATION. THE MOTION WAS SECONDED BY SENATOR COFFIN AND CARRIED UNANIMOUSLY.

Item 3 —Presentation of six-month reports (NRS 218G.270)

A. Programs for Innovation and the Prevention of Remediation

Shannon Ryan, Audit Supervisor, presented the report.

Ms. Ryan stated in November 2009 auditors issued an audit report on the Department of Education, Programs for Innovation and the Prevention of Remediation. The six-month report prepared by the Department of Administration updated the status of the 16 audit recommendations contained in the audit report. As of August 2010, the Department of Administration indicated that 14 recommendations were fully implemented and 2 recommendations were partially implemented. After reviewing this report auditors determined the Department had implemented sufficient changes and processes to meet the intent of recommendations noted as partially implemented.

Therefore, all recommendations are considered to be fully implemented at this time. Auditors do not have any questions for the Department. Ms. Ryan thanked the Department for working diligently on implementing the recommendations.

Chair Leslie called for questions from the Committee. She noted Dr. Rheault was in attendance.

Chair Leslie called for a motion.

> ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX-MONTH REPORT ON PROGRAMS FOR INNOVATION AND THE PREVENTION OF REMEDIATION (2009). THE MOTION WAS SECONDED BY SENATOR COFFIN AND CARRIED UNANIMOUSLY.

B. Office of State Public Defender

Shannon Ryan, Audit Supervisor, presented the report.

Ms. Ryan stated in November 2009 auditors issued an audit report on the Office of Public Defender. The six-month report prepared by the Department of Administration updated the status of the eight audit recommendations contained in the report. As of August 2010, the Department of Administration indicated that all eight recommendations were partially implemented. After reviewing this report auditors determined the Department had fully implemented one audit recommendation.

Ms. Ryan stated the Office needed to enhance its reporting process to ensure reports were accurate and that data was reliable. Auditors also found that controls and policies over data and data systems, personnel, cash handling, and property and equipment needed improvement. The Department of Administration found that the Office had made some progress in implementing the recommendations; however, certain items had not been finalized. Therefore, auditors have questions for the Office regarding the status of the seven partially implemented audit recommendations.

Chair Leslie called for agency personnel to testify.

Senator Coffin reflected some agencies cannot meet the audit requirements due to personnel shortages. He wanted to know whether or not staff were or were not complying with the audit recommendations due to personnel shortages. He asked for an opinion on the issue from audit staff. He preferred to hear this information from audit staff as to whether the agency had enough personnel to implement the recommendations.

Ms. Ryan replied the agency had indicated in their response to the audit recommendations that one position had been filled. She stated as far as the reporting issues that auditors believed they have been corrected with existing staff.

Chair Leslie asked Ms. Ryan to continue with questions for the agency. She added the Committee would come back to the issue if it remains unclear following the presentation of questions and answers from the agency.

Chair Leslie asked Ms. Ryan to continue the presentation.

Ms. Ryan stated the first question was to ask when the Office expected to complete revisions to its policies and procedures manual.

Ms. Diane Crow, State Public Defender, replied the Office was diligently working on the policy and procedure manuals. She anticipated one manual would be completed in the next week and the other manual remained to be compiled. She had been working on policy and procedure manuals for many years and the audit was appreciated as an impetus to get this completed. Ms. Crow stated the policies and procedures are in place; they are just not compiled into a formal manual, which is anticipated to be completed by the end of 2010.

Chair Leslie asked what was meant that one manual was completed.

Ms. Crow replied it was the policy and procedure manual for the clerical staff. It is on her desk for review and revisions. She again anticipated it would be completed early next week.

Chair Leslie asked for clarification of what else remained to be completed.

Ms. Crow replied the policy and procedures manual for the general staff remained to be completed. She explained this manual would be more specific to the attorneys on handling cases. She stated internal policies are in place for unclassified staff on timekeeping but were not put into a manual. Written policies and procedures are in place to be followed; they are just not put into one manual.

Chair Leslie stated if the policies and procedures are available to staff, it sounds like a straight forward task to compile them into manuals.

Ms. Crow agreed.

