

**STATE OF NEVADA
EXECUTIVE BRANCH AUDIT COMMITTEE MEETING**

**MINUTES
October 2, 2007**

The Executive Branch Audit Committee and the Division of Internal Audits met on October 2, 2007, at the Capitol Building Annex, Second Floor, 101 N. Carson Street, Carson City, Nevada. The meeting was videoconferenced between the Capitol Building Annex and the Grant Sawyer State Office Building, Suite 4600, 555 East Washington Avenue, Las Vegas, Nevada.

MEMBERS PRESENT:

Governor Jim Gibbons, Chairman
Secretary of State Ross Miller
State Treasurer Kate Marshall
Controller Kim Wallin
Attorney General Catherine Cortez Masto
Dana L. Bridgman, CPA, Public Member

MEMBER VIA VIDEOCONFERENCE:

Lieutenant Governor Brian Krolicki
Controller Kim Wallin

**DIVISION OF INTERNAL AUDITS
STAFF PRESENT:**

William Chisel, Chief
Linda Law, Manager
Joe Greenstein, Supervising Auditor

Jeff Landerfelt, Executive Branch Auditor I
Vita Ozoude, Executive Branch Auditor III
Dennis Stoddard, Executive Branch Auditor II
Connie Boynton, Administrative Assistant IV

OTHERS PRESENT:

See attached sign-in sheet.

The agenda for this meeting was posted in accordance with the Nevada Open Meeting Law and was mailed to groups and individuals as requested.

Call to Order

Governor Jim Gibbons, Chairman, called the meeting to order at 10:00 a.m., welcomed those present, and asked William Chisel to call the roll. All members were present, and a quorum was noted. Governor Gibbons outlined how the meeting would proceed, beginning with Agenda Item B.

A. Discussion and possible action regarding the minutes from the May 11, 2007, meeting as set forth in the backup material.

Mr. Chisel, Chief, Division of Internal Audits, asked if there were any concerns or questions regarding the minutes.

Governor Gibbons called for a motion for approval of minutes.

Motion: Move for approval of the minutes of the May 11, 2007, meeting.

By: Lieutenant Governor Brian Krolicki

Second: Controller Kim Wallin

Vote: Motion approved 7-0

B. Discussion and possible action regarding amendments to the Division of Internal Audits' annual audit plan for fiscal year 2008 as set forth in the backup material. (NRS 353A.038)

William Chisel, Chief, Division of Internal Audits, directed the Committee's attention to the request to add the Taxicab Authority, which had been requested by the department head, to the list of audits that are planned

Governor Gibbons agreed with the request.

Lieutenant Governor Krolicki asked if there was a time frame on starting the Commission on Tourism and the Commission on Economic Development audits.

Mr. Chisel responded that there would be auditors visiting those offices soon. He explained that the Agriculture audit would be first, and the audits of the Commission of Tourism and the Commission on Economic Development would be next.

Governor Gibbons then asked if the addition of the Taxicab Authority audit required a vote of approval from the Audit Committee.

Mr. Chisel stated it did.

Governor Gibbons called for a motion to approve the inclusion of the Taxicab Authority in the planned audits for fiscal year 2008.

Motion: Move for approval of the inclusion of the Taxicab Authority for fiscal year 2008.

By: Treasurer Kate Marshall

Second: Secretary of State Ross Miller

Vote: Motion approved 7-0

D. Discussion and possible action regarding the Division of Internal Audits' Annual Report. (NRS 353A.038)

Mr. Chisel explained the structure of the Division and reported on the process and successes related to the operations of the Internal Audits section, which is responsible for conducting performance audits of state agencies. He referred members to Tab 5 of the meeting summary packet and noted that approximately 88 percent of the Internal Audits past recommendations have been fully implemented. He explained that nearly \$43 million in benefits could be attributed to quantifiable recommendations made during audits, which represents a return of \$38 dollars for each dollar budgeted to the division. He also noted that other operational recommendations, which were implemented to improve the management of agencies, have benefited taxpayers by making state government operations and services more effective and efficient. Mr. Chisel also described the activities and goals of the Financial Management and Post Review sections of the agency.

Responding to questions from Treasurer Marshall, Mr. Chisel explained that to ensure recommendations are not inappropriate or inconsistent with statute, legislative intent, or other external restrictions, auditors can consult with the agency, the Attorney General, and Legislative Counsel Bureau before making recommendations that might not be implementable.

In response to a question from Governor Gibbons, Mr. Chisel explained the methodology used to establish taxpayer savings in Tab 5. He noted that one-time savings are identified only in the year the recommendation is implemented; however, savings over time are carried forward for 9 years, similar to the method used by the federal government. Some other agencies may carry those savings forward for up to 20 years. In addition, if an agency indicates the benefits will diminish over time that reduction is included in the calculated savings as well.

Controller Kim Wallin requested that past years' targets for all performance measures also be included in future reports, so that performance comparisons over time can be evaluated. Mr. Chisel agreed to including those numbers in future reports.

