

MINUTES OF THE MEETING OF THE
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION
April 28, 2014

This is the second meeting of 2014.
This is the second meeting of the 2013 - 2014 Interim.

A meeting of the Audit Subcommittee of the Legislative Commission (NRS 218E.240) was called to order by Assemblywoman Maggie Carlton, Chair, at 1:03 p.m., Monday, April 28, 2014, in room 4100 of the Legislative Building, Building, Carson City, Nevada, with a simultaneous video conference to room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas Nevada.

AUDIT SUBCOMMITTEE MEMBERS PRESENT:

Carson City:

Assemblywoman Maggie Carlton, Chair
Assemblyman Michael Sprinkle

Las Vegas:

Senator David Parks, Vice Chair
Assemblyman Cresent Hardy

Subcommittee Member Excused:

Senator Mo Denis

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Paul Townsend, Legislative Auditor
Donna Wynott, Office Manager
Deborah Anderson, Audit Secretary
Jane Bailey, Audit Supervisor
Rocky Cooper, Audit Supervisor
Mike Herenick, Deputy Legislative Auditor
Sandra McGuirk, Deputy Legislative Auditor
Todd Peterson, Deputy Legislative Auditor
Doug Peterson, Information Systems Audit Supervisor
Jeff Rauh, Deputy Legislative Auditor
Shannon Ryan, Audit Supervisor

The roll was taken. A quorum was present.

Item 1 — Public comment

Chair Carlton called for public comment. There was none.

Item 2 — Approval of minutes from the meeting of January 7, 2014

Chair Carlton called for a motion.

ASSEMBLYMAN SPRINKLE MOVED TO APPROVE THE AUDIT SUBCOMMITTEE MINUTES OF JANUARY 7, 2014. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

Item 3 — Awarding of contract for Single Audit for the State of Nevada for fiscal years 2014 through 2017 (NRS 218G.350)

Paul Townsend, Legislative Auditor, stated information relating to the awarding of the Single Audit contract was included in the packet of information provided to the Committee members.

Mr. Townsend explained the Single Audit report, being presented later in the meeting, is required by law to ensure the State continues to receive federal funds. In fiscal year 2013, the amount of Nevada's expenditure of federal funds was just over \$4 billion. In most states, the Legislative Auditor conducts the audit. However, in Nevada the audit has been contracted out for the last 23 years.

Mr. Townsend stated awarding the contract is one of the most important responsibilities of the Audit Subcommittee. Staff have taken extensive measures to help ensure open competition and to receive proposals from qualified firms for the Audit Subcommittee to select from. He introduced Shannon Ryan, Audit Supervisor, who is the Single Audit Coordinator for the Audit Division to discuss the process and results.

Ms. Ryan began her presentation by explaining the process. The Audit Division began the review process by researching contract procurement methods, best practices, and identifying current topics relevant to the Single Audit. The Audit Division solicited and reviewed information from six states that contract for all, or a portion, of their Single Audit services. The Audit Division also reviewed request for proposals (RFPs), methods, evaluations, and documentation other states used in the awarding of their contract. Authoritative guidance reviewed encouraged broad based solicitation of bidders to obtain the highest and most competent bids at the most competitive price.

Auditors notified all 581 public accounting firms registered with the Nevada State Board of Accountancy of the RFP's issuance. Bidding requirements detailed that cost and technical proposals were to be delivered separately. Cost proposals were to be sealed and submitted manually or through the mail while technical proposals were to be sent electronically.

Ms. Ryan explained a team of five staff members reviewed and scored each bidder's technical proposal in five-weighted areas: firm capability, staff qualifications, governmental auditing experience, technical approach, and cost. Once technical scores were calculated and completed, the cost proposals were opened and incorporated into the scores.

The Proposal Evaluation Summary, (PES) shows proposals from Kafoury, Armstrong & Co, Eide Bailly, LLP, and CliftonLarsonAllen, LLP. These firms demonstrated sufficient expertise to be considered qualified to perform the Single Audit. The PES shows technical proposals were reviewed in four areas with different weights applied based on the significance of the area.

Ms. Ryan further explained that for the technical evaluation, the firm's qualifications and the technical approach to the audit had the most weight. Also important was the firm's governmental auditing experience and its capability to complete the Single Audit. The cost proposal was incorporated at 30% of the overall score. All scores were based on a 100-point scale. Also listed on the PES is each firm's estimated number of hours anticipated to complete the audit each year and the fiscal year 2012 actual audit hours which were used for comparison purposes.

Ms. Ryan concluded saying Kafoury, Armstrong & Co received the highest score and she then opened for questions.

Chair Carlton asked how many firms responded between the 3 qualified firms and 581 proposals.

Ms. Ryan responded one other proposal was received but it was not submitted to the Audit Subcommittee for consideration.

Chair Carlton opened for questions.

Senator Parks asked how long Kafoury, Armstrong has been doing the audit? Senator Parks added that it was often thought changing auditors routinely was a significant advantage and asked for the Audit Division's opinion regarding this.

Ms. Ryan responded Kafoury Armstrong & Co has been doing the audit for over 20 years.

Ms. Ryan added as part of issuing the RFP, we reviewed the arguments for and against auditor rotation. The argument for using a new auditor is a fresh set of eyes, which may see something that an auditor who has been there for a while may not see. Consensus from regulatory material indicated a new auditor will not have an established relationship with auditees and may be more independent than an auditor who has been auditing for a while.

After reviewing guidance from GAO and other authoritative entities, we found a new auditor generally takes 2 to 3 years of training and experience to become familiar with an entity's operations. For the State of Nevada, the risk of the auditor and auditee becoming close is not as much of a concern because of the way the state is organized. For instance, the accounting activities are not centralized in one location. Each agency is initiating the accounting transactions and the Controller's Office is responsible for compiling that information into the financial statements. The Controller is an elected official who may change every 8 years; so the relationship between management and auditors is going to change due to term limits. There is no pressure at the individual transaction level because the auditor does not have a relationship with those people.

Senator Parks stated based on his experience, even though the auditor is unchanged there is a level of turnover in the staffing within an audit firm allowing a fresh look at the programs of agencies.

Chair Carlton stated the State Controller's term is 4 or 8 years, if re-elected. The State varies from private business, where pay, fringe, or bonuses can be affected by the audit,

but is not the case at the state level. The balancing is different for the State because of the constant change.

Assemblyman Hardy asked if one consideration for evaluating firms was that one firm had 3500 hours which was 12% to 13% less hours. He believed the 5100 for one firm was appropriate.

Ms. Ryan replied yes the hours for each firm were considered, compared to the actual hours for completing fiscal year 2012 Single Audit, the last completed audit, and each scored accordingly.

Assemblyman Sprinkle asked if any other factors were considered in the process other than the categories used for scoring or was it just simply based on the scores.

Ms. Ryan replied that consideration was based only on the scores obtained by the review of the proposals.

Chair Carlton asked if there have been issues in the past with Kafoury Armstrong & Co. or problems that the company did not address.

Ms. Ryan replied that since she has been the Single Audit Coordinator, Kafoury Armstrong, & Co. has been doing the Single Audit and she was not aware of any issues.

Assemblyman Hardy asked if there is any concern that only 4 of 581 firms responded to the RFP.

Mr. Townsend replied there had been concerns in the past when we have one or sometimes two bidders for the RFP. That is why we opened up this process as wide as we could, looking at other states that do similar contracting activities. Limited groups of accountants are interested in doing Single Audit work. This type of auditing is large, complex, and traditionally not a big money maker for firms. Cost based on hourly rates is low based on what an accounting firm would be making conducting other types of work. The firms here today have had a lot of experience doing governmental Single Audit work. The range was broadened as wide as we could and we received three very qualified firms.

Chair Carlton opened for remarks from the controller or the firms.

Kim Wallin, State Controller stated as a follow-up to Senator Parks comments of auditor rotation, the American Institute of Certified Public Accountants (AICPA) did a report on audit rotation. In the report, the AICPA supports the initiatives to increase the quality and effectiveness of audits of state and local entities, but they believe that mandatory audit rotation will not increase the effectiveness. In fact, the AICPA stated mandating auditor rotation can result in undesirable consequences, one being an increase in audit failures as stated by the Public Oversight Board Commission on Auditors Responsibilities. The National Commission on Fraudulent Financial Reporting found that audit failure is 3 times more likely in the first 2 years of an audit when an auditor has been changed. Changing auditors also increases start-up costs, which in this case is not an issue, as the cost is fixed. It can also result in difficulty with timely reporting, a loss of institutional knowledge, and reduced initiatives to improve efficacy in audit quality. Mandatory firm

rotation leads to higher costs for taxpayers, a distinct possibility of lower audit quality, and more likely fraud and waste will go undetected.