Chair Leslie asked that the manuals be completed prior to the December 2010 Audit Subcommittee meeting when the agency would be asked to return to testify.

Ms. Crow agreed.

Ms. Ryan stated the next question was to ask the Office if they were going to have data encrypted by the target date of October 1, 2010.

Ms. Crow replied she was currently working with the IT staff to have that done. She explained it was in a testing process. She stated IT staff indicated that their database is secure.

Chair Leslie asked for clarification that October 1, 2010, was the target date for completion.

Ms. Crow replied potentially. She explained if the IT staff is available, hopefully it will be completed.

Chair Leslie stated the issue would be noted for the December 2010 Audit Subcommittee meeting for review.

Chair Leslie asked Ms. Ryan to continue the presentation.

Ms. Ryan stated the last question was to ask the Office if employees had completed the training process and if so, are cash handling; and property and equipment functions adequately segregated.

Ms. Crow replied yes, this recommendation has been fully implemented.

Chair Leslie asked for information about the amount of staff at the Office.

Ms. Crow commented on the staff within the Office.

Chair Leslie called for questions from the Committee.

Assemblyman Grady asked how many counties the Office was administering versus the counties that have their own public defenders. He asked if these individual counties reported to the Office.

Ms. Crow replied the State Public Defender's Office at one time had covered 15 out of the 17 counties. Washoe and Clark Counties have always been excluded. Since that time the Office had degenerated to five counties: Carson City, Storey, White Pine, Eureka, and Lincoln. She explained that Elko County had its own county public defender. She added most of the counties utilized a contract with private attorneys. She stated these counties do not report to the Office. She added a regulation was repealed several years ago that required the counties to report to the Office.

Senator Coffin asked for information about staffing within the Office

Ms. Crow replied the Office was fully staffed. She explained the administrative assistant position was authorized by the 2009 Legislative Session.

Senator Coffin commented about staffing issues.

Chair Leslie stated the agency would be asked to return to a future meeting of the Audit Subcommittee.

Chair Leslie called for a motion, noting that the Office had several partially implemented recommendation and would return to a future Audit Subcommittee meeting.

> ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE OFFICE OF STATE PUBLIC DEFENDER WITH THE STIPULATION THAT THE OFFICE WOULD RETURN TO A FUTURE AUDIT SUBCOMMITTEE MEETING. THE MOTION WAS SECONDED BY SENATOR COFFIN AND CARRIED UNANIMOUSLY.

C. Department of Health and Human Services, Health Division–Inspection Programs

Mr. Rick Neil, Audit Supervisor, presented the report.

Mr. Neil stated in November 2009 auditors issued an audit report on the Department of Health and Human Services, Health Division-Inspection Programs. The six-month report prepared by the Department of Administration updated the status of the 20 audit recommendations contained in the audit report. As of August 2010, the Department of

Administration indicated that 16 recommendations were fully implemented and 4 recommendations were partially recommended. The six month report indicated the Division had represented that three recommendations would be fully implemented with the measures included in its biennial budget request. Mr. Neil asked Division Personnel to confirm that the performance measures included in its recent budget request address the three partially implemented audit recommendations.

Chair Leslie called for an agency representative to testify.

Ms. Marla Williams, Deputy Administrator, State Health Division, confirmed the Division did include those items in their budget request as of September 1, 2010.

Mr. Neil continued the presentation. The one remaining partially recommendation was to monitor food establishment inspections to ensure the written priority is followed. This recommendation related to the finding that 40% of all required inspections were not done during the 3-year period examined by auditors. This included several high-risk establishments not being inspected even though some lower-risk establishments were inspected. The audit revealed that the supervisors were not monitoring the inspections to ensure the written priority established in the protocol was being followed. The six-month report indicates the Division has taken some action to implement the recommendation but the Division has not yet finalized a policy and procedure to address this issue. Mr. Neil asked when the Division expected to finalize this policy and procedure on supervisors monitoring food establishment inspections to ensure that written priority is followed.

Ms. Williams replied that recommendation was completed on August 5, 2010. The policy was provided to audit staff on September 8, 2010, specifically Mr. Colburn.