In response to a question from Lieutenant Governor Krolicki, Mr. Chisel described the audit follow-up process. He noted that some recommendations take longer to implement than others due to various factors, e.g., the fiscal environment, the need for legislative or regulatory changes, and so forth. In conclusion, he said no "red flags" are noted on follow-ups at this time.

Governor Gibbons asked if there were any questions or comments regarding the annual report. There were none.

Motion: Move for approval of the annual report.

By: Secretary of State Ross Miller

Second: Controller Kim Wallin

Vote: Motion approved 7-0

E. Discussion and action regarding revisions to division's policy and procedures for operations. (NRS353A.038)

Mr. Chisel directed the Committee's attention to Tab 3 of the meeting summary packet. He stated that amendments had been made to the agency's policies and procedures. After explaining the need for the changes, he asked if there were any questions or concerns.

- **Question:**
Dana Bridgman asked if the distribution of paychecks or the paycheck stubs were up for consideration. Would they be available to employees through a web portal rather than in hard copy?

Answer:
Mr. Chisel stated that option has been discussed. He will find out more and report back.

Governor Gibbons asked if there were any further questions or comments regarding changes.

- **Question:**
Controller Wallin questioned why Internal Audits' virus scans are done monthly.

Answer:
Mr. Chisel replied that system scans are done automatically through the Department of Technology (DoIT), but he would follow-up.

Governor Gibbons said a motion for approval, was made by Lieutenant Governor Krolicki.

Motion: Move for approval of the revised policies and procedures.

By: Lieutenant Governor Brian Krolicki

Second: Treasurer Kate Marshall

Vote: Motion approved 7-0

F. Presentation of the Division's Audit Reports. (NRS 353A.085)

1. Department of Business and Industry, Housing Division, Weatherization Assistance Program

Jeff Landerfelt, Executive Branch Auditor I, Division of Internal Audits, presented the audit report.

Jeff Landerfelt introduced Craig Davis, Grants and Project Analyst Supervisor for the Housing Division; and Karen Rasner, Chief Accountant for the Welfare Division.

Mr. Landerfelt stated the Housing Division was created in 1975 to address the shortage of safe and sanitary housing for low-income and moderate-income families and households. One of the division's programs involved weatherizing homes for low-income Nevadans. In 1977, the Weatherization Systems program was created to assist low-income households in reducing utility bills by implementing various conservation measures:

- ✓ Replacing refrigerators
- ✓ Repairing or replacing heating and cooling systems

The audit primarily addressed:

- Can the program increase energy savings for low-income families?

The Welfare Division operates a program that provides energy assistance to low-income households. One of the program's funding sources is the Low-Income Housing Energy Assistance Program (LIHEAP), which is an annual allocation from the federal government for energy assistance. Twenty-five percent of these funds may be used for weatherization activities; however, Nevada is one of the few states not using funds for weatherization activities. The audit recommends Welfare transfer ten percent of the LIHEAP funds, \$400,000 dollars each year to the weatherization program. This would provide about \$536,000 dollars in benefits without a need for additional staff or administration. Welfare has initially agreed to a five percent transfer.

This concluded Mr. Landerfelt's presentation, and he asked the Committee if there were any questions.

- Question:
Governor Gibbons asked what portion of low-income households that need weatherization does that five percent cover.

Answer:

Mr. Landerfelt answered that the five percent would weatherize about 78 homes per year. At ten percent, it would weatherize 156 homes per year, based on the average cost of weatherization and the funds that would be transferred. He said weatherization is funded by the Department of Energy (DOE) money and twenty-five percent of Nevada's Universal Energy Charge (UEC).

The funds from the UEC cannot be used for non-grid customers, which primarily exclude rural communities. The LIHEAP funds, however, would allow more latitude in the weatherization programs and would not be restricted to grid customers.

- Question:
Governor Gibbons asked if homes that are not on the general grid are qualified to receive this assistance.

Answer:

Mr. Landerfelt answered not with UEC dollars. The DOE funding, which is about \$800,000 dollars per year, can be used for weatherization projects in rural

communities. In fact, it is used primarily for rural communities. The bulk weatherization program money comes from the UEC, which cannot be used for off-grid households.

- Question:
Governor Gibbons asked how much, of the DOE monies, has been spent on an annual basis for rural assistance,

Answer:
Mr. Davis of the Housing Division responded that he did not have those figures, but will provide the figures. Further, Mr. Davis stated that the division outlines funds based on population. Coverage in the rural areas is provided by moving funds for Energy Assistance and Conservation (FEAC) and DOE funds are moved so that there is legal representation in all counties. Seventy percent of the funding, whether from DOE, FEAC, or LIHEAP, goes to Clark County projects. Sixty percent of the remainder goes to Washoe County and the balance is used in rural areas.

- Question:
Governor Gibbons asked when the program began.

Answer:
Mr. Davis replied that he joined the program in 1980, when it was at the office of Community Services. Mr. Davis added that increases in utility costs impact the low-income residents tremendously and is hard to reduce monthly electricity bills substantially.

