

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

MINUTES

June 13, 2011

The Executive Branch Audit Committee and the Division of Internal Audits met on June 13, 2011, at the Capitol Building Annex, Guinn Room, 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, Governor's Office, 555 East Washington Avenue, Las Vegas, Nevada.

MEMBERS PRESENT:

Governor Brian Sandoval, Chairman
Lieutenant Governor, Brian Krolicki
Secretary of State Ross Miller
Treasurer Kate Marshall (via telephone)
Controller Kim Wallin (via telephone)
Attorney General, Catherine Cortez Masto
Dana L. Bridgman, CPA, Public Member

DIVISION OF INTERNAL AUDITS

STAFF PRESENT:

William Chisel, Chief
Steve Weinberger, Financial Manager
Mike Colburn, Executive Branch Auditor IV
Warren Lowman, Executive Branch Auditor IV
Vita Ozoude, Executive Branch Auditor IV
Dennis Stoddard, Executive Branch Auditor III
Connie Boynton, Administrative Assistant IV

OTHERS PRESENT:

Copy of sign-in sheet available, contact Connie Boynton, Administrative Assistant IV at cboynton@iaudits.nv.gov.

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

A. Call to Order

Governor Sandoval, Chairman, called the meeting to order at 9:04 a.m. Governor Sandoval welcomed those present. Roll was called and a quorum was noted.

B. Discussion and possible action regarding the minutes from the April 6, 2011 meeting.

Governor Sandoval asked the members if they had reviewed the minutes and asked if there were any requests for changes or deletions to the minutes.

Motion: Move for approval of the minutes of the April 6, 2011 meeting

By: Lieutenant Governor Brian Krolicki

Second: Secretary of State Ross Miller

Vote: Motion approved 7-0

C. Presentation of the Division's six-month follow-up status reports (NRS 353A.090).

Mr. Mike Colburn Executive Branch Auditor (EBA) presented the Division of Mental Health and Developmental Services (MHDS), Residential Supports follow-up status report.

Mr. Colburn introduced Jane Gruner, Deputy Administrator, representing the Division.

Mr. Colburn said the Division operates programs: to assist adults with mental illness, children who are emotionally disturbed and developmentally disabled individuals and, one way the Division helped those clients was to use Residential Supports and monitoring providers. Mr. Colburn said the Division could assist the client by paying rent, food utilities, etc., and could contract with providers to supply services such as behavior and basic living skills training to the clients. He said the Division pays the providers and monitors them through review of the billings and contacts.

Mr. Colburn said the audit addressed:

- ✓ How the Division could improve its Residential Support Program.

Eleven recommendations were issued. Mr. Colburn said the Division fully implemented five; partially implemented five and one was no longer applicable. He said the recommendation that was longer applicable would be discussed later in more detail because of new information just received.

Mr. Colburn addressed the five fully implemented recommendations:

- 1) The Division fully ensures the state pay only for appropriate services. The Division revised policies, and submitted evidence providers and staffs were trained to implement them. The Division provided examples where the monitoring was questioned on billings that were reduced, denied, or sought reimbursement based on the lack of supporting documentation from providers. The division presented evidence to identify provider duplication of services and failure to follow policy.
- 2) The Division eliminated a Holiday Food voucher Program at one of its offices.
- 3) The Division discontinued paying administrative fees to a provider at another of its offices.
- 4) The Division evaluated policies which would preclude clients from working extended periods in its facilities and still receive State benefits.
- 5) The Division documented agreements with outside service providers related to residential supports.

Mr. Colburn addressed the five partially implemented recommendations:

- 1) The Division was in the process of discontinuing paying for provider-staff commutes as provider contracts renew.
- 2) The Division was drafting and beginning enforcing policies for clients to reimburse the state for its cost when they received retroactive benefits or any large sums.
- 3) The Division was revising policies to ensure clients did not receive duplicate benefits from the State and federal government.
- 4) The Division was drafting policies regarding pay for client travel.
- 5) The Division was evaluating the cost benefit of using electronic formats for provider reporting and billing.

Mr. Colburn said recommendations were no longer applicable for fiscal intermediary services because the Division was planning to eliminate the self-directed program which used the fiscal intermediary services. He estimated the Division could save \$650,000 a year by implementing all the recommendations and asked the Committee if there were any questions.

The Committee had none.

Mr. Warren Lowman, EBA, presented the six-month follow-up of MHDS, Mental Health Services.

Mr. Lowman stated Dr. Harold Cook, Administrator would be representing MHDS.

Mr. Lowman said the audit primarily focused on:

- ✓ The productivity of the Division's doctors,
- ✓ Enhancing billings for psychiatric care funded by the state and,
- ✓ The Division's information technology system.

Mr. Lowman said eleven recommendations were made and the Division had fully implemented four of the recommendations, partially implemented four, and taken no action on three of the recommendations.

Mr. Lowman addressed the four fully implemented recommendations:

- 1) Monitor doctor attendance in hospitals.
- 2) Ensure all treatment information and documentation was entered into the Division's electronic medical records and billings system by requiring supervisory review.
- 3) Credential psychiatric staff in order to bill for services.
- 4) Bill Medicare for inpatient, Part B expenses.

Mr. Lowman said the actions by the division had benefited the state by just over \$1 million dollars going for the year 2011.

Mr. Lowman addressed the four partially implemented recommendations:

- 1) Develop policies and procedures to monitor outpatient doctor productivity at least quarterly. Southern Nevada Adult Mental Health Services implemented procedures to monitor doctor productivity to include training staff to ensure accurate reporting of time and billings, monitoring monthly productivity reports, and adjusting doctor's schedules for additional patient appointments. The Northern Nevada Facility was

working to establish policies and procedures although officials maintain their staff was small and easily monitored.

- 2) Include a productivity standard in doctor contracts beginning with the new contracts effective July 1, in the new fiscal year.
- 3) Obtain Medicaid preauthorization and bill Psych exhaust Medicare clients. He said Psych exhaust Medicare clients were those that have used up all of the Medicare benefit but were also eligible for Medicaid. He said the preauthorization was necessary to bill Medicaid for psychiatric services.

Mr. Lowman said Northern Nevada Adult Mental Health services had implemented the recommendation and the Southern Nevada facility had plans to address the issues as priorities allowed. He said the agency had estimated a small number of clients who would be eligible.

- 4) Develop an IT plan in accordance with IT Governance Institute standards. The Division was in the process of reviewing the needs and the capabilities of the current system and expected to complete its review after final budget decisions were made.

Mr. Lowman said the actions by the Division had benefited the state by just over \$250,000 this past fiscal year based on the portion of the recommendation that was implemented.

He stated the Division had taken no action on the following three recommendations:

- 1) Evaluate the Division's standard for outpatient doctor productivity.
- 2) Evaluate the Division's productivity standards for contract doctors.
- 3) Complete a Technical Investment Request that considers modifying and replacing the current electronic medical records and billing system.

Mr. Lowman concluded the Division's final budget decisions might impact its ability to implement the recommendations.

He asked the Committee if there were any questions.

Governor Sandoval addressed only one day in four months was identified where a doctor worked a full day and doctor number five averaged about two hours in the hospital on the days worked. Governor Sandoval wanted to know what the doctors were doing otherwise.

Dr. Harold Cook, Ph.D. addressed the Governor and Committee as to what the doctors were doing. He said in some cases they leave the facility and work at private practice and in other cases he said they didn't know what they were doing. Furthermore, he stated they had done some follow-ups and some of the physicians no longer worked for them and the efforts to manage the particular problem were somewhat successful. The difficulty was trying to impose the standard work requirements that they would want staff to follow, but the physicians either resist or leave. He said they could not operate without physicians. He assured Governor Sandoval they were doing better but not 100 percent.