Mr. Townsend explained that Mr. Coburn is with the Executive Branch Internal Audit Division that prepares the six month reports. He stated LCB Audit staff had not received a copy of the information. He asked that the Health Division provide the information to the LCB Audit staff and the issue would be resolved.

Ms. Williams offered to provide the requested information.

Chair Leslie commented on the procedure that the information should have been forwarded from the Department of Administration to the LCB Audit Division. She stated upon receipt of this information the recommendation would be fully implemented. All of the audit recommendations would then be considered fully implemented.

Chair Leslie called for questions from the Committee.

Chair Leslie called for a motion.

> ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH DIVISION – INSPECTION PROGRAMS. THE MOTION WAS SECONDED BY SENATOR RHOADS AND CARRIED UNANIMOUSLY.

D. Department of Business and Industry, Division of Financial Institutions

Mr. Townsend introduced Rocky Cooper, Audit Supervisor, to present the report.

Mr. Cooper stated in November 2009 auditors issued an audit report on the Financial Institutions Division. The six-month report prepared by the Department of Administration updated the status of the 12 audit recommendations contained in the audit report. As of August 2010, the Department of Administration indicated that two recommendations were fully implemented and ten recommendations were partially implemented. Although 10 of the 12 recommendations were partially implemented the Division had made significant progress on each recommendation. New policies and procedures had been developed and were currently undergoing testing and final review. The Division anticipated full implementation of all of the recommendations by September 30, 2010.

Mr. Cooper indicated the Division had achieved the September 30, 2010, implementation date. Commissioner Burns had provided auditors with comprehensive policies and procedures to address each of the partially implemented recommendations. Mr. Cooper had not reviewed each procedure, however, based on the quality of the response received he anticipated that all of the audit recommendations were now fully implemented. He thanked the Commissioner and staff for their efforts and thoroughness in addressing each recommendation.

Mr. Cooper offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee.

Senator Coffin asked if the recently passed financial regulation bill in congress would change the mission of the Division.

Mr. Cooper deferred the question to the Division.

George Burns, Commissioner, Division of Financial Institutions, replied a review of the Financial Reform Act recently passed in congress indicated there may be implications to some of the Division's current statutes. He added the Division's authority to carry out their mission had not changed. Mr. Burns indicated the majority of institutions in the State of Nevada were below the $10 billion limit that would have the impact of the new Consumer Protection Agency that was coming in. He stated the Division would continue carrying the full load on those portions of it with their colleagues at the FDIC.

Chair Leslie called for additional questions. She thanked Mr. Burns for working to implement the audit recommendations.

Chair Leslie called for a motion.

> ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF BUSINESS AND INDUSTRY, DIVISION OF FINANCIAL INSTITUTIONS. THE MOTION WAS SECONDED BY SENATOR RHOADS AND CARRIED UNANIMOUSLY.

E. Department of Business and Industry, Real Estate Division

Mr. Townsend introduced Rocky Cooper, Audit Supervisor, to present the report.

Mr. Cooper stated in November 2009 auditors issued an audit report on the Real Estate Division. The six-month report prepared by the Department of Administration updated the status of the 12 audit recommendations contained in the report. As of August 2010 the Department of Administration was unable to verify the status of the 12 recommendations contained in the audit report. According to the six-month report the Real Estate Division was working toward budget deadlines and was unable to undergo a review of the status of the audit recommendations. On September 16, 2010, the Department provided follow-up information on the status of the audit recommendations which indicated that six recommendations were fully implemented and six recommendations were partially implemented. Auditors were concerned regarding the four recommendations where the anticipated date for full implementation was not provided.

Mr. Cooper indicated Recommendation 9 that the Department of Administration considered to be partially implemented was to develop policies and procedures to comply with security requirements for sensitive data collected and stored in the database. This recommendation related to an audit finding that the Division stores about 135,000 licensee social security numbers unencrypted in its database, adding that all Division employees have access to this information on their computers. He reported in the Division's plan for corrective action filed in February 2010 management indicated they would be implementing an updated version of their software that would mask social security numbers. However, the Division now represents that system upgrades, both hardware and software, are necessary to fully implement the security requirements. Therefore, the Division represents that funding is necessary to fully implement the recommendation. Despite this representation, state law requires a governmental agency to maintain personal information in a confidential manner, which includes social security numbers.