- Question:
Treasurer Kate Marshall asked if the limited funds the Energy Assistance Program offers (Welfare Division) low-income people with their utility bills, helps pay those bills.

Answer:
Romaine Gilliland, Administrator for Welfare, said the Energy Assistance Program uses two funding sources to assist people with paying electricity bills: First, the federal LIEAH funds second, revenue from the Universal Energy Charge.

The UEC funds are available only to homes that are on the grid that earn their contribution from the utility.

- Question:
Treasurer Kate Marshall asked if work completed under the Weatherization Assistance Program lowers a household's utility bills, then is the amount of LIHEA assistance lowered, and how often.

Answer:
Mr. Landerfelt responded that if the extent the residents of those homes that are weatherized are also seeking energy assistance from Welfare, the benefits would

accrue to Welfare. The benefits are the weatherization. Mr. Landerfelt stated that his understanding is that only about thirty-percent of the Weatherization Assistance Program customers are also on the Energy Assistance Program.

- Question:

Treasurer Kate Marshall asked why it was decided to start at five-percent and the next year, go to ten-percent. Why not go to fifteen-percent.

Answer:

Mr. Landerfelt responded by saying the 10 percent limit figure is based on a discussion of the weatherization program and how it could be expanded without adding additional staff or create an issue with other funding. Being a shared source of funding with Welfare, the idea that shifting funds would deny energy assistance because of the weatherization funding is something the agency wanted to avoid until the stream of funding could be evaluated more closely.

- Question:

Treasurer Kate Marshall wanted to know who would pay for more staff if they were hired.

Answer:

Mr. Davis explained the funding allowances for various programs and stated the Welfare Division would not need additional administrative costs at five percent. The cost of a ten-percent transfer might be passed to sub-grantees.

- Question:

Treasurer Kate Marshall asked if the proposed five-percent or ten-percent transfers were on track.

Answer:

Mr. Landerfelt replied that the process for the five-percent has been initiated and agreed to. Mr. Gilliland added that the increase to ten percent has not been agreed upon. The division agreeing to ten-percent would require further consideration of two concerns. The first concern was that increasing to ten percent might cut into the administrative funds available. The second concern was that if services are provided to rural households, it might adversely affect some of the individuals receiving energy assistance now.

- Question:

Treasurer Kate Marshall asked if more staff was needed to do ten-percent.

Answer:

Mr. Gilliland said, from a Welfare perspective, it is not more staff but adequate funding for the staff that is currently dealing with energy assistance. The division is currently utilizing the full ten-percent administrative cost allowance for the program. The agency may face some cuts because of the five-percent transfer from housing. That would reduce what is available for the administrative staff.

- Question:
Treasurer Kate Marshall asked what the plan of attack was on the three month back-log, and could the back-log go away.

Answer:

Mr. Davis stated that the division would incorporate the cost of integrating the weatherization into the federal administrative funds, reducing or eliminating the three-month backlog. It would not be possible without hiring another contractor in Las Vegas and providing more funding.

2. **Department of Conservation and Natural Resources, Division of Forestry**

Dennis Stoddard, Executive Branch Auditor II, Division of Internal Audits, presented the audit report.

Mr. Stoddard introduced Allen Biaggi, Director of the Department of Conservation and Natural Resources, Division of Forestry; and Pete Anderson, State Forester Firewarden.

Mr. Stoddard stated that the primary focus of the division is to prevent wildfires. The division also manages nurseries and promotes conservation planning, such as establishing wind breaks and wildlife habitat. The division's related construction projects responsibilities include:

- ✓ Buildings throughout Nevada,
- ✓ Offices, and
- ✓ Equipment repair shops.

The audit primarily addressed two questions:

- Can the Division reduce its construction costs?
- Can the Division enhance billings?

Mr. Stoddard added the division had a budget of about \$39 million dollars in fiscal year 2007, which was funded through general funds and reimbursements from federal and other jurisdictions. Mr. Stoddard further explained the Division has performed several construction projects in the past. On those projects, the average laborer earns about \$300 per day, while inmate labor rates are about \$2.00 per day. Internal Audits reviewed the divisions capital improvement projects (CIP) to determine where the division might use inmate labor.

The audit revealed four state-funded projects upon which the Division might use inmate labor on segments of the projects and save the state about \$620,000.

Furthermore, Mr. Stoddard stated the division could enhance its billing rate for some types of equipment. He said the division seeks cost reimbursement for equipment, such as fire engines and transports that is sent to fires. The reimbursement rates are higher in other states. He noted that the division should adjust its billing rates to the average. Mr. Stoddard concluded the division could have enhanced its billings by nearly \$135,000 in fiscal year 2007.

This concluded Mr. Stoddard's presentation, and he asked the Committee if there were any questions.

- Question:
Treasurer Kate Marshall stated page six of the audit identifies for eleven potential projects. She asked for clarification on why only four audits were mentioned.