Governor commented he wanted more information because it was absurd to pay full time hours to those who worked 25 percent of the time. He said there was no mechanism to go back and audit them in terms of collecting a full paycheck and in some instances double-dipping by collecting from the state and their work in private practice.

Dr. Cook commented the most extreme examples that were found no longer work for them and they were unclassified employees and technically they told them if they came to work for two or three hours they were legally entitled to a full day's pay.

Dr. Cook said they wanted to include in their budget elimination of all the internal medicine positions which he said constituted many of the worst actors. He said he wanted to eliminate those positions and contract with a medical management company to oversee the responsibility. He said he would like to see that happen with the entire psychiatric staff, but had some resistance from the Legislature on the issue.

Governor Sandoval expressed he had no problem paying people for time worked, but to be collecting money without working a full day. He commented there were doctors out there willing to work a full-day.

Dr. Cook said they did have doctors that work a full day. He also said a significant number of staff was diligent but the pay rate was relatively low. He said for example in Washoe County they had twelve to thirteen full time employees (FTE) but only able to fill two to three positions with state staff. He said the rest of the staff was on contract because they are paid more than the state employee rate.

Governor Sandoval said he had one more follow-up question and would then take questions from the Committee Members. He asked Dr. Cook if the State could not recapture what was lost now, going forward staff would get paid for hours worked only.

Dr. Cook said the plan going forward was elimination of the internal medicine positions and contracting with a medical management company, as most hospitals do. He said they would have the appropriate contract monitoring in place to ensure they were getting the services that were paid for. Dr. Cook said there were now systems in place to better control the staff's productivity as well as their attendance at work.

Governor Sandoval stated that it wasn't just a money issue but a care issue.

Dr. Cook agreed.

Governor Sandoval said if there was somebody who's only working two out of eight hours a day there were patients that weren't being cared for six hours a day.

Dr. Cook agreed and said corrections were made and monitoring was being done carefully and assured the Governor that no one today is working only two hours a day.

Governor Sandoval confirmed he was going to watch the situation closely because, he said it was not only a monetary and work issue, but it was a patient care issue. He commented people were lying in hospital beds that weren't being cared for. It concerned him deeply.

Dr. Cook agreed.

Treasurer Marshall asked if some of the doctor's were taking some of their patient information off site and doing their write-ups. She said it would help everyone if the doctor's stayed on-site.

Lieutenant Governor Krolicki acknowledged Dr. Cook was in a difficult position. He believed he was trying to make right on the recommendations. He also said it was just one of those audits where you try to find performance audit improvements and make it better but, he said this had fundamental flaws beyond the money as the Governor stated. Lieutenant Governor

Krolicki agreed with the Governor that this was about people who needed care. He said he was hearing the facts and status reports from the auditors but, what was the State doing to make sure Dr. Cook had everything that he needed. He also said they were hounded sufficiently that this be corrected by the next check-up phase in six-months. And, he hoped there was a strategy beyond the current practice. He hoped the auditors had flexibility to watch the implementation on a close basis and wanted to hear from Mr. Chisel how it could be done as swiftly as possible for not just the financial implications but, for the patient care issue.

Mr. Chisel said he would have to rely on Dr. Cook implementing controls to ensure the doctor's were there. He said he could come back and take a look at them in six months to a year if the Committee would request. Mr. Chisel said he did not know what resources he would need to ensure the doctors were there.

Lieutenant Governor Krolicki asked Mr. Chisel if he had believed Dr. Cook was on a pathway to cure the issues in a timely fashion and he asked Mr. Chisel if he had comfort that these things were happening.

Mr. Chisel said he thought Dr. Cook was moving forward on it but, he said as to being resolved couldn't say on that respect. He said he would have to go out and double-check the data to verify it. Mr. Chisel said he knew they had challenges with the doctors in the south implementing some of it and he could not verify where Mr. Cook was to this point.

Lieutenant Governor Krolicki said he was looking for something that does not exist in the accounting world. He said he was looking for an opinion and not for a goal of checking boxes because this was about people. He asked what it was that the Committee could do to assist in clarifying the policies and the ideas of Dr. Cook and his team to address the needs on a timely basis.

Mr. Chisel said they would need oversight on the doctors because they were unclassified positions so they come for a couple hours then can leave. Mr. Chisel personally stated he would send them packing because they were not putting in a full day. He said they would have to rely heavily on the supervisors to ensure they were there for a period of time. He also said they have an electronic card-swipe system that they looked at and he said the system monitors employees when they come and go. Furthermore, he said it could be monitored on a periodic basis on a supervisory level from someone in the MHHDS office.

Lieutenant Governor Krolicki said he was still getting clinical data points from Mr. Chisel and not strategies. He said he didn't want to leave knowing in six-months the Committee would have another set of data points on how successful they were. He said this was about people and demands better attention by the Audit Committee through Mr. Chisel's staff and to make sure Dr. Cook's world was coming back together, whether through regulations, embarrassment or shame; whatever needed to be done beyond the clinical CPA application of technique. He said he thought the Audit Committee could embrace it and put in a little elbow grease.

Mr. Chisel explained his comfort was through data points and analysis and, thought that would provide some comfort to the Committee. He said if the Committee was looking for additional information, he could go out in six-months and take a look at the data and meet with the staff to see how things were going.

Lieutenant Governor Krolicki said it sounded unsatisfying to come back in six-months without a lot of information on whether Dr. Cook was successful or not.

Mr. Chisel stated there was nothing preventing them from starting it today.

Governor Sandoval requested a monthly status report on the progress.

Mr. Chisel confirmed with the Governor that he was talking about the doctor productivity.

Governor Sandoval acknowledged.

Governor Sandoval stated on page 14, the pie chart showed the State productivity standard. He asked Mr. Chisel to explain the productive hours.

Mr. Chisel asked Mr. Lowman to explain.

Mr. Lowman said that included training requirements, other committee meetings, institution committee meetings and those sorts of activities other than the leaves, holidays and the productive hours.

Governor Sandoval stated he was at a loss of words that someone would work for two hours and claim full time, and he expressed he wanted to continue to follow up on a continual basis. He told Dr. Cook they wanted to help him make sure he was getting the services needed for the patients. He also stated the patient side was much more important than the money side. And he expressed great concern that patients weren't getting the needed care.

Dr. Cook appreciated his concern.

Attorney General Masto asked if they were still moving forward with the privatization of certain medical services in the Southern Nevada Adult Mental Health Services.

Dr. Cook said the final budget did include privatization of internal medicine components of the hospital services. He said they were in the process of developing a Request For Proposal (RFP) to do exactly that. His hope would have been to have done the entire facility but he said at this point they were stymied on that.

Attorney General Masto asked if the privatization was just for Southern Nevada or throughout all of the Adult Mental Health.

Dr. Cook replied Southern Nevada. He said Northern Nevada had only one internal medicine doctor.

Attorney General Masto asked what the basis for moving forward was.

Dr. Cook replied the decision was in the budget for the specific purpose and was approved.

Attorney General Masto asked for confirmation if privatization was occurring at this point and time.

Dr. Cook said yes to this point.

Attorney General Masto asked if the changes were being accommodated as a result of the session that was different than what Mr. Cook had anticipated in the November 17th letter.

Dr. Cook said in terms of medical services nothing was substantially different.