She stated in regards to Chair Carlton's comments on term limits, she is termed out, so the state will be getting a new Controller creating additional difficulties for a new auditor, as well.

Chair Carlton thanked Ms. Wallin for her service.

Ms. Wallin stated regarding Chair Carlton's question of issues regarding Kafoury Armstrong's performance, that there have been no issues at all. The Controller's Office can call Kafoury, Armstrong & Co., and they will be there that day or the next day. They have provided excellent service to the State.

Chair Carlton opened for public comment.

Lealan Miller, Partner and Director Government Services for Eide Bailly (EB) introduced Ross L. Youngberg, Partner; Eric S. Berman, Partner; Kimberly K. Higgins, Partner; and Lauren Sankovich, CPA. He introduced Mr. Berman who will address the Committee.

Mr. Berman stated he was pleased to be here and honored to potentially be chosen to serve the citizens of Nevada. He noted that Committee member questions were very germane.

Mr. Berman stated his background consists of him being Deputy Controller of Massachusetts prior to going into public accounting. In 2006, he faced a similar decision regarding switching from one firm that had done the State's audit for 20 years to another firm. This was difficult to do, but he received a fresh perspective. In that instance, the audit did not take longer and became cheaper. He believes the firm had different ideas and ways of seeing things that had not been seen before. In the proposal, Eide Bailly discussed the fresh perspective that is available.

Regarding Eide Bailly's hours, EB does things more efficiently than other firms do. Eide Bailly understands that during the first year of the audit EB will absorb a lot of the differential in terms of the changeover because of the fixed price contract. The firm knows that is part of the process and believes that the breadth and depth that the firm can bring to the citizens of Nevada is of tantamount importance.

Mr. Berman stated EB promises a timely delivery well in advance of what Nevada receives now. Eide Bailly will present a consultative type of approach rather than an adversarial type of approach, because an adversarial approach does not serve either party.

Regarding the question of service on a moment's notice, EB prides itself on getting back to our clients immediately when there is a problem, similar to the current firm, the same or the next day. And, similar to today, technology can be used as well.

Mr. Berman concluded with the statement that EB's partners, before the Committee today, are uncompromised experts with about 100 years of audit experience. Between

the four partners and Lauren Sankovich, EB hopes to show they are better than what is expected.

Felicia R. O'Carroll, Shareholder of Kafoury, Armstrong & Co., (KACo), stated she has not been the engagement shareholder for the last 20 years but has worked on the audit for the entire 20-year period that KACo has been doing the audit. Ms. O'Carroll believes it is easy to talk about a fresh perspective but believes the State of Nevada is a very large and complex organization. She believes her experience will help in the transition of the Controller. KACo prides itself on doing a good job, doing it timely, and meeting deadlines. Ms. O'Carroll believes that working closely with the staff at the State and seeing them in their environment is very important and gives a perspective of how the individual operates and their knowledge of state internal controls.

Ms. O'Carroll stated KACo is a Nevada based firm who audits locally. KACo has been doing business for 75 years. With her are Dan Carter in Carson City, and Tami Miramontes in Las Vegas. She believes that KACo has unparalleled experience as a governmental service firm. Moreover, she also believes that it is important to keep state business within the State. Being a Nevada based firm is one of their strong selling points. They audit over 40 Nevada local government agencies and understand the statutes and administrative code of Nevada which is something that serves them very well.

Paul Niedermuller, Principal, CliftonLarsonAllen, (CLA) stated he appreciates the opportunity to address the Committee and attendees. He has a passion for state and local government. Because of CLA's expertise and experience with state government throughout the country, Nevada will benefit. CLA works with 37 states currently. For several years, CLA has been working with the Nevada PERS system. The firm has expertise in pensions and with other state agencies. Currently CLA performs financial statement audits and single audits for Kansas, New Mexico, and South Carolina.

Mr. Niedermuller believes that CLA's expertise and knowledge will be crucial in understanding the platform that the State of Nevada has and in providing the proper staff. Regarding Single Audit importance, the firm does the most Single Audit work of any firm in the country. The Inspector General and the Government Accountability Office work with CLA regarding current issues affecting federal funds and auditing from the auditor perspective. This knowledge would be brought to the State of Nevada.

CLA's proposal discussed the significant partner and management involvement. CLA had more hours and less people involved by design. CLA has found with its work with other states that it is very difficult to be involved with 15 or 20 points of contact. CLA wants involvement with only one or two principles, two managers, and three senior associates, because it is easier to establish a relationship. There are 35,000 other firm members to draw from if expertise is needed. Status meetings are important and protocol is different for each state. CLA will acknowledge the State's protocol and work with the State. Communication is key. CLA's proposal was designed knowing the complexity of the audit.

Chair Carlton opened for further questions from the Committee with none being made she called for a motion.

SENATOR PARKS MOVED TO APPROVE THE AWARDING OF THE SINGLE AUDIT CONTRACT FOR FISCAL YEARS 2014 THROUGH 2017, TO KAFOURY ARMSTRONG & CO.

THE MOTION WAS SECONDED BY ASSEMBLYMAN HARDY.

Chair Carlton opened for questions and comments on the motion.

Chair Carlton expressed her and the Committee's appreciation for all of the time and effort the applicants made in completing the proposals and for attending the meeting. The fact that three of four finalists prepared proposal shows that people are interested in the Nevada Single Audit. It has been a very interesting process and she learned a lot about it.

Chair Carlton opened for a vote from the Committee.

THE MOTION CARRIED UNANIMOUSLY.

Item 4 — Presentation of audit reports (NRS 218G.240)

Mr. Townsend stated our first audit today will be the Single Audit presented by Shannon Ryan, Single Audit Coordinator, Audit Supervisor.

a. State of Nevada Single Audit Report

Ms. Ryan stated the audit incorporates audits of the financial statements and compliance with the requirements related to federal funds. The financial statements are comprised of the independent auditors report, management's discussion and analysis, the financial statements, notes to the financial statements, required supplementary information and related notes and the independent auditors report on financial reporting.

Ms. Ryan stated the independent auditors report notes the financial statements received an unmodified opinion. This means the auditors have been able to access all financial information and that the information conformed to accounting principles generally accepted in the United States of America. Management's discussion and analysis starts on page three. The MD&A provides a narrative overview of the financial statements and highlights significant information for readers.

Ms. Ryan stated pages 14 to 71 contain the actual financial statements and the notes to the financial statements. The notes provide further detail and information and should be read in conjunction with the financial statements.

On page 79 is the auditor's report on federal compliance for each major program. The State had 34 findings related to federal compliance of which two were material weaknesses. A material weakness is a deficiency in internal controls, which is significant and results in noncompliance with a requirement of a federal program, which will not be detected or corrected on a timely basis.

Ms. Ryan stated two of the findings are material weaknesses. One related to the Foster Care program and the State issuing a directive that modified income criteria to determine eligibility. The State's plan included criteria that was not approved by the federal authority. The other related to the Adoption Assistance program and related to a glitch in the UNITY system, which found that participants deemed ineligible for federal funding were improperly processed as eligible by the system.

The auditor's report on federal compliance for each major program notes the schedule of expenditure of federal awards is accurately stated. The schedule of federal awards shows \$4 billion in federal expenditures for fiscal year 2013.

Ms. Ryan concluded stating 26 programs were audited as major for fiscal year 2013. The report also contains the findings, the agency responses, and the status of prior year findings. She opened for questions

Chair Carlton asked for questions. None being made she opened for a motion.

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

b. Department of Corrections Information Technology Security

Jeff Rauh, Deputy Legislative Auditor began his presentation with a brief overview of the Nevada Department of Corrections. The mission of the Nevada Department of Corrections is to protect the public by confining convicted felons according to the law, while keeping staff and inmates safe. The Department currently manages 18 adult correctional institutions located throughout the State, housing almost 13,000 inmates. These institutions include 7 Correctional Centers (prisons), 9 Conservation Camps, 1 Restitution Center and 1 Transitional Housing Center.

Mr. Rauh stated the Legislatively Approved Budget for FY 2013 was approximately \$300 million and included over 2,700 full-time equivalent employees. The Department's Management Information Systems Unit has a staff of 25 full-time employees to support the Department's statewide information technology operations.

The objective of the audit was to determine if the Department's information security controls were adequate to protect the confidentiality, integrity, and availability of sensitive information and information systems.