Mr. Cooper indicated auditors had two questions. The first one, what changed from February 2010 to the present that prevents the Division from implementing this recommendation; and two, what are the Divisions' plans to comply with protecting personal information in accordance with state laws.

Chair Leslie called for agency personnel to testify.

Ms. Gail Anderson, Administrator, stated the Real Estate Division had been working for approximately 1.5 years with their software provider on masking the social security numbers within their data system. She indicated that it was going to require system upgrades, which would have fiscal implications. Ms. Anderson stated the Division had recently learned that their software provider would be making the system upgrades very soon. Ms. Anderson recognized the importance of masking the social security numbers in the data system. She stated that staff from the Department of Business and Industry had been assisting the Division. Ms. Anderson anticipated implementation by the fall of

2010. She indicated the Division was working aggressively to make that happen without additional costs. Ms. Anderson stated they were working on three system versions behind their upgrade systems, which had been a challenge and could cause financial issues.

Chair Leslie asked for clarification on the financial impact to implement the recommendation.

Ms. Anderson replied she had represented in previous general testimony that there were financial implications to some of these issues but in regard to this particular aspect she perhaps had not commented on the cost factor. She knew there would be some implementations that could have fiscal implications.

Chair Leslie reiterated there were no fiscal implications to install the system upgrades.

Ms. Anderson replied she had not specifically identified it. She had looked back on her response and notes but that had always been a concern.

Chair Leslie interjected at this point the agency should be able to do it without any additional cost.

Ms. Anderson replied that was what the Division had recently been told by the software vendor.

Chair Leslie asked for a specific date for full implementation.

Ms. Anderson replied November 2010.

Chair Leslie emphasized the importance that personal information is not at risk.

Ms. Anderson agreed. She explained following the implementation of masking in their data system there would still be employees from the Real Estate Division that handled social security numbers to do background checks through the State and the Federal Bureau of Investigation. She explained the initial set up licensing file would be masked after being entered into the system. Ms. Anderson stated the recommendation for background investigations on all of the employees presented a funding issue, which she did not have an answer for today. She had no opposition to doing that but it was a matter of how the background checks would be funded for existing staff.

Mr. Townsend indicated that the masking was a suitable method to protect the information. Once the information was masked only six to ten employees would have access and should be the first to be submitted for background investigations. He indicated the background investigations cost approximately $40 each. He was not sure that the budget challenge was that large compared to the potential risk.

Chair Leslie asked if Ms. Anderson would make it a priority to complete those employee background checks right away.

Ms. Anderson replied the Division would work with their budget analyst to see what they could do. She stated they would attempt to address the issue.

Chair Leslie stated this would amount to approximately $200 to get this done.

Mr. Townsend explained the risk involved if a security breach were to occur would involve a requirement that each individual be notified of the breach at a cost of approximately $10 a person. Mr. Townsend emphasized the risk is great.

Chair Leslie reiterated this needed to be done, adding the Division would be asked for a report on the issue at the next Subcommittee meeting. She was sure the Division could figure out how to get these background checks completed.

Ms. Anderson stated the Division would figure it out.

Chair Leslie asked for questions from the Committee.

Mr. Cooper stated that question three had been addressed. He moved to the next recommendation which was for the Division to follow its procedures over property and equipment to ensure inventory is taken annually. The Division's property and equipment records are not accurate. The Department of Administration indicated this recommendation was partially implemented because the equipment reconciliation due in May 2010 had not been completed. The Real Estate Division represented that delays resulted from budget requirements and staffing shortfalls. He asked when the Division expected to complete its annual equipment inventory.

Ms. Anderson replied the inventory had been completed and was filed this week of September 2010.

Chair Leslie stated Mr. Cooper would review the data.

Mr. Cooper stated the last issue was for the Division to ensure employees receive performance evaluations when required. Although this recommendation is partially implemented, the Real Estate Division has made progress and now has a spreadsheet to track when evaluations are due. The Department of Administration indicated that 12 of 15 evaluations currently tracked have been completed. He asked how many months past due are the three uncompleted evaluations on the tracking spread sheet.