Attorney General Masto commented Dr. Cook wished the whole facility was privatized and, asked why the efforts were stymied.

Dr. Cook said he presented the plan to the Legislature and received push back. He said at this point they were still reviewing the options. He said Legislators indicated discomfort with engaging a medical management company for the entire medical staff.

Governor Sandoval asked what the timeline was for the RFP.

Dr. Cook said they had hoped to have a vendor selected by October.

Governor Sandoval asked if the date could be pushed up.

Dr. Cook said he was working with Purchasing and he thought they were at the stage the RFP was completed. He then said he would have to work with Purchasing to get the RFP out on the street.

Governor Sandoval thanked Mr. Cook and commented to the Committee it was better to have closure at least on that piece.

Governor Sandoval asked the Committee if there were further questions.

The Committee had none.

Mr. Chisel said Vita Ozoude, EBA would be presenting the six-month follow-up of the Department of Administration's Vehicle Fleet Management audit.

Mr. Ozoude stated Keith Wells, Administrator for the Motor Pool Division would be representing the Department of Administration. Mr. Ozoude stated the State's Vehicle Fleet included 3,600 vehicles.

Mr. Ozoude said the audit primarily focused on two areas:

- ✓ Non-Managed passenger vehicle usage.
- ✓ Take home vehicle policies.

Mr. Ozoude said Nevada had approximately 1,500 non-managed passenger vehicles and two of the recommendations had been fully implemented. He said they first recommended the Department consider transferring all non-managed vehicles to the Motor Pool Division. During the audit, a Fleet Committee was formed to review state vehicle policies and make recommendations to the Director. He said the Department of Administration (Department) agreed and envisioned a gradual transfer of vehicles over time to the Motor Pool as vehicles were retired or replaced.

Mr. Ozoude said he recommended the Department consider increasing the minimum monthly mileage from 500 to 1,100 miles per passenger vehicle. He said the Department considered the recommendation and amended the mileage thresholds to include a minimum

of 400 miles for individually assigned vehicles, 700 miles for pooled vehicles and established a mileage requirement exemption for some vehicles policies. Alternatively, if the minimum mileage was not met an annual minimum number of days were required. He said the second area looked at involved improving take home vehicles. He said the state had 982 passenger vehicles that were assigned to individuals as take home vehicles.

Mr. Ozoude said two recommendations were partially implemented.

- 1) The Division recommended the Department consider requiring agencies to submit take home vehicle applications to the Board of Examiners (BOE) for approval.
Mr. Ozoude said the Department referred this recommendation to the Fleet Committee for further review.
- 2) The Division recommended the Department consider requiring periodic review of all take home vehicles by the board.

This was also referred to the Fleet Committee by the Department.

This concluded Mr. Ozoude's presentation and asked the Committee if they had any questions.

The Committee had none.

D. Presentation of the Division's annual follow-up status reports.

Mr. Chisel addressed the Committee and stated in Tab 4 they could see a table showing all the outstanding audit recommendations. He said 90 percent of the recommendations had been fully implemented. He asked the Committee if they had any concerns.

Governor Sandoval said it looked like things were going well.

Mr. Chisel said his staff could provide summary letters to give information on what was outstanding if the Committee was interested.

Governor Sandoval said he would be interested if there were major recommendations not being implemented.

Mr. Chisel stated if that happened it is referred to the Committee.

Lieutenant Governor Krolicki commented he saw no red flags except for what was previously discussed.

Mr. Chisel said there was nothing significant at this point.

Controller Wallin wanted to know the status of the Department of Agriculture because she heard there were some recommendations and she was curious about what those were.

Mr. Chisel said he would get the data for her.

Lieutenant Governor Krolicki asked if they could talk about the savings the state saved through the actions of the Internal Audit Division.

Mr. Chisel asked the Committee to look at Tab 6 where the Benefits to Nevadans showed a table with outstanding recommendations over a period of time and the dollar amounts that were attributed to that.

Lieutenant Governor Krolicki talked about integrating it with the Six-month annual reports.

Mr. Chisel agreed it could be done.

Ms. Bridgman, CPA, asked if the year was the first two digits of the report.

Mr. Chisel confirmed it was.

Ms. Bridgman asked what the Committee could do in terms of reviewing anything older. And, she asked if the not applicable recommendations could be closed off.

Mr. Chisel said the Nevada Highway Patrol (NHP) has an issue regarding inventory. He said they were struggling with the inventory on the communication devices. Mr. Chisel said they would contact them to get rolling on it again. He said that is why they don't remove them from the list, to keep them moving on the recommendation. He said NHP was dragging on.

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

1. Office of the Secretary of State – Business Licenses

Mike Colburn, Executive Branch Auditor, presented the audit report. Representing for the Office of the Secretary of State (Office) was, Secretary of State, Ross Miller.

Mr. Colburn said the Office had a number of roles and among them was commercial recordings which accept files, maintains, and provided public access to business entity organizational documents; and issues business licenses. He said statute stated a person shall not conduct business in Nevada unless they have a business license issued by the Office. Furthermore, he stated a business was generally any person or entity that performed a service or engaged in trade for profit. Mr. Colburn said for example, certain non-profit organizations, were also required to apply for business licenses from the Office. He said depending on circumstances, some businesses may qualify for a business license fee exemption.

The audit focused on two areas:

- ✓ How to Capture Revenue from Unlicensed Businesses.
- ✓ How to Verify Nevada business license exemptions.

Capturing revenue from unlicensed businesses Mr. Colburn said the Office should consider the cost benefit of using local government data or techniques to identify unlicensed businesses. He said they sampled 182 businesses licensed by local governments and found 22.5 percent were not in the Office's database. Furthermore, he said once unlicensed businesses were identified, the Office would need to consider how to pursue them. Mr. Colburn said they estimated the Office could obtain up to \$1.9 million in a year in license fees from identifying unlicensed businesses using local government listings.

Mr. Colburn said the office should coordinate with State agencies and local governments to ensure business had Nevada Business Identification Numbers. He said the Office assigns a

unique Nevada Business Identification Number to each business entity it had on file. Based on the findings, not all State agencies required businesses they regulated or contracted with to; provide evidence of a State business license.

Mr. Colburn said they selected sampled of 260 businesses regulated by the State and found 13 percent were not in the Office's database, nor did all local governments require business to require identification numbers. He said if state agencies and local governments collected Nevada Business Identification Numbers, it would facilitate the Office's determining if the business was properly registered.

Secondly, Mr. Colburn said for reviewing whether business license exemptions are allowable. The Office should evaluate obtaining information needed to determine whether businesses met exemption requirements. He also said they should also assess the cost benefit of verifying compliance with exemptions. Mr. Colburn said for example businesses claiming exemptions, include, persons operating a business from their home and net earnings from that business were not more than \$27,000 per year.

Currently, Mr. Colburn said the Office had about \$6.4 million in claimed exemptions, which was about 20 percent of total business license registrations. He said most of the businesses claim home based exemptions.

Mr. Colburn said it was difficult to verify businesses meet the exemption requirements of being home based or having net earnings less than \$27,000 per year. He explained based on a sample of 30 applications, they noted businesses submitting insufficient information to determine whether they were home based. He said the applications reported addresses such as the same address as the business' resident agent's address, and also post office boxes. In addition, he said it was difficult to determine if the business met the earning requirements as the statute does not define net earnings, nor did businesses submit the information.

Mr. Colburn said to evaluate the exemptions, the Office would need to determine if it is legally appropriate to collect evidence of exemptions. He said the Office currently receives only public information for business licenses. Furthermore, Mr. Colburn said to prove businesses qualify for home based exemptions; the Office would need to obtain evidence such as business federal tax returns to enable it to analyze whether the business's net earnings meet the exemption.