Answer:

Mr. Stoddard confirmed eleven projects in total are being considered. However, taking the conservative approach in talking to the divisions, Forestry and Public Works, it was determined only the four identified projects would be appropriate for the use of inmate labor.

- Question:
Treasurer Kate Marshall asked if all four projects were state-funded CIPs, and whether federal funding was being used.

Answer:

Mr. Stoddard replied that no federal funding was included in the projects.

- Question:
Treasurer Kate Marshall asked if the four projects are over \$100,000.

Answer:

Mr. Stoddard stated that the construction costs on the projects would exceed \$100,000, but each segment would be less.

- Question:
Treasurer Kate Marshall asked if the portions that are being segmented are less than \$100,000 and if each is over \$25,000. She also asked if the use of inmate labor for a capital improvement project was exempt from Nevada's existing prevailing wage laws.

Answer:

Mr. Stoddard referred Ms. Marshall to NRS 341.145, which allows the laboratory fees to go into the Livestock inspection account. Those funds are credited to a special use category and used to support the laboratory.

- Question:
Treasurer Kate Marshall asked if the four state-funded projects and the segments within each of the projects would be competitively bid, and if bidding out the segments of the four state-funded projects violates the statutes against affecting commerce through the use of inmate labor.

Answer:

Mr. Stoddard replied NRS 341.145 states that it is allowable for Public Works to break construction projects into segments, when savings to the state is available.

- Question:
Treasurer Kate Marshall voiced her concern about exposing the State to litigation,

based on exempting itself from the Prevailing Wage Law. She also was concerned that each of the projects was over \$100,000, and the segments were each over \$25,000; and that they should be competitively bid. She also stated she wants the state to follow correct procedures.

Answer:

Responding to Treasurer Kate Marshall's concerns, Mr. Anderson explained that when a project goes through the bidding process, contractors and inmate labor will submit bids. Mr. Anderson also said that the segments for all four state-funded projects will go through the bid process.

- Question:

Treasurer Kate Marshall asked Mr. Anderson if the agreement on page three of the response letter was solely for the Las Vegas Plant Material Nursery, and to explain further.

Answer:

Mr. Anderson said that because the estimates for the nursery were well in the \$500,000 and higher range, the division would not be able to afford to pay back that kind of money to the enterprise account. Therefore, the division negotiated with Public Works to use inmate labor for portions of the project. The division was able to save money on overall project costs.

Lieutenant Governor Brian Krolicki commented that he appreciated the long-established practice of using inmate labor. He also stated that prevailing wage is a critically important issue and has been the subject of debate both in the Legislature and before interim committees. Further, a committee has been looking into the issue for the last couple of years. He said in dealing with Public Works, there have been times where energy retrofit projects and some lease purchase financing capabilities are not subject to the prevailing wage statutes. He suggested that maybe the Attorney General should weigh in more formally on the issue. He added there are some exemptions to the prevailing wage.

- Question:

Secretary of State Ross Miller asked if Department of Corrections (DOC) is operating at capacity with the number of inmates they have available for such projects.

Answer:

Mr. Stoddard answered that Internal Audits talked with Division of Forestry about its capacity to manage inmate labor, when Corrections allows inmates to come from camps to the projects.

3. **Department of Agriculture**

Vita Ozoude, Executive Branch Auditor III; Dennis Stoddard, Executive Branch Auditor II; and Jeff Landerfelt, Executive Branch Auditor I; Division of Internal Audits, presented the audit report.

Mr. Ozoude introduced representatives from the Department of Agriculture. Donna Rise, Director; Rick Gimlin, Deputy Director; and Maureen Groach, Administrative Service Officer III.

Mr. Ozoude explained that the Department of Agriculture was established in 1915, to benefit the health and welfare of Nevadans by encouraging and protecting agriculture or related industries. He also stated the Nevada Board of Agriculture, which consists of industrial representatives appointed by the Governor, oversees the Department. Mr. Ozoude explained that the Department has six divisions:

- ✓ Administration
- ✓ Measurement Standards
- ✓ Animal Industry
- ✓ Plant Industry
- ✓ Livestock Identification
- ✓ Resource Protection

Mr. Ozoude also said that the Department's budget for fiscal year 2007 was approximately \$15 million and included 104 full-time employees.

The audit primarily addressed:

- Board's Control and Authority
- Accounting, Grants, and Reporting Functions
- Virginia Range and Estray Horses
- Medical Marijuana Program

Mr. Ozoude also explained the Nevada Board of Agriculture is made up of eleven individuals representing different agricultural industries. The members of the Board serve part-time, meet quarterly, and oversee a full-time department. A review indicated other states range from having no boards to full-control boards. Authority in some states with control boards, ranged from minimal to full control. All control boards can adopt rules. Medium control boards can adopt rules, appoint directors, and remove directors. Nevada's full control board can perform all functions, including the removal of some division administrators.

Further, Mr. Ozoude recommended the Board should consider revising its statutory authority. The Department indicated it would forward the recommendation to the Board for consideration. Mr. Ozoude then asked the committee if there were any questions.