Mr. Rauh continued with the audit findings beginning with software security updates. Ten of the Department's 18 statewide locations were visited and a sample of 211 desktop computers was tested. It was found that 52 of these computers, or 25% of our sample, showed indications that they were not having Microsoft Windows Operating System updates installed in a timely manner. For example, in one institution most of the computers tested had not had the updates installed since September of 2010. These updates are issued monthly by Microsoft. Computers that do not have these security updates installed represent weaknesses in a computer network that can be exploited by

malicious hackers to gain unauthorized access to a computer or the network in which it is attached.

Mr. Rauh stated that auditors addressed the condition where software security updates were missing. Also, found that software security updates were not installed for several Oracle database applications used by the Department. These database applications missing security updates included those supporting the Department's offender sentence calculation databases, the data warehouse database, document management database and the NOTIS system. Unpatched database application software increases the risk of unauthorized access to the system's confidential data. Three recommendations to improve the installation of software security updates were made by the auditors.

Mr. Rauh stated the problems addressed were related to virus protection on desk computers. As part of the onsite testing at 10 of the Department's 18 statewide locations, a sample of 211 desktop computers was tested to determine if they had current virus protection software installed. It was found that 11 of these computers, or 5% of the sample, showed indications that they lacked adequate virus protection. Computers without adequate virus protection are vulnerable to computer viruses that can typically come from the Internet or attached to infected emails. Once infected, these computers become inoperable and employees lose productive time while their computers are purged of the malicious programs. In addition, some malware that infects computers is capable of gaining access to sensitive information that resides on the computer or elsewhere on the network. One recommendation was made to improve virus protection.

Auditors addressed the security of information stored on agency photocopiers. The Department uses approximately 70 photocopiers. These photocopiers contain hard drives that store information when employees make copies, send a FAX, scan a document, or print documents on these machines. This information is stored inside the photocopiers on internal hard drives, the same storage devices as contained in desktop computers.

Mr. Rauh stated the data stored on these hard drives must be deleted prior to the photocopiers being replaced or there is a risk that any sensitive information that has been processed on these copiers could remain on their hard drives when they leave state control. Two recommendations are made to improve the security of information processed on photocopiers.

Mr. Rauh concluded his presentation stating the report contained the audit methodology and the Department's response to six recommendations, which were fully accepted.

Chair Carlton opened for questions from the Committee.

Assemblyman Sprinkle asked what version of Windows operating systems the Department is using.

Mr. Rauh responded that at the time of the audit the Department was using Windows XP.

Assemblyman Sprinkle referred to the Division's response that shows them monitoring the updates, however no longer needing to be updated, and asked if that issue has been resolved.

Mr. Rauh replied yes, that issue is being address. He deferred the question to the Department for further clarification.

Assemblyman Sprinkle stated that these updates normally occur automatically. He asked if the reason the updates did not occur is because someone needs to physically do the updates.

Mr. Rauh responded that there are various different ways to install those updates. For example, your personal home computer has automatic updates enabled on it that automatically update your computer. In many institutions that are using some legacy software, as in this case, they are using an older NOTIS system, which is not always compatible with the updates. Therefore, the agencies roll out the updates to a beta test group to determine if the update is going to be compatible with the existing legacy software. The Department representative can share more information regarding this question.

Chair Carlton said that this finding was interesting because she had no idea that photocopiers kept this type of information. She is now concerned of all the times her identification has been copied and is now in someone's database.

Chair Carlton said that she did not see any further questions. All recommendations were accepted by the Department. The Department will be working on any changes and will be updating at six months. She opened for a motion.

ASSEMBLYMAN SPRINKLE MOVED TO ACCEPT THE REPORT ON
DEPARTMENT OF CORRECTIONS INFORMATION TECHNOLOGY
SECURITY. THE MOTION WAS SECONDED BY ASSEMBLYMAN
HARDY AND CARRIED UNANIMOUSLY.

**c. Department of Business and Industry, Nevada State Athletic
Commission**

Michael Herenick, Deputy Legislative Auditor started his presentation with an overview of the audit of the Nevada State Athletic Commission, of the Department of Business and Industry. The audit report introduction gives some background information on the Commission and its functions. Auditors describe the Commission's primary means to regulate unarmed combat, which generally consists of boxing, kickboxing and mixed martial arts.

Mr. Herenick stated the audit provides information on the number of events regulated and number of licenses issued in fiscal year 2013, including about \$4,000,000 in permit and license fees collected by the Commission and deposited directly into the General Fund. During the same time, the Commission expended approximately \$595,000.

The auditors' scope and objectives were to evaluate:

Financial and administrative practices in place to carry out applicable laws and regulations.

Information security controls to protect the confidentiality, integrity, and availability of sensitive information and information systems.

Performance measures, including the reliability of reported results.

Mr. Herenick stated auditors found the Commission's Process to Collect Fees Can Be Better Administered. First, the Commission did not calculate license fees for closed-circuit telecast events correctly. Auditors provide two examples to illustrate the commission's incorrect calculation of fees.

Mr. Herenick stated the Commission calculated fees at a rate of 6 cents instead of 4 cents for each dollar received for admission to a closed-circuit telecast event. Seven events identified were calculated with this incorrect rate. The Commission's incorrect calculation resulted in the collection of overpayments totaling approximately \$55,000 that were deposited with the State Treasurer between February 2011 and June 2012. This occurred due to the Commission's misapplication of a provision in a bill that passed during the 2010 Legislative Special Session.

Mr. Herenick stated the Commission did not include all complimentary tickets issued when it prepared its summary of fees due for 4 of the 15 closed-circuit telecast events we reviewed. This resulted in approximately \$1,300 in license fees going uncollected.

In addition, the Commission has not documented procedures to ensure fees are collected accurately and timely. The Commission has internal control procedures that address financial and administrative practices. However, the procedures do not address the Commission's current practices to determine the fees due for closed-circuit telecast events or for the sale of tickets to live unarmed combat events. Three recommendations were made to improve the Commission's financial and administrative practices.

Mr. Herenick stated the report shows the money received from promoters was not deposited properly. The report also shows the use of this money and addresses the three ways an applicant for a promoter license may satisfy this statutory requirement. An applicant may file a bond for \$10,000; file a security, such as a certificate of deposit; or provide cash with the Commission.

If the applicant provides money, the Commission is required to deposit the money with the State Treasurer. However, the Commission did not always deposit money received from applicants with the State Treasurer, as required by statute. Instead, the Commission deposited the checks it received from applicants, each for \$10,000, with an outside bank. Although the money was accounted for, the Commission requested the bank to open a certificate of deposit with the money, instead of depositing with the Treasurer.

The Commission opened at least 21 certificates of deposit with the use of an outside bank for applicants who applied for a new license or renewal since 2003. In addition to

the requirement to deposit all money it receives with the State Treasurer, there is no record of approval from the State Board of Finance allowing the Commission to deposit money in an outside bank account to open certificates of deposit. Two recommendations were made for the Commission to assist staff and provide guidelines to ensure money received from promoters is deposited in accordance with statute.

Mr. Herenick stated the Commission needs to better protect sensitive information. The Commission's server used for file storage was not physically secured, as required by statute and state security standards. Instead, the server was stored on a desk in an open area of the Commission's office where we also observed individuals from the public enter and pass through.

The report addresses the unencrypted personal information auditors found accessible through the Commission's file server. Auditors identified several files containing approximately 1,000 social security numbers and names, including personnel reports belonging to employees of either: the Commission, the Department of Business and Industry; or a state agency not associated with the Department. Two recommendations were made for the Commission to better protect sensitive information.

Mr. Herenick continued with performance measures. Auditors found the Commission can take steps to strengthen its oversight for the reliability of performance measures used in the state's budget process. The Commission's eight performance measures and results reported during fiscal year 2012 are in the report. Underlying records did not support five of the eight performance measures. The Commission's written procedures governing performance measures do not address the retention of records, to ensure they are retained for 3 fiscal years. In addition, the Commission's measurement of fees collected timely was not accurate. Four recommendations were made to help the Commission strengthen its oversight for the reliability of performance measures used in the budget process.

Mr. Herenick concluded his report stating the report also explains the audit methodology and contains the Department's response accepting all 11 recommendations. He opened for questions.

Chair Carlton stated she has been dealing with concerns pertaining to budget priorities and performance based budgeting. Here is an audit with the performance measures all listed at 100%, yet there is no supporting documentation, and five out of eight did not have the appropriate documents. She asked for further explanation.

Mr. Herenick responded there were five of the eight performance measures with records which were either not available or they were not tracked. Records were not available for the number of licenses completed within 5 days or for the national identification cards issued. The records did not give a date of when the application packet was received and the date when the license was actually issued. Therefore, without that information the auditors were unable to measure it.