Mr. Colburn said the Office would also need to determine if collecting, retaining, and reviewing confidential information was cost beneficial. He said Systems would need to be developed to capture this kind of information from businesses. He also said the staff would need to review the information to determine whether a business qualified for an exemption. Secretary of State Miller said the Office would pursue it with regard to businesses that were doing business in the State who may have filed their local business licenses. He said they were going to attempt to compare although, he said the Office wasn't really structured to do that and, they didn't have the resources. He also said the Office has been an administrative office since its inception. He said the reason the Office started collecting State business tax was because the Department of Taxation (Taxation) lacked the resources to go after and capture the businesses that were suppose to be paying. He said they knew there was a gap between the entities that were on file and the 150 or so thousand, Taxation was collecting from.

Secretary of State Miller said with respect to businesses that were claiming an exemption to the State business license. He said they sponsored legislation this past week that would have largely addressed the problem. He said it ultimately didn't make it through and was disheartening because there were 60,000 Title Seven entities that were claiming they were operating out of the house and making less than \$27,000 a year. He said the audit was suggesting the Office begin verifying that information because as it stood now only a box has to be checked to get a \$200 fee exemption. He also said the audit report substantiated when Taxation collected the information, they never allowed LLC's or corporations to claim that exemption. He said they simply made the mistake in the transition and allowed the businesses that weren't entitled to exemptions before, to start using exemptions. He said nothing in statute had changed.

Secretary of State Miller said Taxation was very clear about it. He said they proposed a regulation, and his office was looking to do through that legislation was to say let's be abundantly clear and revert back to enforce the statute the way Taxation always had. He said to put in place the exact same fee structure, but was met with opposition and he said they were going to continue to fight it. He said they would immediately begin turning off the ability for these businesses that claim the exemption electronically because that was a big area of the abuse. He said they would have to do a cost benefit analysis as to whether or not his Office should be in the business of collecting tax records, collecting affidavits.

Secretary of State Miller said the reason they are such a successful incorporation State was because the State was efficient and not put in a position of verifying paperwork before licenses were given out and he said that was a terrible position to be in and the State would have to propose a regulation to revert back to the same enforcement Taxation had. He said that was about a \$24 million over the biennium and he said he thought that was unfortunate, but that is why he asked Internal audits to come in take a look. He said these were dire financial times and the State was faced with making difficult decisions. He said they should be focused on collecting money that was supposed to be collected and continue going after uncaptured revenue.

Lieutenant Governor Krolicki said he could adopt similar regulations to do what Taxation had.

Secretary of State Miller said nothing had changed in the statutes and the exact same wording for the exemptions was transferred over to our Office. In fact, he said they proposed a regulation and everyone understood the rules as they were. He explained they made the transition and started enforcing the statute differently by allowing corporations and LLC's to claim an exemption. He said the suggestion was they would file a lawsuit because they were given the benefit for two years and now the rug was being pulled out from underneath them but, he said a mistake was made at the expense of the taxpayers for \$24 million. Secretary of State Miller said he believed the authority was there because that was how Taxation codified it was through the regulatory process.

Controller Wallin said the State had a responsibility to do business with people who were licensed. She said her office was in the process of designing a vendor form which would incorporate the Secretary of State's Office and commented she wanted to get everyone working to keep up with the licenses.

Governor Sandoval asked the Committee if they had any further questions.

There were none.

2. Department of Health and Human Services – Division of Welfare and Support Services, Child Care Subsidy Program

Mike Colburn, Executive Branch Auditor, presented the audit report. Presenting for the Division of Welfare and Support Services (Division) was, Romaine Gilliland, Administrator.

Mr. Colburn said the Division operates a program to assist low-income households in paying for their child care needs. He said the program's purpose was to help parents afford child care while working or attending school. He said a child participating in the program must reside within a household with an adult who has custody, be a citizen or non-citizen lawfully admitted into the United States, and generally be less than thirteen years old. He said the program helps households by subsidizing a portion or all their child care. The household's income determines how much subsidy they will receive for child care.

Mr. Colburn said the audit focused on:

- ✓ Improving the Child Care Subsidy Program.

Mr. Colburn said some of the methods the Division could use to improve the program included:

- 1) Requiring informal providers to pass criminal history checks.
- 2) Reporting licensed providers supervising more children than allowed per license.
- 3) Only paying for actual attendance for recreational providers.
- 4) Eliminating registration fees.
- 5) Ensuring contractors verify family eligibility for recreational providers.
- 6) Establishing guidelines for referring cases for investigation, including comparing household child care costs to income.

Mr. Colburn said using these methods, they estimated the Division could reduce child care subsidies by over \$1 million annually or serve some of the 2,000 children on the waiting list.

First, Mr. Colburn said requiring informal providers to pass criminal history checks would enhance the children's safety at providers. Mr. Colburn said informal providers consisted of family members, friends and neighbors. He said care was provided in informal settings such as a residence. Furthermore, he said current policy and discussions with division management disclosed background checks were not required of informal providers. He said an estimated 850 children received informal care in Nevada. He said they surveyed nine other states and noted all require criminal history checks and fingerprinting of informal providers.

Second, Mr. Colburn said requiring contractors to monitor and report providers to the Division of Child and Family Services (DCFS) when the number of children exceeds its license would ensure children were properly supervised. He said DCFS licenses providers such as family care homes. He said family care homes consist of at least one supervisor and no more than six children. He said they noted providers billed for more children than they were licensed for in 60 percent of the family care homes we sampled. Mr. Colburn said providers may not have enough supervisors for the number of children. He said according to Division management, they need to develop policies requiring contractors to monitor the number of children supervised and report when they exceed the DCFS license.

Third, Mr. Colburn said the Division could reduce costs or serve additional children if it only paid for the days children attend at recreational providers. He said recreational providers

include Boys and Girls Clubs and the YMCA. He also said care provides for children before and after school. Mr. Colburn stated Division policies allow it to pay recreational providers for a whole month's worth of service even if the child only attends as infrequently as once a month. However, he said for other providers, the Division only pays for the child's actual attendance. He said most states they surveyed represent they only pay for actual attendance. Mr. Colburn said if the Division paid recreational providers for actual attendance, he estimated a \$790,000 savings a year or serve children on a waiting list.

Fourth, Mr. Colburn said the Division could reduce costs or serve additional children if it discontinued paying registration fees to providers. He said Division policy allows providers to charge initial and annual registration fees for each child supervised. Mr. Colburn said they surveyed nine states and found six do not pay registration fees. He said they estimated the Division could save \$250,000 a year or serve some of the children on the waiting list if it did not pay registration fees.

Fifth, Mr. Colburn said ensuring contractors verify parents' child support when determining eligibility at recreational providers could reduce the cost of subsidies. He said recreational providers were not required to nor did they have the ability to verify whether the parents receive or applied for child support. Furthermore, he said when parents do not report or pursue child support; the State could be paying unnecessary subsidies. He also said to verify parents' child support at recreational providers; the Division could require the providers to forward the applications to the contractors. Mr. Colburn said contractors have access to the Division's database so they may verify the parent received or applied for child support.