- Question:
Governor Gibbons asked how many other states' boards have full-control over departments, such as Nevada's Department of Agriculture. Governor Gibbons commented it seemed unique that an administrative Department is controlled by a board.

Answer:
Mr. Landerfelt explained that Nevada is the only state whose Board of Agriculture has all the elements of full control.

- Question:
Attorney General Catherine Cortez Masto asked if the Public Works Board is the same way. She had concerns as to the analysis of why are we looking at the change in the structure. She also said that there may be some internal controls that need to be dealt with. She suggested this was a question for the Legislature to decide, because the Department cannot do anything about it.

Answer:

Mr. Landerfelt confirmed the statutory change would have to come through the Legislature. He also said Internal Audits regularly reviews an agency's organizational structure when an audit is initiated.

- Question:
Attorney General Catherine Cortez Masto questioned whether, the same protocol was used when other boards were audited.

Answer:

Mr. Landerfelt replied he had not compared the structure of other Nevada state boards with that of the Board of Agriculture.

- Question:
Attorney General Catherine Cortez Masto noted that there are other part-time boards.

Governor Gibbons said the Department of Education is overseen by a part-time board. He also stated the issue is a part-time board with full-control over a full-time department. Governor Gibbons asked how often the Board of Agriculture meets.

Answer:

Mr. Landerfelt stated they occasionally have special meetings but normally meet quarterly.

- Question:
Governor Gibbons asked if Internal Audits looks at the efficiency and effectiveness of the board's structure. He commented that the Legislative Counsel Bureau (LCB) reviews the accounting methods and policies and procedures used by the Department of Agriculture.

Mr. Ozoude discussed the second objective relating to improving grant accounting and reporting functions by enhancing grants management, monitoring and reporting on revenues and expenditures, revising and maintaining cost allocations, reviewing coding, and updating its policies and procedures. He stated that most grant applications have cost categories for both direct and indirect costs.

Further, Mr. Ozoude explained that the department currently uses an indirect cost rate negotiated by another agency. He stated the department should establish its

own cost structure compliant with federal guidelines, by negotiating indirect cost rates with the United States Department of Agriculture (USDA). He noted that out of 39 grants, the department overspent the budget in fifteen-percent of those grants. He added over spending of the grants could result in non-reimbursement from the grantors.

Mr. Ozoude moved on to the monitoring and reporting of revenues and expenditures. He stated that the accounting division should use internal spreadsheets to track revenue and expenditures. He also stated the administrators are currently being asked to generate the reports from the state accounting system. Some administrators indicate they do not have the time or detailed knowledge required to generate the reports. Mr. Ozoude said that in other states reviewed, agency accounting staff provides the reports. However, he stated the accounting division currently issues a monthly grant tracking report to administrators. The report does not include revenues and expenditures for the states' fiscal year by specified sources but does include matching funds. Whereas, other agencies' grant reports contain this information. Mr. Ozoude concluded that proper tracking of grants would ensure the department stays within the budget and future awards would not be jeopardized.

Mr. Ozoude described the need to establish, revise, and maintain cost allocation rates. He stated the department should ensure indirect costs, are allocated among their programs, when allowed by the grant award. Internal Audits review of the Department's cost allocation revealed indirect costs were not allocated to all programs appropriately. Department cost allocations should ensure programs are charged their fair share of allowable costs.

Mr. Ozoude then discussed the need for correct coding. The accounting division should ensure coding is correct before approving transactions in the state's accounting system. Of the sample, which included fifty journal vouchers processed by accounting, sixty percent were correcting entries.

He said reviewing transactions for correct coding prior to approval would reduce staff time spent on processing correcting journal vouchers.

Mr. Ozoude stated the final item covered was the need to update the department's policies and procedures. He also concluded the department policy is unclear as to who is responsible for monitoring the projects, ensuring all coding is correct, and preventing overspending. In closing, Mr. Ozoude stated that updating and distributing of policies and procedures will enhance effective communication and accountability.

This concluded Mr. Ozoude's presentation, and he asked the committee if there were any questions.

- Question:
Governor Gibbons asked if the department has a grants manager.

Answer:

Mr. Rick Gimlin, Director of Department of Agriculture, replied the department has one management analyst, who was hired solely for the purpose of meeting the requirements of grants financial reporting. The management analyst submits the expenditure reports to the USDA and the Environmental Protection Agency (EPA). Mr. Gimlin said that person is effectively the department's grants manager.

• Question:

Governor Gibbons questioned whether the grants manager reviews the spending and revenue reports for those grants on a weekly basis, to make sure transactions are handled in accordance with the grants.

Answer:

Mr. Gimlin answered that the primary responsibility of the grants manager is to generate expenditure information, and he does not review expenditures and allocation of revenue on a weekly basis.

• Question:

Treasurer Kate Marshall wanted to know if the department or the audit committee analyzed the benefits of a grants manager or a grant writer and suggested that position would pay for itself in an increase in federal grants. She also wanted to know if it would be possible to hire a grant writer.