Mr. Herenick further explained that the results were not supported with underlying records. There were four performance measures that were not separately tracked: #3

sent to the national registry, #5 the national identification cards issued, #7 the compliance with a medical suspension database, and #8 contestants drug tested.

Chair Carlton stated the drug testing did not have the underlying documents either.

Mr. Herenick responded they have the records. The records were there however, it would take significant time of staff to go through an individual file to verify the contestants that were drug tested. Separate tracking is an insufficient use of staffs time and resources.

Chair Carlton stated the records were available but not the data. The tracking recorded was not done to be easily documented, to know exactly the percentages, and compliances.

Mr. Herenick stated yes.

Chair Carlton stated the Commission's acceptance of the recommendations and knowledge of the importance of straightening out the drug testing is good. She opened for further questions.

Assemblyman Hardy asked Mr. Aguilar how we got to this point, as being able to obtain information of others is serious business. Are many of the issues because of lack of staff and training? These issues should be protected at any level; is there something not being initiated by staff.

Francisco Aguilar, Chairman, Nevada Athletic Commission, stated they recognize all the issues that were presented in the audit and are working to confirm with the auditors. The Commission is implementing new procedures on many of these items.

Assemblyman Hardy asked why this was not part of hiring, training process, and dealt with quickly.

Mr. Aguilar stated he is a chairman for the Commission and not a fulltime employee. The Commission is without an executive director. A new executive director will be starting on May 12, 2014, many of these issues will be addressed and protocols of new procedures will be discussed. He understands the concern of the state and the importance of the information. Moreover, it is important to understand how the commission works. The commission works with many different individuals who work with fighters, corner-men, referees, officials. Those individuals are licensed at the weigh in, a day prior to the fight. It is not a formal professional relationship that consist of a person that walks into an office fills out the agreement and information, and is given to staff. A lot of the information is done at the time of the fight. The Commission tries to be as flexible and accommodating to expectation of the promoters.

Mr. Aguilar stated the drug testing is a tight cycle, which follows a chain of custody heavily because it can lead to prosecution. If there is ever a concern that some process is flawed the Attorney Generals' Office and the Commission's attorney general handles these matters and works in great depth with the Commission. There is no concern if the tests are being done accurately. They are done accurately. Following the chain of custody of drug test results, differs from the process used for a prosecution.

Chair Carlton opened for additional questions.

Terry Reynolds, Deputy Director, Business and Industry, stated he wanted to assure the members of the audit subcommittee that they have been working with Enterprise IT Services on the server issues. The server has been remapped making sure that the information cannot be compromised. Within the next few weeks, the server will be secured in another location. The commission has selected last week a new Executive Director Bob Bennett to begin on May 12, 2014. Mr. Bennett was a boxing referee, however prior to that he was head of the FBI office in Las Vegas. He comes with very good credentials. The Commission did a nationwide search and wants the Commission to be recognized. The Commission will be working with Mr. Bennett on the financial controls. The Director's Office of Business and Industry will be taking over the financial operations of the Athletic Commission. The oversight of that Commission will be extended and a lot of the fiscal activity work will be done by the Director's Office now that they are centralized. He believes the Committees will see improvements with these audit recommendations.

Assemblyman Sprinkle asked why the statute was not looked at to begin with when opening up the separate bank account. Do we know where the money is now; is it deposited with the Treasurer and accounted for?

Mr. Herenick replied that one of the representatives of either the Commission or the Department would be better at answering this question. However, during the review it appears that it became the standard practice to receive the money and then open the account for the use of the certificates of deposit earlier on. Because it is a requirement in statute and in addition, there is no record actually available to show that, they were approved to open the outside bank account for that specific purpose. Auditors were unclear as to the reason why the account was opened due to no specific record to show the approval. The Commission or Department may be better at answering this question.

Shannon Chambers, Administrative Services Officer, Department of Business and Industry responded the actual account at the controller's office for that money to be deposited is actually closed. We are in beginning conversations with the controller's office to get that account set up again so we can move that money to the account. As of this time, there is really no place to put that money. The Department currently has 21 certificates of deposits identified in the audit, 16 of those are closed and 5 are still open. After this meeting, once the audit is accepted, the Department will get that account set up with the controller's office and figure out a way to get that money into the controller's office. At this time, the money is not in the account because the account does not exist.

Assemblyman Sprinkle asked where the money is right now.

Ms. Chambers stated it is still in the other bank account.

Chair Carlton stated that somewhere down the road the money was put in the wrong account and now we need to get it back.

Ms. Chambers stated that this started in the past and is unfortunate. The Budget Office was aware that this was going on. There were many people including the Treasurer's Office that knew this was going on. For whatever reason no one reviewed the statutes to realize, this should not be done. She believes the reason it was done was it was easier for the promoters and more business friendly. Certainly due to this audit, the Department is going to comply with the statute and make sure it does not happen again.

Mr. Herenick stated the account is with the Treasurer's Office. Just to give the Commission credit, the records were available, so it is not uncertain where the money was. Based upon all the files reviewed the records showed that the accounts were opened or closed with the bank or a bond was filed.

Chair Carlton said that a couple of administrations ago, the money changed paths, we need to get it back on the correct path, and this will happen in the next six months when we get our next report.

Assemblyman Hardy asked if it is inconvenient to go to the Treasurer's Office. Does statute need to be changed to make this more convenient or should we just leave it as it is.

Mr. Aguilar stated the purpose was to make this process easier for the promoter but we have no problem now going forward requiring them to have a bond. He believes it is easier for his office and for the state to move forward with the bond rather than an actual certificate of deposit. The commission has moved forward with that.

Chair Carlton called for a motion.

ASSEMBLYMAN SPRINKLE MOVED TO ACCEPT THE REPORT ON
THE DEPARTMENT OF BUSINESS AND INDUSTRY, NEVADA STATE
ATHLETIC COMMISSION. THE MOTION WAS SECONDED BY
ASSEMBLYMAN HARDY AND CARRIED UNANIMOUSLY.

d. Department of Tourism and Cultural Affairs, Division of Tourism

Todd Peterson, Deputy Legislative Auditor, began his presentation with the introduction. The Nevada Commission on Tourism was created in 1983 to develop and implement a national and international marketing campaign for Nevada. During the 2011 Legislative Session, the Department of Tourism and Cultural Affairs was created and included the Division of Tourism, formerly part of the Nevada Commission on Tourism. The Division of Tourism also includes the Nevada Magazine. The Division's primary mission is to promote Nevada's vast wealth of tourism, cultural inventories, attractions, points of interest, and recreational resources.

Mr. Peterson stated the 2013 legislatively approved budget included 26 authorized full-time positions for the Division and 7.75 for the Nevada Magazine. The Division's day-to-day operations are supervised by the Director of the Department of Tourism and Cultural Affairs. The Division is funded by a 3/8 share of the 1% lodging tax.

Ex.1 shows the Division's share of lodging tax revenues by county for fiscal years 2009 to 2013. In 2013, the Division's share of lodging tax revenue exceeded \$17 million.

Ex. 2 shows the Division's fiscal years 2012 and 2013 expenditures. For these years, expenditures consisted primarily of promotion and advertising activities.

Ex. 3 shows Nevada Magazine's funding sources for fiscal years 2012 and 2013.

Mr. Peterson continued with the scope and objectives for this audit. The scope and objectives included a review of the Division's activities to procure, award, and manage contracts for professional services, and its activities to process cash receipts at the Nevada Magazine.

Mr. Peterson stated auditors found that contractor procurement requirements were not always followed. Two contractors tested did not have state contracts as required by law. These contractors acted as brokers for purchasing advertising space from media providers. Payments to these contractors exceeded \$7 million for fiscal years 2012 and 2013.

In addition, auditors found the Division did not select these contractors through a formal, competitive process as required by law. One contractor was selected in 2009 by the Division after performing its own request for proposal (RFP) and selection process. However, the Department of Administration's Purchasing Division was not involved. The other contractor was selected by the Division on the advice of its public relations and marketing contractor. Division management stated they used emergency procurement procedures. However, emergency procurement procedures contained in statute require every possible effort be made to secure at least three competitive bids, which the Division did not do.

Ex. 4 shows the types of advertising buys and amounts in fiscal years 2012 and 2013 for the two contractors mentioned, and other advertising buys. Most advertising buys were performed by these two contractors.