Sixth, Mr. Colburn said the Division should establish written guidelines for contractors to use for determining when to refer a case to its investigations and recoveries group to ensure households qualify for subsidies. He said the group investigates suspicious activities, including households concealing income, persons living in the household, and child support. Mr. Colburn also said Investigations and Recoveries can recover funds and/or prosecute the violators. He said contractors do not have written guidelines for when staff should refer cases to Investigations and Recoveries. He said this would include specifically what kinds of activities were suspicious and warrant a referral, such as comparing household child care costs to income. Mr. Colburn said five out of eighty-four children sampled lived in households using 40 percent or more of their income for child care costs. He said the Division states child care should be no more than 10-15 percent of the total income.

This concluded Mr. Colburn's presentation and he asked the Committee if they had questions.

Lieutenant Governor Krolicki stated there was an obvious cost for fingerprinting and processing and asked if that would be at the local level or Child Services regarding Criminal History Checks.

Mr. Gilliland responded by giving some background on the Child Care Program. He said it was administered by the Division of Welfare and Supportive Services through a contractor in the North and a contractor in the South was trained by the Children's Cabinet. He said they were discussing informal providers which were registered with the contractors and, he said they were looking at the feasibility of this and agreeing with the recommendation. He said what they needed to determine was the methodology used through the contractors to obtain those background checks.

Governor Sandoval asked with regards to the attendance issues and paying the non-profits for a full month if a child were only to attend for one day.

Mr. Gilliland said that is what is called "contracted slots". He said before school and after school providers, primarily the Boys and Girls Club and YMCA and other community partners can indeed receive full payment based on one day's attendance. However, he said what they do is informally fill those slots for the remainder of the month. Mr. Gilliland said they don't have an exact percentage of the slots that are attended on a full-time basis. He said they were in the process of obtaining a better way of managing it. He said he believed there would be saving opportunities.

Governor Sandoval expressed the savings was not more money coming back to the State, but providing more services to those kids on the waiting lists.

Mr. Gilliland Agreed. He said they were seeing a reduction in available funding for the next biennium and they were completing a series of meetings with both the contractors and community partners to look at ways of reducing the administrative costs to serve an increased number of children, so the focus would be on expanding the number of children that they could provide child care for.

Governor Sandoval concerned about the registration fee and asked what happens when a child registers with a non-profit provider or with a provider; he asked if he would have to pay a registration fee plus a monthly fee.

Mr. Gilliland confirmed that was correct and, he said they reimburse today up to \$40 registration fees for those recreational providers and up to two per year. He said the first step was to look at reducing that to one reimbursement per year. He stated they would have to be somewhat sensitive to it because those community partners were using recreational fees to help with the eligibility process and they wanted to be sure that, by reducing it too greatly, they were not pushing it back under the primary contractors.

Governor Sandoval asked who the primary contractors were.

Mr. Gilliland said in the north it would be the Children's Cabinet and, he said they would have a contract with the Boys or Girls club or the YMCA and, want to make sure they have adequate funding so they could perform the registration activities at the Boys and Girls Club and not push it back to the primary contractors.

Governor Sandoval asked if the registration fee was in theory going towards the verification process.

Mr. Gilliland agreed in theory yes and, he believed there is an opportunity to significantly reduce it. He said they were reluctant to reduce it in its entirety, but were exploring the possibility.

Governor Sandoval said there was a lot of work and he would imagine verifying all those things in regard to attendance. He said it was realistic to dig a little deeper in terms of ensuring that every dollar is being spent the way it is supposed to be.

Mr. Gilliland agreed there was a lot of work but, was a reasonable expectation.

Governor Sandoval asked if the next follow-up report would be in six months.

Mr. Chisel confirmed the next report would be in six months.

Governor Sandoval said perhaps they needed a quarterly report rather than a bi-annual report.

Mr. Chisel asked the Governor for verification for that particular audit or all audits.

Governor Sandoval referred to the Committee for verification.

Lieutenant Governor Krolicki said it was like the previous issue because these were real care issues involved. He said there were two thousand children on a waiting list and, he said it was worth the goal.

Mr. Gilliland said in his response they did mention there were several interim reports that they would be done along the way.

Governor Sandoval said he and the Committee would like a copy of the interim reports.

3. Department of Health and Human Services – Division of Health Care Financing and Policy, Nevada Check Up

Dennis Stoddard, Executive Branch Auditor, presented the audit report. Presenting for the Division of Health Care Financing and Policy's, Nevada Check Up was, Charles Duarte, Administrator.

Mr. Stoddard said Nevada Check Up provided health insurance to about 22,000 non-Medicaid Families each year. Currently, he said families only paid premiums for this insurance. He said in other states, both premiums and co-pays were made. Mr. Stoddard said the Division should use an actuary to determine the amount it should charge for premiums and whether co-pays should be included. Furthermore, he said Nevada Check Up had not used an actuary when setting premium rates. He also noted during the audit that other states used actuaries to create premium and co-pay structures. Mr. Stoddard said the division should consider using an actuary to determine the optimum balance between premium and co-pays which would benefit recipient families and the State.

This concluded Mr. Stoddard's presentation and asked the Committee if they had any questions.

Lieutenant Governor Krolicki commented the Federal Government didn't require actuarial services because their money was a larger part of this match.

Mr. Duarte said the Federal Government did not require actuarial studies for establishing premiums or co-pays in these programs. He said there were defined new rules that have come out as the result of recent federal legislation including the Affordable Care Act that could limit the ability of states to implement co-pays, premiums and deductibles and any kind of cost sharing for the Children's Health Insurance Program as well as others that were covered in the Medicaid Program. He said there were strict requirements which may not necessitate the use of an actuary in establishing the premiums. However, he said they were

interested in the use of an actuary in looking at the overall benefit design. He said it was something to be considered.

Governor Sandoval asked Mr. Duarte to clarify what he meant when he said "considered".

Mr. Duarte said he needed to make sure the cost was going to be acceptable and he said actuaries were rather expensive. Furthermore, he said they have a contract with an actuarial service. Because actuaries are costly they were trying to be prudent in the terms of what was included in the scope of work.

Mr. Duarte said an actuary has not been necessary to this date because the requirements under federal law limit the states to implement any out-of-pocket costs for children in the Nevada Check Up program.

Governor Sandoval asked how the Committee could get an answer to whether it was legal to charge co-pays or not.

Mr. Duarte said legally you could but financially it was another question. He said he wanted to make sure there was enough general funds and talk with the actuaries to find out if it something they do and what the cost. He said it was a question of whether they could afford to do it. Mr. Duarte said they were not just taking a look at the Nevada Check Up Program but also the Medicaid Program's implementation of co-pays. Again, he stated there were strict limits because of low-income populations in terms of how much they could charge based on the household income for families. He said they were working with a technical team of policy advisors from the centers of Medicare and Medicaid services. He said they agree on the over all recommendations with the co-pays but, he said one of the things that they need to do was assess how the benefits were designed in both programs which was relative with the potential changes that were coming with the Affordable Care Act.

Mr. Duarte explained there would now be almost 500,000 uninsured Nevadans who may get the opportunity to go through the exchanges and may end up on Medicaid or Nevada Check Up. He said they would bounce back and forth between those coverage's and he said, he wanted to make sure there was some integration and policy between those different types of policies that they could access. He said they were again seriously looking at the exchanges to make sure if they did offer premiums or co-pays it, would be consistent. Mr. Duarte commented he knew it would have to be done this biennium. He said he thought the question was whether or not they use an actuary and was to be a financial question for them.

Governor Sandoval stated he understood it would be a challenging situation given the legal challenges and they wouldn't know what the outcome would be but they need to plan for implementation. He said they would need to find the cost of an actuarial study so they would know whether to move forward.

Mr. Duarte agreed.