Answer:

Mr. Gimlin agreed that might be a consideration. The Department has not finished its cost analysis; he stated a grant writer position use to be located in the Division of Administration, which he believed was funded through a cost allocation method that was developed by the Legislature. He also added that if such position was restored to the division of Administration, a cost benefit analysis would have to be done to determine if the indirect costs generated from state grants, would offset the cost of the position.

He was concerned about the adequacy of revenue from indirect costs from the agreements to fund the position. Mr. Gimlin stated concern that the position would be at risk if the number of grant agreements or the amount of indirect costs lessened.

• Question:

Governor Gibbons asked if the auditors found illegalities in the basic accounting procedures.

Answer:

Mr. Chisel said in some instances there were monies received from one source which were used for other purposes. He did not believe however, the split was necessarily illegal. The Department has to determine splits are reasonable and approved by the board.

- Question:
Governor Gibbons questioned if the distribution of funds need to be approved by the board. If so, there should be records of the Board hearing and meetings approving spending being moved from one account for another. The Board decides whether the transfer was legal and appropriate, and therefore approved them, it would have been based on the review of information. Governor Gibbons wanted to know if the Board approved the changes.

Answer:
Mr. Gimlin stated he could not answer on behalf of the board but could give an example. On occasion fees brought into the Livestock Inspection account have been made available for use by the Animal Industry account. He also stated that there is a funding methodology that defines how funds can be allocated between the Animal Industry program and the Livestock Inspection program.

- Question:
Governor Gibbons wanted to know if that could be done in a reverse situation.

Answer:
Mr. Gimlin responded based on certain circumstances, there is statutory authority for the fees raised by the Animal Industry account to go to the Livestock Inspection account.

- Question:
Governor Gibbons commented this issue had been raised by the media before the current director took office.

Answer:
Mr. Gimlin said he remembered the media attention; but, in that case, a statutory reference allowed for laboratory fees to go into the Livestock Inspection account. Those funds are credited to a special use category and used to support the laboratory.

- Question:
Governor Gibbons asked if the laboratory cost sharing is divided appropriately.

Answer:
Mr. Gimlin explained the cost sharing methodology for the Elko and Reno laboratories. In his view, appropriate allocation schedules have been developed for those fees.

There were no further questions.

Mr. Ozoude also stated that the Department asked auditors to look at possible solutions to the management of Nevada's stray horses located in the Virginia Range. He explained that stray horses are horses that run at large. He noted the stray population is anticipated to grow at a rate of twenty-percent per year over the next ten years if left unchecked. Mr. Ozoude stated the current capacity

for the Virginia Range is approximately 550 horses, which is expected to decrease as a result of future housing developments and increased cattle grazing. He suggested the department could use one or a combination of the following five solutions to reduce stray populations:

✓ **Natural Selection.**

Mr. Ozoude said the department could choose not to intervene and let nature take its course. He stated this method may cause increased risk of human-predator interactions; and the stray population could increase.

The department represented that this is a socially unacceptable solution and may result in additional costs to the state.

✓ **Pasturing.**

Mr. Ozoude stated that the department could remove strays from the range and contract with private land owners to hold the horses. He also said that pasturing is estimated to have a cost of \$3.9 million dollars over ten years. He said that the cost includes the use of helicopters to gather the horses and the expenses for care and feeding.

✓ **Sterilization.**

Mr. Ozoude stated that the department could sterilize the mares. He said in 2005 the department received federal funding for experimentation purposes to sterilize 100 mares on the Virginia Range. The cost to sterilize and maintain a range capacity of 550 horses is estimated to be between \$260,000 and \$1.03 million. Mr. Ozoude also said the department could seek federal funding to expand or continue the experiment.

✓ **Guaranteeing an auction price.**

Mr. Ozoude stated this approach guarantees trainers a set price for each stray trained and auctioned.

He said the Bureau of Land Management (BLM) has a program that guarantees \$850 dollars for each horse the Department of Corrections trains and auctions. Furthermore, guaranteeing an auction price provides a cash incentive to trainers.

✓ **Paid Adoption.**

Mr. Ozoude stated the department could pay individuals \$168 dollars to adopt the stray horses. He said this method is used by the BLM after three unsuccessful attempts at auction, and the BLM may also pay to transport the horses to their new homes under the program.

Mr. Ozoude stated that he was unable to quantify the last two solutions, guaranteeing an auction price and paying to adopt. And he stated that opinions differ widely on the potential for success of the last two solutions. Mr. Ozoude stated that the department represents the two solutions are non-viable. He asked the committee if there were any questions.

- Question:
Governor Gibbons asked who has ownership of the wild horses and if they are residing on federal or state property.

Answer:

Ms. Rise stated the horses would fall under BLM; if on federal land. She went on to say however, the horses that are residing on private property, and the department has been tasked with managing those estray and feral horses.