Mr. Peterson stated the audit report shows that the Division did not follow the requirements of the RFP when selecting its public relations and marketing contractor. Although the RFP included six evaluation factors and stated the contract would be awarded based on these factors, the winning contractor was selected based upon one evaluation factor, the presentation. Specifically, the RFP stated the award would be made pursuant to NRS 333.335(5). This statute requires contracts to be awarded based on the best interests of the State as determined by the total scores of the evaluation factors. Three recommendations were made to improve contractor procurement practices.

Mr. Peterson continued with the first findings regarding contract management. Auditors found 21 of 57 contractor payments tested lacked adequate supporting documentation. Examples are provided of invoices that lacked adequate supporting documentation. Many of these payments were made to the Division's public relations and marketing contractor. Most of the contractor's invoices were supported by letters with vague descriptions of services performed by the contractor or its subcontractors, despite the contract requiring detailed reports of the hours of each team member by project area. For example, the Division paid \$485,000 for commercial production costs based on an

invoice with no details or support for the actual costs, all the invoice said was "Television Advertising Production." In addition, the Division paid the contractor the month before production on the commercial began.

Other contractor payments were made without adequate supporting documentation. For example, \$2.3 million was paid to a contractor that purchased advertising space from media providers. The supporting documentation did not include the actual invoices from the media providers as was customary for other advertising space buys.

Mr. Peterson stated auditors found payments exceeded contract maximums by over \$660,000 for 5 of 10 contractors tested. These exceptions included international contractors that promote Nevada in different countries, and the Division's public relations and marketing contract. Although their contracts allowed the international contractors to perform various marketing activities, to be reimbursed at cost, the contracts' maximums included only the amount paid to the contractors as a quarterly professional services fee.

Ex. 5 shows the countries represented by the four international contractors and the differences between the contract maximums and payments.

Mr. Peterson reports that some contractor payments were not properly reviewed. Evidence of review by the contract monitor was not found for 4 of 57 invoices reviewed. In addition, auditors found instances where unallowed costs were paid and overpayments were made to contractors.

The report discusses how payments for some deliverables contained in the Division's public relations and marketing contract have, or will, exceed the deliverables' costs itemized in the contract.

Ex. 6 shows fiscal year 2013 payments and future obligations compared to the contract amounts for two deliverables.

Mr. Peterson stated that some deliverables specified in the public relations and marketing contract have not been fully realized, like the redesigning of the Division's website and the development of a mobile application to help promote travel and tourism to Nevada. Although the contract indicated these deliverables would be completed by the end of fiscal year 2013, they were not finished at that time. The Division indicated the deliverables would be completed by April 2014.

Some invoices for the public relations and marketing contract were not submitted or processed timely. The contractor did not submit some invoices for over 250 days after the end of month in which the services were performed. In addition, the Division took at least 113 days to pay 4 contractor invoices. It is difficult for program personnel to effectively review the appropriateness of charges when so much time has passed since the services were provided. Six recommendations were made to help improve the Division's management of contracts.

Mr. Peterson stated in the response to the audit, the Division rejected recommendation 6 that addresses clearly defined contract deliverables and, when possible, tying

payments to the acceptance of deliverables. We believe the recommendation is appropriate for the following reasons. First, the contract for public relations and marketing services contains tangible deliverables like website redesign, mobile application development, and commercial production. Contracts with these types of deliverables can include well-defined specifications that should be clearly defined in the contract. Second, a full and final payment for these types of deliverables should be tied to how well they fulfill the Division's expectations. Failure to include specifications that clearly define the deliverables and tying payments to the acceptance of deliverables can result in cost overruns, delayed deliverables, and final products that do not function as intended. As included in the report, the Division has experienced several of these problems during this contract.

Mr. Peterson stated the last part of the Report shows Nevada Magazine did not have adequate controls to safeguard its cash receipts. In fiscal year 2013, the Magazine received over \$598,000 in advertising receipts. However, the Magazine did not properly segregate key duties in the cash receipt process. One recommendation was made to help strengthen Nevada Magazine's controls over cash receipts.

Mr. Peterson concluded stating the report also contains the audit methodology and the Division's response to the audit report. In its response, the Division rejected one recommendation and does not agree with several findings. Therefore, in Appendix C, the auditors have included additional comments to assure the reader that the findings and recommendations, as stated in the report, are appropriate. He opened for questions of the Committee.

Senator Parks asked if any of these contractors are still providing the services to the Department of Tourism and Cultural Affairs.

Mr. Peterson replied at this time all the contractors tested are providing services to the Department.

Assemblyman Sprinkle stated specifically in relation to NRS 333.700 and the RFP, did the Department give any explanation as to why they did not follow through with the RFP. The State awarded \$1 million to two contractors that did not fulfill the RFP.

Mr. Peterson replied yes. Some of the explanations are included in the response in the back of the report. To generalize, the Department mentioned that they did not know that contracts for these professional services were required and that they had an insertion order with the contractor. This tells the contractors what times they want advertisements published, and how long advertisements run. The Department believed that sufficed as state contracts.

Assemblyman Sprinkle stated he did read the Department's response. He suggested that prior Division staff must have not known why the State thinks differently. The response says they are correcting it and that is a good thing.

Mr. Peterson stated they do cite prior staff. However, several of these occurrences have occurred recently. Therefore, they cannot all be contributed to prior staff of the Division.

Chair Carlton stated her belief that the Department's response indicates that they rely on state purchasing as experts to understand and guide the policies and procedures governing the process. The Division further responded the section noted in the audit was nebulous. Her interpretation of nebulous is hazy, vague, and indistinct and this audit is anything but. She believes that it is inappropriate and needs to be cleared up. There are a number of serious issues that need to be addressed, especially the funding scheme associated with this Department. The funding is from the lodging tax and it is very important that the spending is appropriate.

Assemblyman Hardy stated he agrees with the Chair that these statutes are anything but vague. He also questioned, does not every Department have access to legal staff for recommendations for these types of awards. If they do, why are they not using them.

Mr. Peterson stated he would pass this to the Department.

Claudia Vecchio, Director, Department of Tourism and Cultural Affairs stated that the Department appreciates the opportunity to look at everything done and make sure that what is being done is in the best interest of the State. A number of things were brought up showing where the Department was when the administration changed in 2011. The problems that the Department had for the past 2.5 years have improved greatly. She believes that the Department missed out on the process along the way and this report has helped us to shed light on this.

Ms. Vecchio stated all the recommendations are appreciated and accepted except for the one on contracts. A number of the recommendations have been corrected. For example, recommendation 1 is to ensure formal, state contracts are used to procure services, and the Department could not agree more. When she became Director, an incorrect professional services agreement was in place for the media buyers. It took some time to get through the process of making it correct, but the Division now has all the components in place. Media buying was put out as an RFQ through state purchasing and now the Division has a media buyer in place. So all the questions regarding how media is purchased and how dollars are spent will be confined within this contract. Not all of the contractors cited in the report are still working with the Division.

Ms. Vecchio explained regarding recommendation 2, solicit formal competitive bids for vendor services when required by law, this process has been put in place. When she was in her first year as Director, a number of big programs needed to be launched, she relied upon the Deputy Director of Administration. She acknowledged that she should not have. She believes that the problem has been corrected.

Regarding recommendation 3, to ensure contracts are awarded pursuant to the RFP and based on total evaluation scores, again being a big, public RFP, the Division followed state purchasing to the letter and let them do the contracting process. The Division was informed that they could do the initial technical requirements, score them, then throw them out, and use the top score for the oral presentation. She expressed her understanding of the change through the recent RFP processing with purchasing.

The process has changed. This being the first time through the RFP process, we followed the direction of Purchasing. Bringing legal representation in at that time was not considered because they were following the process as stated, which seemed quite logical.

Ms. Vecchio explained regarding recommendation 4, to ensure payments have adequate, detailed documentation of the propriety of expenses: when the Division entered the contract with Burson-Marsteller the invoice was for a certain amount per month. Now, they are very detailed with their time and performance. With all of the contractors, we are there. Our campaign results for spring and summer and soon to be released fall and winter results will show success with the use of these funds. She believes that for the first year they have been very successful.

Regarding recommendation 5 to ensure contract maximums include all budgeted costs for each contractor, and properly record payments to the appropriate contract this is tricky because we would never go over a contract maximum. The international contracts are being revised now. The input from the auditors has helped, but there was a contract set up in the past that had a quarterly operational cost and separate document outside from the contract, that was all the out of pocket expenses including the promotional materials and other expenses which was carefully monitored. The Division is merging those together to create one contract that contains all elements.

Chair Carlton stated that is why we see these large differences noted at the end of the graphs in Ex. 5. The contract maximums for France & Germany were \$270,000 yet the payments were \$517,902 so the difference is \$247,902 to the plus. They did not include expenses in the contract.