Mr. Duarte added, if it was too costly for this biennium they could maybe change the scope of work and make recommendation in terms of moving forward with the actuarial study.

Ms. Bridgman asked if any other advisors were used that were not actuaries and asked if it was done in-house.

Mr. Duarte said the Nevada Check-Up premium structure had not changed for several years because it was controlled by income limits and federal regulations. He said an actuary was not something that they required the use of. Mr. Duarte said they do use actuaries extensively to establish rates that are paid to Managed Care Program and those were also required by federal law. He said for the purpose of establishing premium levels they had not used the actuaries, because they were reasonably low and constrained by federal policy.

Ms. Bridgman commented maybe it was an adjustment of mix between premiums and co-pays.

Mr. Duarte said they were intending to look at the mix and whether an actuary was necessary for that. He said they would also look at the cost for the studies.

Ms. Bridgman asked if they were currently reaching the maximums.

Mr. Duarte said not currently. He also said there was money on the table right now that could not be touched because the Affordable Care Act, the Health Care Reform Law which has fixed premiums until 2019. He said under the law the only thing they can play with co-pays. He also said under the income limits in federal regulation was to adjust co-pays because the premiums were fixed and that would add out-of-pocket costs to families in terms of adding the co-pays. He said he did not want it to be a detriment to a child's health care. He said he didn't want to impose unreasonable restrictions on physician office visits or other preventative types of visits. Mr. Duarte said they were talking about a non-commercial population of low-income families who deal with different issues and he said he was working on a commercial plan.

Lieutenant Governor Krolicki thanked Mr. Duarte for what he did and urged Mr. Duarte to use the benchmarks of other states that were similar to adjust the reimbursement rate if appropriate and save the actuarial costs.

Mr. Duarte said they were presently using other states as benchmarks in there evaluation bids that were requested through the federal government. He said they look at policies and reviews of other states.

Governor Sandoval asked Mr. Duarte if they measured the utilization of the families that participate in the program, and asked if they found the utilization reasonable.

Mr. Duarte said on the medical side it was. He also said he thought it was a result of a policy initiative they started in 2007. Mr. Duarte said they had seen an increase in dental check up services. He says they were trying to curb that back because it drives the budget.

Governor Sandoval asked the Committee if there were any more questions. There were none.

4. Department of Health and Human Services – Division of Health Care Financing and Policy – Medicaid Personal Care Services

Warren Lowman, Executive Branch Auditor, presented the audit report. Presenting for the Division of Health Care Financing and Policy's Personal Care Services Program was, Charles Duarte, Administrator.

Mr. Lowman said Personal Care Services includes daily and basic help with grooming and meal preparation, and cleaning needs for many senior citizens and those with disabilities. He said the help allows many citizens to remain in their homes rather than an institution as their only remaining option. Mr. Lowman said the cost was significantly less when citizens can remain in their homes. He said the Division data shows the cost was approximately \$10,000 less annually to help someone live at home and provide personal care services. Furthermore, he said the Division's Personal Care Services were provided by provider agencies contracted by the Division. He said providers supply almost all the services through a personal care attendant. He explained the personal care attendant was the individual who assists the recipient with activities of daily living and other services. He said he found the Division pays \$17 per hour and the average hourly rate for other states was almost \$14.60 per hour. Additionally, he said Nevada's cost of living was slightly lower than the other states and, paying the average rate would save Nevada \$1.7 million annually or a total of \$4 million including federal funds. He said the Division rejected the recommendation to evaluate the rate the state paid to agencies for providing personal care services. Mr. Lowman said in their response the Division noted the rate had been lowered in 2009 and was considered, but not proposed for the upcoming biennium. He said the division further noted it would include the findings from the audit should a rate change be appropriate.

This concluded Mr. Lowman's presentation and asked the Committee if they had any questions.

Governor Sandoval asked what the reaction would be by the care community if there was this type of reduction.

Mr. Duarte said they proposed a rate reduction from \$17 to \$15.50 in the 2009 special session but wasn't accepted. He said there was wide concern expressed by the provider community in the terms of inability to continue services at the current level. He also said he didn't know if that was an accurate reflection of what would have happened with the reduced rates. He said a lot of the administrative costs continue to be met, but often he said it's the employee who sees a reduction in their hourly rate.

Governor Sandoval asked what the take away would be from all of it and asked about monitoring.

Mr. Duarte said they would continue to monitor. He said their efforts had primarily been in two areas, utilization management and reduction of fraud and waste. He said a program had been implemented last year to make sure every individual who needed personal care services got evaluated by a physical therapist to determine their physical capacity to ensure services be planned appropriately. Previously, Mr. Duarte said reviews were done by a nurse and then self attestation by the recipient. He said now the licensed physical therapist or occupation therapist does the review and he said they were seeing significant reductions. Mr. Duarte second area was fraud. He said they had been working closely with the Attorney General Medicaid Fraud Control Unit to cut out the bad providers; both personnel care aids as well as agencies. He commented they had been working aggressively and there had been numerous prosecutions and terminations of contracts as a result.

Governor Sandoval complimented Mr. Duarte and the Attorney General in regards to the scarce dollars the State has. He commented anyone taking advantage of the State, means \$1 less for somebody who needed it. He said he applauded Mr. Duarte and wanted him to continue to be aggressive in that.

Lieutenant Governor Krolicki asked if those services were part of the Senior Assisted Living Program.

Mr. Duarte said it could be but often provided separately. He said they were not a part of the core service the Senior Living program got, but most people that are in that program were also getting personnel care services. He said the monies come from State general funds and Federal funds of the Medicaid Program.

Ms. Bridgman asked what he considered a reasonable benchmark for the average wage over any other state. She said it was a good payback that's used in regards to cost of living and rates paid by other states. Ms. Bridgman said she didn't understand the rejection of the rate in 2009.

Mr. Duarte said other states were not always the best benchmark because it depended on the level of service.

Ms. Bridgman said she didn't figure what the percentage was but, she said it was a significant increase over Nevada's benchmark data that we had.

Mr. Duarte said they looked at other states commercial health plans and, he said they have an audit contractor that advises them and provides them information on what other states were paying. Mr. Duarte said they do get those data points.

Mr. Duarte said there was another consideration to be made in regards to this particular recommendation. He said in 2009 the proposal was rejected by the Legislature. He said it was talked about in the preparation of the Executive Branch and was rejected again because; they didn't want to further disrupt the care delivery system of personal care agencies. He said those were some of the other considerations beyond the benchmarks that were looked at in making their recommendations for the Executive Branch and again he said it was not included in the Executive budget.

Mr. Duarte said previously he had made attempts to get a reduction in the level of payment and again it had not been accepted. He said he has looked at other ways of managing the total expenditures in the area and he said it had primarily been through utilization management and fraud.

Ms. Bridgman said Mr. Duarte was rightly so saying there was more to look at than just what this audit had done. She asked how they got the state averages.

Mr. Chisel said they take a look at the salaries and the administrative coverage and on average they were at higher rate.

Mr. Duarte commented to the Committee they had to look at in terms of rate reduction was a litigation risk and the Office of the Attorney General was assisting with the process. He said other States had been sued as a result of rate reductions in the Medicaid Program. He also said they were trying to be prudent in terms of what they were recommending.

Governor Sandoval said if his recollection is correct, the judgment in California was unfavorable to the state.

Mr. Duarte agreed.

Governor Sandoval said with regards to the States reimbursement rate and specifically the providers who point to the California cases the State needs to be careful about the decisions being made.

Governor Sandoval asked the Committee if there were any more questions.

There were none.