Ms. Anderson replied of the three evaluations one was for a new hire whose 7 month probationary evaluation was completed two months late in July 2010. Two of the other identified employee evaluations were also transfers and the evaluations were due in October 2010 and would be completed on time.

Mr. Cooper stated it sounded like the Division has made progress in that area with the tracking spread sheet. That concluded his presentation.

Chair Leslie called for questions from the Committee.

Chair Leslie stated the Division would be asked to return to the next Audit Subcommittee meeting to report progress on the partially implemented recommendations. Ms. Leslie was especially concerned about the recommendation regarding the masking of social security numbers.

Chair Leslie called for a motion.

> ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF BUSINESS AND INDUSTRY, REAL ESTATE DIVISION WITH THE STIPULATION THAT THE DIVISION WOULD RETURN TO A FUTURE AUDIT SUBCOMMITTEE MEETING. THE MOTION WAS SECONDED BY ASSEMBLYMAN HARDY AND CARRIED UNANIMOUSLY.

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

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

Ms. Jane Bailey, Audit Supervisor, presented the report.

Ms. Bailey stated in November 2007, auditors issued an audit report on the Department of Administration's Hearings Division and Victims of Crime Program that contained 11 audit recommendations. Since that time auditors have determined that 10 of the 11 recommendations are fully implemented. At its April 2010 meeting, the Audit Subcommittee requested the Program return to a future meeting to update the status of the remaining partially implemented recommendation. The finding in the audit report was that insufficient funding to cover victim's claims should have resulted in payment of all of the claims at a percentage less than 100%. However, some claims were paid at 100% while others were deferred into fiscal year 2006 and fiscal year 2007. Hospitals and select medical service providers were given lowest priority payment. Consequently $2.4 million of the $3.8 million in unpaid claims, as of December 31, 2006, pertain to three large medical service providers. Statutes require that all victim's claims paid in a quarter be reduced in the same proportion as expenses exceed funding. The audit recommendation was to pay victim's claims in accordance with NRS 217 and the Board of Examiner's policy.

Ms. Bailey reported that in April 2008, the auditors received a legal opinion from Legislative Counsel indicating that the Program's policy of prioritizing the amount and the timing of payments of certain victim's claims was inconsistent with the provisions of statute. NRS 217 states:

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

Ms. Bailey stated the intent of the Program's claim payment policy is to pay the total allowable for certain types of claims, such as loss of wages and prescriptions, in times when the Program's revenue is insufficient to pay all claims at 100%. However when sufficient funding is not available all claims approved are not reduced in the same proportion as expenses exceed revenue within each quarter as required by NRS 217.

Ms. Bailey continued, the Program has indicated it has submitted a bill draft request to the Department of Administration to eliminate the requirement of reducing claim payments proportionately based on quarterly estimates of revenues and expenses.

This bill draft request can be found on the Legislature's list of bill draft requests for the 2011 Legislative Session as BDR 431. In addition, program management has stated they will attend hearings scheduled on a possible bill.

Ms. Bailey would ask the Program one question and that is, if this bill is not passed to amend NRS 217, does the Program intend to revise the policy and its claims payment process to be consistent with the current statutory requirements.

Chair Leslie called for Mr. Nix to testify.

Mr. Bryan Nix, Program Administrator, Department of Administration, Hearings Division and Victims of Crime Program, asked if the question was in regard to what the Board of Examiners may do if the bill did not pass in the 2011 Legislature.

Chair Leslie asked Ms. Bailey to re-read the question.

Ms. Bailey stated the question was if this bill was not passed to amend NRS 217, does the Program intend to revise the policy and its claims payment process to be consistent with the current statutory requirements.

Mr. Nix replied that was an unusual question. He stated the Program's focus was to get this bill passed this session to eliminate the confusion over its application to have the Victims of Crime Program pay its claims. He could not predict what and who would be on the Board of Examiners next year and noted they set the policies.