- Question:
Governor Gibbons opined that if the estray or feral horses damage the property of a private property owner, they could ask the state for relief for damage done on his property. He wanted to know what happens if the property owner refuses to let someone remove the horses off the property. Governor Gibbons also asked if the state of Nevada could title the horses over to the private property owner.

Answer:

Ms. Rise stated, in her view the department does not have the authority to trespass onto private property without permission. She said it is possible to title the horses to the private property owner: but, she would have to go through the Attorney General's office.

Attorney General Catherine Cortez Masto responded that she would look into that and get back to Ms. Rise on that issue.

Governor Gibbons expressed his concern for the current horse population on the Virginia Range, compared to its carrying capability. He also noted how difficult it is for the state to manage the horses when most of them are on private property. He also expressed concern as to the increase in the horse population over time.

- Question:
Governor Gibbons asked what percentage of land the horses are on is private property, and what other concerns are currently facing the horses.

Answer:

Mr. Gimlin replied that upwards of ninety-five percent of the range used by the estrays is privately owned.

Answer:

Ms. Rise stated that currently the range situation is at a crucial point. Due to a lack of moisture, the current population of 1,100 – 1,200 horses far exceeds the carrying capacity of the land. She also stated the situation is compounded by development of commercial and residential areas. Ms. Rise added the horses are in very poor condition now and the drought may continue until January or February. She said other concerns are that there might be requests from the public to have the horses fed throughout the winter, catastrophic disease events may occur within the horse herds, and deformities may become more common due to in-breeding.

- Question:
Treasurer Kate Marshall wanted to know about the footnote on page 16, which states: BLM is responsible for horses on the Range. If the BLM removed horses from federal land and then ordered the range free of wild horses, does this leave Nevada responsible for managing the remaining horses.

Answer:

Ms. Rice affirmed that the BLM did remove a number of horses from the range and thereafter declared that property horse free. She also stated that the horses do not recognize boundaries between BLM, state, and private property.

- Question:
Attorney General Catherine Cortez Masto wanted to know if the department had a plan for managing the horses.

Answer:

Ms. Rice said the difficulty in managing the estrays is that the department does not have direct control over managing the property, i.e., forage and range. The department only has a small operating budget, which includes one full-time person who manages the horses according to statute.

- Question:
Governor Gibbons said the state had a plan, but it's not the Department of Agriculture's plan.

Lieutenant Governor Brian Krolicki asked what plan was submitted to the Legislature but not funded.

Answer:

Mr. Gimlin stated that during the last budget-building process, the department submitted an item for special consideration. The request was for about \$650,000 dollars, which would have provided funds to gather and inoculate horses, hire staff, and help the program as a whole. However, under the two-times rule for budget building, it was outside the available funding and was, therefore, not considered.

- Question:
Treasurer Kate Marshall questioned whether the BLM has avoided responsibility, and if any tools could be identified, to ensure the BLM would have to continue to manage stray horses.

Answer:

Ms. Rise stated that it is her understanding that the BLM is responsible for wild horses on federal property, but not on state-owned or private property.

Governor Gibbons said the plan of the state should be to deed these horses over to the private property owners, thereby giving private property owners the responsibility for the estrays. He also said that some property owners refuse to let the state deal with the horses if sterilization is a method by which the state would control them.

Furthermore Governor Gibbons asked if the \$1 million dollars requested for the estray population, was for one-year.

Answer:

Ms. Rise stated it is for a two-year period, the biennium.

Governor Gibbons said he did not want to see the state accept an obligation to feed the horses, which would likely lead to an increase in the horse population. He also said he would like to deed horses over to the property owners who refuse to allow the state to manage them. Governor Gibbons again asked if we could deed them over to those property owners.

Answer:

Ms. Rise reiterated she would check with the Attorney General's office to make sure they had statutory authority to do so.

Governor Gibbons requested she do so.

Medical Marijuana Program

Mr. Ozoude said the fourth and final objective of the audit was to inquire as to whether the department should continue to administer the Medical Marijuana Program. Currently, the program administrator screens the applicants and issues the medical marijuana identification cards, which exempts participants from state and local prosecution for possession of no more than seven plants or an ounce of marijuana for personal use. Mr. Ozoude explained that the Director of the Department does not believe the program belongs in the Department of Agriculture.

After surveying other states it was determined those other states place this program under Health and Human Services. The Department then met with Health and Human Service' representatives and discussed the possibility of a transfer to one of their divisions. Health and Human services stated that they would consider transferring the program to the Health Division.

This concluded Mr. Ozoude's presentation, and he asked the Committee if there were any questions.

• Question:

Governor Gibbons stated that the Legislature had placed the Medical Marijuana Program in the Department of Agriculture, and it would require a statutory change to move it. He asked if the Board of Agriculture had made a recommendation to move the program to another agency, and asked for information on whether another agency would be willing to accept the transfer.

Answer:

Ms. Rise stated the department had spoken with the Board of Agriculture. The board encouraged the department to pursue movement of the program to the Department of Health and Human Services. She also stated that Health and Human Services has agreed to take the program and will initiate the transfer by

interlocal agreement until it can be taken before the Legislature. She also mentioned that, in addition, the Department would recommend a number of changes to the existing statute.