5. Administrative Services Division – Building Depreciation – Nevada System of Higher Education (NSHE).

Warren Lowman, Executive Branch Auditor, presented the audit report. Presenting for the Administrative Services Division was, Evan Dale, Administrator and on behalf of NSHE was Chancellor Dan Klaich; Vice Chancellor for Finance, Mark Stevens, and Assistant Vice Chancellor, Sandra Cardnial.

Mr. Lowman said the Committee previously approved the audit as a follow on to our Building Depreciation Audit of all other State buildings and improvements. Mr. Lowman said at the September Executive Branch Audit Committee Meeting (EBAC) the Division was directed to have the Office of the Attorney General review the audit given the budget situation and the potential impact on NSHE, and the Attorney General determined it could be presented to the Committee. And the final decision belonged to the Legislature. Mr. Lowman said the State may recover depreciation expenses from agencies using buildings and improvements paid for with the General Fund. He also said the State and NSHE were currently collecting depreciation from federal programs. However, federal guidelines require all funding sources to be treated consistently. Mr. Lowman said, for example, as a result of the audit of other state agencies, the General Fund would benefit by approximately \$8.5 million annually in the upcoming biennium from building depreciation expenses recovered from agencies using state-funded buildings, but with revenue sources other than the general fund. He said they estimated the general fund could benefit by almost \$16 million annually from depreciation expenses for State-funded buildings used by NSHE. He also said this amounts to \$415 million over the remaining useful life of buildings and improvements.

Mr. Lowman identified two main NSHE concerns about paying the State depreciation:

- ✓ Building Ownership, and
- ✓ Cost Allocation.

Mr. Lowman when a building, which is wholly or partially paid for by the General Fund, is completed, the State Public Works Board (SPWB) turns over control of the building to NSHE. Likewise, he said other State buildings funded by the General Fund are turned over to the control of State Lands. Mr. Lowman said buildings owned by State Lands were depreciated and charges recovered through the Statewide Cost Allocation Plan (SWCAP).

Mr. Lowman said NSHE did not believe it was subject to building depreciation expenses charged through SWCAP. He said they discussed federal guidelines controlling NSHE and SWCAP with the Office of Federal Financial Management in the Office of Management and

Budget. Mr. Lowman said federal officials told them that NSHE could be charged building depreciation through SWCAP, but would use specific guidelines for institutions of higher education to calculate the amount of building depreciation.

This concluded Mr. Lowman's presentation and asked the Committee if they had any questions.

Governor Sandoval asked Chancellor Dan Klaich if he had any comments.

Chancellor Klaich said he thought the policy was bad and thought there was some questionable legality. He said he understood Mr. Lowman to indicate that, after consultation with the Attorney General, there apparently was advice it was within the realm of the Legislature to make this kind of change. He said he wasn't sure if that meant they were going to do nothing until it goes to the Legislature. Chancellor Klaich said it was a huge concern hanging over the head of the system that \$32 million of General Fund money will be pulled out of the system. He said they would like the opportunity to respond. He said he indicated in the documents that were sent to then Governor Gibbons and the Committee two years ago. He stated he had forwarded those documents to the present Committee.

Governor Sandoval said he didn't believe the Committee wouldn't take any action in that regard. He said this was a recommendation based on an audit, and to take action it would have to be Legislative. He said this would be the basis to accomplish that. He said his understanding was the General Fund had paid for the buildings and once that was done the ownership interest goes to NSHE. Governor Sandoval said thereafter, there wouldn't be a legal position for the State to recover any of the depreciation as time moved on.

Chancellor Klaich thought that was a primary point.
Governor Sandoval said he knew it was over-simplifying things.

Chancellor Klaich said they tried to point out that they believed this was contrary to past Legislative policy from Governors and Legislatures with respect to the ownership of their indirect cost recovery funds that, overtime, the Legislature had put back into the system to fund research. He said he thought it was contrary to that. He also said he wasn't sure what the Office of Management and Budget (OMB) had to say about it, but he said the cited provisions of the SWCAP indicated this was to be pursuant to OMB circular A-87 which didn't apply to them at all. Chancellor Klaich said it was also certified to be reasonably calculated to relate to the services that NSHE received as part of the whole SWCAP to which he said they didn't receive any.

Governor Sandoval commented that the State pays for the building and asked if there was an on-going benefit to NSHE that, according to the audit, should be going to the State or was it not an issue.

Mr. Klaich said when the State uses its General Fund appropriations to assist higher education via capital improvements, ownership was turned over and he said they utilized the building for the benefit of higher education and, presumed, for the State. He said it was difficult for him to answer the question.

Mr. Klaich said he wasn't sure he saw it as an appropriate utilization of the State's authority to look to the system of higher education as a source of General Fund appropriations and revenue. He said everyone has had tough decisions over the past three and a half years.

He said it seemed to be an additional hit that he didn't think they wanted to impose on the system as they try and assist the State in recovering from this economic crisis.

Governor Sandoval said he understood and, it was not the purpose of the Committee to put him in a defensive posture. He said it was an attempt to weed out some information based on the audit that had been done.

Governor Sandoval wanted to give Chancellor Klaich a full forum to publicly present his concerns. He said he did receive and looked over the information that he provided to the Committee. Governor commented he wanted to establish a public record.

Chancellor Klaich asked what happens to the audit after today. He said they had discussions two years ago and it kind of went away and, then a few weeks ago they heard they were on the agenda for June 13, 2011. He asked if this will come up every two years.

Mr. Chisel said the reason it was back on the agenda was because they were waiting for a request to see if it was legal to make the presentation and, once that was determined, June 13, 2011 was the first presentation of the audit. He said they would get with Mr. Evan Dale in six months from now to see if there was any direction given as to implementing the recommendation. Mr. Chisel said it would be a decision made by others as to whether it goes forward.

Chancellor Klaich said if that was the case he would respectfully request the Committee to direct it not move forward for reasons of policy, of legal uncertainty, and for the financial uncertainty that it imposes on NSHE. He said he had not seen a sound policy reason for this and there were certainly problems in going forward. Chancellor Klaich respectfully requested the Committee for a resolution.

Governor Sandoval asked Chancellor Klaich if it was a future liability and if it had to be accounted for in financing.

Assistant Vice Chancellor Sandy Cardinal stated their financial statements don't record a liability. She said depending on the decision of the Committee, they may have to continue to disclose the uncertainty or, if it was not going to be pursued, then it would be removed from the financial statements.

Governor Sandoval said it was important for him to know.

Secretary of State Miller asked if it was a \$32 million uncertainty over the biennium.

Assistant Vice Chancellor Cardinal said yes.

Secretary of State Miller asked what impact it would have if it moved forward in terms of Higher Education.

Chancellor Klaich said they had been through this last session. He said when talking in terms of increments of \$20 million in the last session that had an impact of approximately 500 layoffs. He also said that was approximately 5,000 limitations and access to the system as that money would move away from the system. He said there were program closures associated with that money moved down to the institutions. He said they would drill down

on that with the Board of Regents on Thursday and Friday. He said that was as close as he could answer the question.

Governor Sandoval said the question for him was, it was not going to jeopardize \$32 million worth of programming to have this footnote in there, but you would prefer not to have that footnote was his question.

Chancellor Klaich said he was not going to sequester funds it that was close to the answer to the Governor's question. He said they did have on-going discussions with bond rating agencies. He also said they had another discussion scheduled in two weeks. Chancellor Klaich said they were put on a watch list and wanted to talk to them when the Legislature was over. He said this could be a factor that the bonding agency would take into account. He told the Governor that he was not going to take the money and set it aside, and limit programs.