Ms. Vecchio stated correct. The expenses for some reason were not included in the contract.

Chair Carlton stated yet they were paid.

Ms. Vecchio replied because they were completed. There is the contract, the plan of activities, and the promotional parts of the contract. That was not included in the contract, but now is included in the contract. She understood that was not right.

Chair Carlton asked if the contract amounts and future obligations for the commercials and websites contract are future obligations or are they also outside the contract or those are actually contract part two.

Ms. Vecchio replied no. Those are all contained within the Burson-Marsteller contract. Burson-Marsteller contract is \$3.02 million for a 2-year time span. The contract is not broken down by PRs \$500,000, Websites \$450,000, and Advertising \$900,000 first year, it shouldn't be, and \$220,000 in the second year as a marketing component, that is the benchmark used for each of the sections. The Division understand with digital progress PRs may be less because the website needs enhancing or new advertising campaigns may make the cost higher. Those are in for benchmarks on how much we think they are going to cost. It's a total campaign, total 2-year contract of \$3.02 million and that is what we will ultimately spend up to.

Chair Carlton explained the confusion lies in the contract, payment, and future obligations amounts. The communication is unclear. A contract amount is the bill. To see future obligations on top of that amount we are just talking past one another and not knowing what is actually going on. What she would like to see in the future is the total amount not different amounts, and would much rather see lower amounts than higher. The amount added to the contract is so much more than the original contract amount. When the amounts are given to the Board of Examiners do they get the contract amount?

Ms. Vecchio replied yes.

Chair Carlton stated so the Board of Examiners does not know about the difference until it actually happens.

Ms. Vecchio asked to confer where the money comes from.

Chair Carlton stated if they are voting on the contract amount and you are spending twice as much, there is a problem there.

Mr. Peterson stated the overall contract for public relations and marketing the contract maximum was \$3.020 million over 2 years. That is what goes to the Board of Examiners and what they approve.

In this contract besides that contract maximum there were specific maximums for itemized products in the contract, like the TV commercial or the website. Just this morning he reviewed the contract again. It uses language like detailed fixed cost and prices provided by vendor are irrevocable offers. These are the prices for these products set by the contractor within the fixed \$3.02 million. Though they did not exceed the fixed contract price they did exceed the itemized prices for the deliverables as shown in Ex. 6 of the report.

Chair Carlton thanked Mr. Peterson for his explanation and clarification.

Chair Carlton asked if we are exceeding out in one area how do we balance out in the next area.

Assemblyman Sprinkle asked if the contracts specify if the itemized parts can exceed maximums as long as the overall maximum is not exceeded or is it the reverse.

Mr. Peterson replied in this contract he did not recall any language that said this was acceptable. He did see language in the contract that mentions there will be detailed fixed costs and those are irrevocable offers by vendor. For those itemized deliverables, those itemized costs for this contract, appear to be the costs associated with those deliverables and you should not exceed those per the contract.

Chair Carlton asked for further questions none being seen she asked the Department to continue.

Ms. Vecchio stated the one area that the Division rejected was recommendation 6 to ensure future contracts include terms that clearly specify deliverable requirements, and, when possible, tie payments to acceptance of deliverables. It is not that we do not

agree. But when looking at the marketing program, there needs to be flexibility of how the program is constructed. This occurs in the Division's marketing plan as opposed to in a contract.

Because if a contract is a 2 year contract, which all of our contracts are now, with a two year extension she is unable to know what is going to be an important part of a marketing program. Digital pieces will be more important than television; but specifics put on those components in a contract as opposed to the marketing plan, done every year, as well as the Division measuring the campaigns every year, she believes it hinders some flexibility of how the contract moves forward to match a marketing environment.

To say the Division is going to use this particular program for 2015 puts them in a hole as a marketing group, which they do not want. We have an overall contract amount, know what we are going to do in that contract, and specific pieces will be part of a legacy-marketing component. The marketing plan will have flexibility to figure out what the percentage of each item is going to be. From a marketing standpoint, this makes more sense and provides the Division a greater flexibility than to put specific dollar amount to specific programs.

Chair Carlton expressed her concern regarding the Division's rejection of recommendation 6, including terms that clearly specify deliverables. The Committee wants to know that if it is going to be on television it is going to happen by a certain date and if it does not, then when possible, we tie the payments to the actual deliverables. You are talking about a marketing plan; she believes this can fit within that plan. When we are talking about tax dollars, it should not be a hardship to have a deliverable. For example if there is a promotion for spring break at Lake Tahoe the deliverable should be that the campaign should be up on the air either television or digital by February of that year, so people will make plans to come to Lake Tahoe for Spring. If the ads are up in April for spring break, the deliverable point has been missed. This is what she believes is being compliant. She does not want to micro manage someone's marketing plan. They are the experts and know what they are doing, but if given a goal and it is not met, then there should be no reward with tax dollars.

Chair Carlton stated that the communication should be more clear regarding the contracts so in the future there is no confusion on what is actually being delivered, how delivered, and how folks are being paid. The State needs to be able to say to contractors that this was the deliverable. If there was excess money needed for this we would like to have the invoice for our records. In reading the report, sometimes invoices did not exist which further concerned her.

Chair Carlton stated she was unsure of how to get past the Division's rejection of recommendation 6, but suggests the Division go back and look at it and think about how the deliverables can be tied to the contract because the State should not be paying for something they are not getting.

Ms. Vecchio stated she agrees and she does not believe that has occurred. The issue here is whether the Division provides the information through a specific contract or a marketing plan.

Chair Carlton stated she hopes and believes the best course would be for the Division to attempt to address this rejected recommendation during the 6-month timeframe and return to discuss it at that time.

Ms. Vecchio replied the Division will do that.

Assemblyman Hardy stated that if the Division needs more flexibility in the contract the specifications need to be developed for that flexibility. The obligation of a contract is to make sure that the State is not liable and the contractor is not liable. If the Division needs to put more time and effort into developing that with legal counsel to make it work then do so. But to reject that recommendation is wrong. He believes there is a better way by making sure the contracts reflect what the Division wants.

Ms. Vecchio replied that is a great point and the Division will work on that recommendation.

Senator Parks stated it was hard for him to understand how payments exceeded maximum and there was no documentation. How do you pay without supporting documentation?

Ms. Vecchio replied regarding the \$485,000 for the television commercial, the documentation is very specific and has been provided with the invoice. What happens is the vendor agency will bill for the time that they expect to spend on a commercial. A bill is developed once the location is set where, how, the schedule, and all other components around it. The Division will pay for part of the cost up front because the spot has been developed for shooting. The Division does not pay the subsequent amount until there is accounting for every dollar. Invoicing is not paid without having supporting documentation.

Mr. Peterson stated in most instances there was adequate supporting documentation but a few did have an absence of actual invoices. In the case of inadequate supporting documentation, as was mentioned in the report, they produced a television commercial and there was a memo attached to the payment voucher that noted television production cost. The audit work began in April 2013 and continued through November 2013. As of October 2013, after requesting the documentation several times for supporting documentation of the \$485,000 in television production cost, the auditors did receive that from the Division. But that was after the fact, after the invoice was reviewed, not included in the invoice when it was paid, which occurred in February of 2013.

Assemblyman Sprinkle stated he does see here a little bit of deflection, placing responsibility on previous staff and other Departments. He hopes that the comments made here today will show many improvements in 6 months with all of these recommendations. He is eager to see the changes that have occurred.

Chair Carlton stated that there is actually a 60-day corrective action plan that will be due July 23, 2014, which will give the Subcommittee and Audit Division a good indication of what direction the Division is going, after that would be the 6-month report.

Chair Carlton stated unless there needs to be more discussion, we need not go through each individual recommendation. In discussing the contract, she believes that a lot of the other recommendations were covered and opened for additional issues.

Ms. Vecchio stated that nothing additional needs to be covered and the documentation that is needed will be put together moving forward. She stated she takes 100% responsibility for this, this is her gig, and these are her contracts whether she oversees them or not. She will make sure this is taken care of so people will later not be here in her seat and saying this is the situation I came into and had to fix.

Chair Carlton opened for a motion for accepting the report and a review of the 60-day plan for corrective action.