- Question:
Governor Gibbons asked if an interlocal agreement was legal because since statute requires it to be located within the Department of Agriculture.

Answer:
Ms. Rise stated the department had spoken to the Attorney General's office and, initially, it appears to be a possibility.

- Question:
Governor Gibbons questioned how long the drafting and executing of the agreement would take.

Answer:
Ms. Rise replied she could not give a deadline at this time, but would enter into discussions soon. She also said they would have to go through legal reviews to determine the best method for transferring of the program without interrupting service. Governor Gibbons asked if there were any questions or concerns.

Controller Kim Walling offered Ms. Rise the services of her office to help solve the accounting problems related to a transfer.

Lieutenant Governor Brian Krolicki said the department should ensure the Attorney General's office gets everything in writing, for legal purposes.

G. Presentation of Division of Internal Audits audit follow-up report for the Legislative Counsel Bureau (LCB) audit recommendations issued September 21, 2006, and December 14, 2006 – William Chisel, Chief, Division of Internal Audits

The Division of Internal Audits is responsible for following-up on Legislative Counsel Bureau audit recommendations. Follow-up involves going out to the agency several months after the audits are presented and determining the status of those recommendations, then reporting back to the LCB Audit Subcommittee. Nothing of concern was noted at this time.

H. Public Comment

Mr. Richard Daly, Business Manager for "Union Yes," Reno, Nevada, voiced his concern about the legality of using inmate labor. Mr. Daly said, in his view, the use of inmate labor causes unfair competition with free enterprise. He also noted it undermines fair market wages. Mr. Daly cited various sections of the NRS 338 in support of his position. In conclusion, he or other construction laborers could do the job of the prevailing wage, he said

Governor Gibbons thanked Mr. Daly and asked if there was any other public comment.

Mr. Pat Sanderson, Lobbyist for Local 872 in Las Vegas, Nevada stated his concern was for

the poor economy, and that in his view the use of inmate labor would take jobs away from the men and women of the State of Nevada. Further, using prison labor, rather than union laborers are not fair.

In response to a question from Ms. Bridgman, Mr. Sanderson stated he has worked on similar issues with Prison Industries, and inmates have many work programs available through the prison system. He was still concerned about the loss of private sector jobs to the state's general public.

Governor Gibbons commented that it is not this committee's purpose to make changes in law. The committee reviews audits and recommendations. He thanked Mr. Sanderson for his input.

Mr. Gimlin, speaking as a member of the public, rather than a member of the agency, commented on the Agriculture audit. One of the items discussed related to providing information to management and managers so they could make better decisions. To his knowledge similar reports are being requested in other agencies. He also suggested moving toward standard management reports that can be utilized in all agencies. He concluded that providing information to management on a more standardized and state wide basis, similar to reports generated by the Controller's Office, might meet a wider variety of agencies' needs.

Governor Gibbons stated that the role of the Executive Branch Audit Committee is to look at what works best among State agencies. And if those practices meet the needs of the Department of Agriculture, then it is up to department to incorporate them. He concluded that since the Department of Agriculture is controlled by a full-time board, those recommendations should be presented to the board for consideration.

Controller Kim Wallin commented that the Controller's office is looking at ways to streamline the way the agencies report. She said she would work with the agency to design reports that are accurate, standardized and easier to understand.

Governor Gibbons asked if there were any other comments by the general public or comments by members of the board or committee.

Secretary of State Ross Miller asked Mr. Chisel about the audit timeline.

Mr. Chisel stated that the timeline can be challenging because each audit varies. He wanted to know if the committee wanted to look at how Internal Audits sets the priority of the current audits. He explained that first on the list is the Tahoe Regency Planning Agency (TRPA) followed by the Commission on Economic Development and the Commission on Tourism. Further the Attorney General's Domestic Violence and Grants Management programs and Health and Human Services also domestic violence and grants programs are scheduled. Mr. Chisel then asked the committee if they had a different prioritization request.

Secretary of State Ross Miller suggested that at the next audit committee meeting, Internal Audits should give the committee a form or outline to help prioritize upcoming audits.

Governor Gibbons asked to include that as an agenda item for the next committee meeting. Mr. Chisel agreed to make it an agenda item.

I. Comments of Committee Members

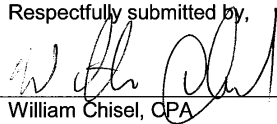
Lieutenant Governor Brian Krolicki asked Mr. Chisel when the Division of Internal Audits might be fully staffed.

Mr. Chisel said he hoped to be fully staffed by November.

J. Adjournment

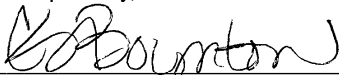
The Governor adjourned the meeting at 12:00 p.m.

Respectfully submitted by,



William Chisel, CPA
Chief
Division of Internal Audits

Prepared by,



Connie Boynton, Administrative Assistant IV
Division of Internal Audits