Chair Leslie explained the point of the question was that what the auditors found is that the Program's policy is in conflict with the statute. She stated if, and no one is saying that the statute should not be changed, but if the statute was not changed, this conflict between policy and statute cannot continue. She stated the question being asked is what would the Program do if the bill was not passed by the 2011 Legislature.

Mr. Nix did not agree with the premise that the statute, that first of all that the Program is in violation of the statute, or that it would have to be changed for the Program to comply with it. He stated if you will look, and I have always been cut off in this proceeding, but if you look at how the LCB has analyzed this situation, they have just purely focused on NRS 217.260. He stated no one had looked at NRS 217.130 or NRS 217.150, both of those provisions specifically empower and require the board of Examiners to adopt policies for the payment of claims. And that is what the Board has done. He stated the Program's policies are on their website. He stated they were the most extensive and comprehensive policies of any victim of crime program in the country. These policies, when we follow them, allow the Program to pay the claims without NRS 217.260 ever coming into play. He noted that NRS 217.260 states when we do not have sufficient revenues to pay claims, however, when the Program follows the Board of Examiner's policies the Program has sufficient revenues to pay the claims. He pointed out in fiscal year 2009 the Program had $.3 million to pay claims. The Program satisfied $24 million worth of victims of crime claims.

Mr. Nix continued, in fiscal year 2010 the Program actually had more revenues but the Program had to set aside almost $1 million in a reserve. He stated the Program had just under $8 million to pay claims. He stated the Program satisfied $40 million of claims this year with less than $8 million. He reiterated the Program does not believe they are in violation of that statute in the first place. He stated the Program has argued with the LCB about this. We do not have our own legal opinion writer. But that is our position. We think we are doing what is required of the statutes, all of the statutes, not just focusing on one little portion of the entire claim payment scheme. And that is the error he thought that LCB continues to make.

Chair Leslie stated that was sufficient testimony from Mr. Nix.

Mr. Nix stated with all due respect the Program has always appreciated and complied with all audit recommendations. However, this is one issue that the Program disagrees on.

Chair Leslie thanked Mr. Nix for his testimony. She stated she interpreted the answer from a legislative point of view was that if the bill does not pass that something else would have to change. She stated the issue would be dealt with during the 2011 Legislative Session one way or the other.

Chair Leslie called for questions or comments from the Committee.

Assemblyman Hardy asked if the issue was in regard to payments not being made.

Mr. Nix commented on the issue. He opined that confusing language in NRS 260 needed to be eliminated.

Assemblyman Hardy commented on the issue of billed charges. He asked if the Program's fee payment schedule was similar to an insurance based fee payment schedule.

Mr. Nix replied the Program follows the workers comp, medicaid, and a variety of different fee schedules trying to find the lowest fee schedule. And that is how the Program is able to pay $40 million dollars in claims. Mr. Nix explained when he said paid, every vendor except one accept the Program's payment in full satisfaction of the claim. That means every single victim of crime had their prescriptions paid, their lost wages, their re-location benefits, their mental health counseling, plus their hospital bills satisfied. The Program cannot accomplish this if they view a strict application of NRS 217.260 as being the only way of paying claims.

Mr. Nix stated the Board has extensive policies in place to allow the Program to move that money in a way that all of the victims get their claims satisfied.

Assemblyman Hardy thanked Mr. Nix for the information.

Chair Leslie added for the record that she took exception to some of the language in Mr. Nix's letter. She did not want him to respond to this statement, she just wanted this statement added to the record. She stated LCB does not take a position to kill a bill ever. They do not advocate for bills. They do not kill bills. That is just simply incorrect.

Chair Leslie recognized Senator Coffin.

Senator Coffin commented he was sure the issue could be resolved.

Chair Leslie called for a motion.

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

Item 6—Public Comment

Chair Leslie asked for public comment. There was none.

Chair Leslie noted the next meeting of the Audit Subcommittee would be in December 2010.

Chair Leslie noted there were no further comments.

The meeting was adjourned at 12:06 p.m.

Respectfully submitted,

Donna Wynott, Audit Secretary

____
Senator Sheila Leslie
Chair of the Audit Subcommittee
of the Legislative Commission

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