ASSEMBLYMAN SPRINKLE MOVED TO ACCEPT THE REPORT ON THE DEPARTMENT OF TOURISM AND CULTURAL AFFAIRS, DIVISION OF TOURISM, WITH A REVIEW OF THE 60-DAY PLAN FOR CORRECTIVE ACTION. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

Item 5 — Presentation of Review of Governmental and Private Facilities for Children, April 2014 (NRS 218G.575)

Mr. Townsend stated the review of children facilities has been conducted since 2008. The intent of the review is to provide information to the Legislature of the status of what is going on in facilities and where children have been placed pursuant to court order. In 2002, the Justice Department had to get involved with a youth correction center in Nevada. The Legislature at that time felt having this function would provide a warning system and let the State know what is going on. He introduced Sandra McGuirk, Deputy Legislative Auditor and Jane Bailey, Audit Supervisor, who have been conducting this review since 2008 to present the review.

Ms. Bailey began the presentation with the introduction. This report includes the results of reviews of 9 children's facilities, unannounced site visits to 7 children's facilities, and a survey of 63 children's facilities, in accordance NRS 218G. The statute requires reviews of both governmental and private facilities for children. Auditors have identified 20 governmental and 43 private facilities in Nevada. Ex. 1 shows the number of different types of facilities, their maximum capacity, average population, and staffing levels as of June 30, 2013.

Ms. Bailey reported that an additional 113 youths were placed in out of state facilities by local governments or the State as of June 30, 2013. These youths were placed in 24 different facilities in 13 different states across the United States. Ex. 2 shows the number of youths placed out of state by the different placing agencies. Ex. 3 shows the number of youths placed out of state and the placing agencies over the past 3 years.

Nevada statutes require children's facilities to forward to the Legislative Auditor copies of complaints filed by children in their custody or on behalf of those children. In the year ending June 30, 2013, 907 complaints were received from 29 facilities in Nevada. The other 34 facilities reported no complaints were filed during the year. A facility may report no complaints because of the type of facility or age of the youths served. For example, younger youths in a residential setting are more likely to discuss complaints rather than write a formal complaint.

Ms. Bailey concluded her portion of the presentation with the audit scope, purpose and methodology. The reviews include an examination of policies, procedures, processes, and complaints. Related issues were discussed and observed during the facility visits. She introduced Sandra McGuirk, to present the conclusions and observations made during the reviews.

Ms. McGuirk stated based on the procedures performed and except as otherwise noted, the policies, procedures, and processes in place at seven of the nine facilities reviewed provide reasonable assurance that the facilities adequately protect the health, safety, and welfare of the youths at the facilities, and they respect the civil and other rights of the youths in their care. In six of the seven unannounced visits conducted, nothing was noted to cause the auditors to question the health, safety, welfare, or protection of the rights of the children in the facilities. Ms. McGuirk stated based on an unannounced visit conducted at Etxea Services, it was determined to conduct a review.

Ms. McGuirk stated it was concluded the policies, procedures, and processes at WestCare-Harris Springs Ranch (Ranch) did not provide reasonable assurance that it adequately protects the safety of youths in its care. The Ranch is a privately operated substance abuse treatment facility, which is licensed by Nevada's Bureau of Healthcare Quality and Compliance. The Ranch did not document it took sufficient steps to ensure its employees had not been convicted of violent crimes, which would have excluded them from employment under NRS 449.174(1).

Of the 10 employee files reviewed, background investigations showed 5 had been arrested. However, personnel files did not contain documentation that management requested or received dispositions for three employees whose investigations showed arrests, but no disposition of the offences or did not classify the convictions as a felony, gross misdemeanor, or misdemeanor. Arrests for these three individuals included inflicting corporal injury on a spouse or cohabitant, possession of a controlled substance, terroristic threats, and assault with a semi-automatic rifle.

In November 2013, the Ranch informed us that they terminated two of the three arrested employees mentioned, the third employee provided supporting documentation and remained employed.

Ms. McGuirk stated the review of Etxea Services concluded that the policies, procedures, processes, and staff's compliance with policies did not provide reasonable assurance it protected the safety of youths in its care. Etxea operates three group foster homes; all three are privately operated and are licensed by the Washoe County

Department of Social Services. Etxea needs to develop or update many of its policies and procedures and ensure staff understand and enforce policies. In addition, management needs to enforce requirements. For example, Etxea Services' policies did not adequately define contraband, which may have contributed to contraband-type items observed in the homes, including restricted rated movies, numerous cigarette butts, an empty pack of cigarettes, and a homemade pipe-like smoking device. In addition, Etxea has not established policies requiring staff to secure chemicals, which may have contributed to the unsecured items: bleach, laundry soap, a can of gasoline, a spray can of lubricant, and a bucket of latex paint.

Although Etxea has established house rules, staff did not always enforce the regulations, and management did not enforce requirements found in state regulations related to the condition of the homes. Etxea's lack of enforcement may have contributed to empty soda cans and food wrappers in the youths' bedrooms, piles of dirty clothes in the youths' bedrooms and the laundry room, a broken washing machine, and holes in a wall and door.

Based on the review, Etxea's licensing agency, Washoe County Department of Social Services, was informed of some of the issues noted. The County subsequently conducted numerous visits and issued a corrective action plan to Etxea.

Ms. McGuirk stated that a summary of our reviews of all nine facilities is included in the report. All nine facilities needed to develop or update policies and procedures. The types of policies and procedures that were missing, unclear, or outdated included: establishing identity kits for each youth served for use during an emergency; disposing of discontinued, expired, or unused medication; and ensuring that documented policies and procedures are consistent with actual practices.

Ms. McGuirk stated that all nine of the facilities reviewed needed to strengthen their medication administration processes and procedures. The reviews found that: youth medical files did not always contain complete or clear documentation of dispensed, prescribed medication; some youths' files were missing evidence of physicians' orders and pharmacies' instructions; some youths' files contained errors, such as documentation of an incorrect dosage of medication or documentation of medication administered to a youth after the youth had been discharged; and some facilities needed to improve their verification and documentation of medications received at the intake of youths.

All nine facilities need to improve their compliance with background check requirements. Seven of the nine facilities needed to develop or improve hiring policies and procedures, including maintaining accurate records or information collected during the hiring process. Statutes require records be maintained for the length of each employee's tenure with the facility. Employees at two of the nine facilities were subject to social security number and name-based background checks, instead of statutorily required fingerprint background checks. Ex. 4 includes a map of the nine facilities reviewed.

Ms. McGuirk concluded her presentation explaining that pages 11 through 76 provide more detail on issues noted at each facility, as well as each facility's response. For example, on page 11 we discuss Teurman Hall beginning with some background information, followed by the purpose of the review, results in brief, observations, and the facility's response to each observation. Pages 77 through 90 contain numerous appendices. For example, appendix D on pages 83 through 85 provides some background, population, and staffing information on 63 Nevada facilities. She opened for questions.

Assemblyman Sprinkle stated while reading through all the individual facility reports he noticed that there were similar medication administration problems. The State is looking at problems with prescription medication abuse. He asked Ms. McGuirk if she had seen similarities among these facilities and what the underlying factors are for the problems in documentation and destruction of expired medications.

Ms. McGuirk replied there are some similarities. In 2011, legislation, addressed some of the issues and made suggestions to facilities as to what is needed to improve some of these issues. Some facilities do better than others. The ones that do a little better have medical staff on hand. Many nonprofit facilities do not have medical staff on hand. She believes it is very important to have staff pay attention to what they are doing especially with medication handling. A process needs to be in place that secures the medication, the medication needs to be administered pursuant to physician orders, and facilities need an independent review process. Then management can review the process and deal with it directly rather than waiting to be reviewed by the auditors. She believes that if the independent review is improved, the issues as a whole will improve.

Assemblyman Sprinkle stated that his understanding of the facilities responses is that is exactly what they are trying to implement and put in place. He asked if Ms. McGuirk felt comfortable that this was being taken care, or does this need to be a state mandated statute.

Ms. McGuirk responded that it currently is in statute that each facility has to have a process in effect to identify and address errors. She believes that the facilities need to take this more seriously. They are busy; but an ounce of prevention goes a long way.

Assemblyman Sprinkle asked if there were any other suggestions she could make to the Committee regarding the background checks of institution staff other than what was in the review. For example, the mandated CANS (Child Abuse and Neglect System Statewide) report can be valuable for screening applicants and ensuring that employees do not have a history of abusing or neglecting children. However, Nevada does not mandate this as one of the checks that is performed on potential employees. He asked if she believed this would be beneficial.

Ms. McGuirk replied the CANS report is mandated for the majority of facilities. When it comes to correction and detention facilities, and Teuman Hall is a detention facility, the statutes read that only in counties where the population is greater than 700,000 are they required to do the CANS check. This is something that could be considered. One of

the benefits of the CANS check is the results come back very quickly due to a good state system and for the most part it is free for most facilities. Therefore, you get rapid information free of charge. That does not happen very often. Everyone can get it done and maintain the evidence to show proof it has been done because it is very difficult to determine if they have actually requested a CANS report if there is no evidence.

Chair Carlton stated the legislature passed a statute that required staff to have fingerprint cards.

Ms. McGuirk replied yes, that is correct.

Chair Carlton stated that was in 2011 and they are still not doing it.

Ms. McGuirk replied correct, some are not.

Chair Carlton asked if there is a penalty.

Ms. McGuirk replied she did not know.

Chair Carlton stated this needs to be investigated. If the carrot is not going to work, we will have to get out the hammer. As a waitress for 13 years on the strip, she had to have fingerprinting done to pour coffee and serve bacon and eggs. If she had to have her fingerprints done to pour coffee then so do these people who are caring for these most vulnerable children.

Ms. McGuirk stated that some facilities' potential employees are getting fingerprint background checks but they are not following up on the arrests. Sometimes the background checks do not give the type of person's conviction or classification of that conviction. This decreases the benefit of fingerprinting if the facility does not have a follow-up operation. Each facility should be following up on the background checks to determine the person that was arrested did get convicted and if so, are they excluded from employment according to statute.

Chair Carlton asked if the report would be in the system.

Ms. McGuirk responded that it depends on the type of facility. All records are driven by the FBI and confidentiality laws. Some facilities have their employees fingerprinted and the results go back to the licensing agency. The facilities may never see the background check results. In some cases, in correction and detention there are not licensing agencies. Those results go directly to the facility, which Ms. McGuirk can review at the facility. If the check goes through a licensing agency there should be some issued documentation providing assurance that they have looked at everything and the person is eligible for permanent employment under statute.

Chair Carlton stated that she did not believe in holding an arrest against anyone that was not convicted. Anyone can be arrested but it does not mean they are convicted. Once there is a conviction then there should be a way to address it, especially when it is pertinent to children and this position. This is something we will keep looking at and do more investigation.

Chair Carlton said the medications and the fingerprints are the two bothersome issues. Medications have been talked about many times in the past. This issue seems to be getting better but more work is needed.

Chair Carlton stated this review is an ongoing project. There will be more as the reviews continue. She asked for further questions. None being made, she called for a motion.

ASSEMBLYMAN SPRINKLE MOVED TO ACCEPT THE REVIEW OF GOVERNMENTAL AND PRIVATE FACILITIES FOR CHILDREN, APRIL 2014. THE MOTION WAS SECONDED BY SENATOR PARKS AND CARRIED UNANIMOUSLY.

Item 6 — Presentation of six month reports (NRS 218G.270)

Mr. Townsend explained the six-month report is a follow-up on the status of recommendations made in a previous report. The six-month reports are prepared by the Department of Administration, Division of Internal Audits.

a. Department of Administration, Risk Management Division

Mr. Townsend introduced Jane Bailey, Audit Supervisor, to discuss the follow up.

Ms. Bailey stated in May 2013, a report was issued on the Department of Administration, Risk Management Division that contained seven recommendations to improve contract practices.

In July of 2013, the Division filed its corrective action plan. The Department of Administration prepared a six-month report of the status of the seven recommendations in the audit report.

Ms. Bailey concluded stating that as of February 3, 2014, the Department of Administration indicated that six recommendations were fully implemented and one was partially implemented. Based on subsequent follow up with staff of the Risk Management Division, we have determined that the partially implemented recommendation is now fully implemented and therefore there are no questions for agency staff.

Chair Carlton asked for further questions. None being made, she called for a motion.

ASSEMBLYMAN SPRINKLE MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF ADMINISTRATION, RISK MANAGEMENT DIVISION. THE MOTION WAS SECONDED BY ASSEMBLYMAN HARDY AND CARRIED UNANIMOUSLY.

b. Department of Conservation and Natural Resources, Division of State Parks

Doug Peterson, Information Systems Audit Supervisor, stated in May of 2013, an audit report was issued on the Department of Conservation and Natural Resource, Division of

State Parks. The Department of Administration prepared a six-month report of the status of the 14 recommendations in the audit report.

As of February 2014, the Department of Administration indicated that eight recommendations were fully implemented and six were partially implemented. Based on review of the six-month report and other documents provided it has been determined that four of the partially implemented recommendations are now fully implemented. Therefore, there are two remaining partially implemented recommendations. These recommendations related to quarterly sales and inventory reports.

The first recommendation pertained to using a two-person count team for taking physical inventory. The Department of Administration indicated through testing of six inventory documents of the Division of State Parks outlets that operate throughout the state, four of the documents did not have the required signature or initials indicating the involvement of the two person count team.

Mr. Peterson requested the agency answer these questions.

Eric Johnson, Administrator, Division of State Parks introduced himself.

Mr. Peterson asked why did the Division not ensure all inventory count documents have the proper signatures of two people and what controls does the Division intend to implement to ensure inventory count documents have the proper signatures from this point on.

Mr. Johnson replied the retail storekeeper is assigning count teams but did not have the account teams sign the completed inventory reports because he was unaware a signature must be provided. This issue has been addressed and the Division has a procedure in place as part of the gift shop operations manual.

Regarding the second part of the question the Division has created a cover sheet to accompany the inventory that requires a signature of all employees in accounting as well as the inventory supervisor's signature.

Chair Carlton said ok next question.

Mr. Peterson asked regarding recommendation #5, which pertained to supervision of physical inventory counts at retail outlets, again the Department of Administration indicated that they tested six documents and four had nothing indicating that supervision was provided during those accounts. Through subsequent discussions the Division did indicate that they did have updated procedures to require one member of the count team to be a supervisor. The question is what controls does the Division intend to implement to insure there will be proper supervision over these physical inventory counts going forward.

Mr. Johnson stated that a cover sheet will accompany the inventory reports that require the inventory supervisor's signature. By signing the form the supervisor is verifying that he/she was present during the inventory count process.

Mr. Peterson concluded his questioning.

Mr. Townsend stated in this case, we would like to follow up with the Division to make sure the documentation is being provided.

Mr. Johnson stated that the documentation is here if you would like to see it.

Chair Carlton stated then we can get it finished here today. She asked for further questions. None made being made she called for a motion.

SENATOR PARKS MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, DIVISION OF STATE PARKS. THE MOTION WAS SECONDED BY ASSEMBLYMAN SPRINKLE AND CARRIED UNANIMOUSLY.

c. Department of Business and Industry, Taxicab Authority

Rocky Cooper, Audit Supervisor stated that in April 2013 an audit report was issued on the Taxicab Authority. The six-month report was prepared by the Department of Administration on the status of 8 recommendations contained in the audit report.

As of January 2014, the Department indicated that three recommendations were fully implemented and five recommendations partially recommended.

In April 2014, the Taxicab Authority provided an update on the status of the five partially implemented recommendations. Based on review of the information received, the Taxicab Authority fully implemented four more recommendations. The remaining partially implemented recommendation relates to updating policies and procedures. The Authority anticipates it will complete its update by August 2014. Monitoring the Authority's progress in updating its policies and procedures will continue; therefore, there are no questions for agency officials.

Mr. Cooper concluded his presentation by commending management and staff of the Authority for their significant effort in implementing the recommendations.

Chair Carlton opened the meeting for questions.

Charles D. Harvey, Administrator, Taxicab Authority stated he wanted to thank the legislative auditors for their assistance in identifying ways in which to improve efforts at this regulatory agency. The Authority has taken tremendous steps to strengthen its oversight of the taxicab industry in Clark County. These measures include initiatives to address long hauling, audits of taxicab company records, measures to track the medallion inventory, measures to improve the information provided to board members, improved cash controls, and a comprehensive review of the policies and procedures. The Authority anticipates completion of all audit recommendations in August 2014.

Chair Carlton asked for further questions. None made being made she called for a motion.

ASSEMBLYMAN HARDY MOVED TO ACCEPT THE SIX-MONTH REPORT ON THE DEPARTMENT OF BUSINESS AND INDUSTRY

TAXICAB AUTHORITY. THE MOTION WAS SECONDED BY
ASSEMBLYMAN SPRINKLE AND CARRIED UNANIMOUSLY.

Item 7 — Public Comment

Chair Carlton called for public comment. There was none.

Chair Carlton stated the next Audit Subcommittee meeting would be in September 2014, but we will check with everyone prior to scheduling.

Chair Carlton adjourned the meeting at 3:35 p.m.

Respectfully submitted,

Deborah Anderson, Audit Secretary

Assemblywoman Maggie Carlton
Chair of the Audit Subcommittee
of the Legislative Commission

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