Governor Sandoval said for him going forward he didn't see making this part of the budget recommendation. He said he didn't know if there was any utility in having the audit move forward. He wanted to hear from the rest of the Committee. He also said he didn't want to see a footnote follow NSHE that would jeopardize a bond rating or cause some type of financial consequence that, for a reason would not move forward anyway.

Lieutenant Governor Krolicki stated he wasn't sure what was trying to be accomplished here. He said he understood the accounting and would love to hear Controller Wallin's view of the SWCAP. He said he didn't think the State had a footnote on its coffer that said they had a potential \$32 million receivable from the university system. He stated he wasn't sure what the goal was. Lieutenant Governor Krolicki said forty percent of their budget came from General Fund. He said it was like having children. He said you give them allowance, and then they need to pay rent on the house. He said he wasn't sure what the ultimate purpose was other than there was an accountability to move things around. He also said the State had obligations to some of their long-term debt. Lieutenant Governor Krolicki said there was a general obligation pledge on some of their outstanding debt and, he said he wasn't sure what the rating implications would be. He said he understood the stand-alones not backed by the State and asked what the end gain was here. He said this was when common sense and practicalities need to come to bear.

Lieutenant Governor Krolicki said if it was pushed to the extreme and NSHE were liable for the \$32 million in the biennium they would get a fancy invoice. He asked what the Legislature's position was and, are they in a position to have to refund or fund them an additional \$32 million. He said they share the audits with the Legislative auditors and said he was interested in their take.

Governor Sandoval said that audit is doing their job and, it was an identified revenue stream. He said the point he was making is if you followed the logic of all of it was someday you could use a bill to build it into 2013 budget. He said he wouldn't use it to do that but they were doing their job. He continued to say he thought it was important the Chancellor was there to identify what the consequences of this would be and he thought they were significant. He said if he was to follow through where this could go, he thought would potentially be built into the budget for the next biennium. He asked Chancellor Klaich if he had any comments.

Chancellor Klaich said he could see the trajectory of where it was going and financing of higher education and he agreed that there had to be a more self-sustaining model because of the limited State resources. He said in response to the Lieutenant Governor he thought his comments were particularly heartening because the policy would put a real chilling affect on the self-sustaining trajectory, because the more successful we were the more we would be speaking with Mr. Chisel and Mr. Lowman with them saying: "The more successful in raising your own revenues, therefore you're moving more into the realm of using buildings that the State has provided with other money and actually increasing your obligation". Chancellor Klaich said it didn't make sense. He said the State told them to go out and help themselves more because of the critical future revenue concerns of the State. He explained they wanted to do that and didn't. He said they certainly had no criticism of Mr. Chisel or Mr. Lowman and he said they had cooperated with them and have had good meetings with them. He said he thought the job they have been doing very well should come to an end.

Governor Sandoval said they were here to advance information. He said they do an incredible job and spend a lot of time doing just that. He said it was then up to the committee to consider the merits of the information they have advanced and whether to move forward. Governor Sandoval gave Mr. Chisel the opportunity to comment.

Mr. Chisel said the intent was not to money grab and he said the State right now did the exact thing. He said they had just implemented where they were collecting depreciation on State buildings. He said it's a requirement of the feds when they pay for depreciation, they expect that depreciation to be charged for everyone equally. They don't want to be singled out and that was the only intent on this, to say: "Look. You may be under the same issue with NSHE as with the State". Mr. Chisel said this was not intended for just data, or a dollar grab.

Governor Sandoval agreed.

Lieutenant Governor Krolicki questioned if we're forty percent General Fund on some things, he said, he assumed the other sixty percent was federal.

Governor Sandoval said the breakdown is federal would be fifteen percent.

Chancellor Klaich asked if they could charge donor funds.

Lieutenant Governor Krolicki commented with the depreciation recapture they're talking about whether they should be getting a good portion of the reimbursement dollars outside the State or the feds.

Mr. Chisel stated it was a little bit of all. He said there were certain buildings that the State had advanced money to NSHE to build and, at that point, that portion could be depreciation that could be captured. He said he wanted to defend the intent of the audit.

Lieutenant Governor Krolicki said he was his biggest fan but said it was coming down to the reality check and where do we want this to go and, he said there was a policy issue.

Governor Sandoval said it was important to have closure today and if there is no intent at looking at this in the future he told Mr. Chisel it could take one more thing off his plate.

Mr. Chisel replied ok.

Governor Sandoval wanted to hear from the other Committee members that we do not take any further action and, he asked if that was appropriate.

Attorney General Masto agreed and she said, at this point and time the university system was entitled to some closure on the issue. She agreed there could be a future time when all could come together to look at the depreciation from the university system. She said it would take the Governor, the Legislature, and the university system to plan for it for the future. She said it was too late now to do anything during this next biennium and agreed at this point not to move forward.

Controller Wallin agreed and said they should just wait right now.

Governor Sandoval said this was not a bolded item on the agenda and the bolded items are the ones that take action. He asked if he could advise the Division of Internal Audits not to take any further action on the item, or did they have to wait until the next meeting to take an official action.

Mr. Chisel perceived they could put an end to the audit and they would not do any other follow-ups.

Governor Sandoval asked if they could take a vote on it.

Attorney General Masto said no but she made a recommendation. She said the concern was that the Department of Administration who has to follow through on the audit not take any further action and she told Governor Sandoval that he could direct the Department of Administration "No more; let's hold off on this".

Governor Sandoval directed Mr. Chisel to take no further action in regard to the audit.

Mr. Chisel agreed to comply with the direction.

F. Discussion and possible action on the status of the Division's Audit Plan. (NRS 353A.038)

Mr. Chisel told the Committee they were currently auditing Taxation and Workforce Investment Board and, they had three departments they were looking at

- ✓ Department of Corrections
- ✓ Health and Human Services – Health
- ✓ Department of Public Safety – Excluding the Office of the Director

Mr. Chisel said those audits were selected using a risk assessment and some of the weighting they used. He said their risk assessment shows the top ten agencies that came up in their risk assessment. He said the biggest determinant of our weight was going to be whether an audit had been performed in the last three years by our Division of by LCB. He said they try to give agencies breathing room but, he said they look at their revenues and the dollar amounts, he said those were the other primary drivers in their determination of risk and those were the three they came up with.

Mr. Chisel stated that if the Committee desired a different priority they could make the adjustments now.

Mr. Chisel said at the last EBAC meeting there was a proposed audit for Department of Motor Vehicles (DMV) – Compliance Enforcement, but LCB is going to do that audit. He said Corrections, Health, and Public Safety were big areas so, they were going to zero in on specific areas and, they wouldn't look at the entire department.

Mr. Chisel asked the Committee if they had any questions.

Governor Sandoval said he thought it was a great plan and asked the Committee if they saw any red flags that came up. He said he would like to hear them sooner rather than the conclusion of the audit.

Ms. Bridgman asked what percentage of the total General Fund would the audits make up.

Mr. Chisel said he would have to eyeball it, that he couldn't tell her.

Ms. Bridgman asked Mr. Chisel how long it takes to get back around to the audits again.

Mr. Chisel said they were rotated fairly regularly especially the big ones like Corrections and Public Safety. He said big dollar agencies were audited on a regular basis between his Division and LCB.

Motion: Move for approval regarding revisions to Division's audit plan.

By: Secretary of State Ross Miller

Second: Lieutenant Governor Brian Krolicki

Vote: 7-0

G. Presentation of the Division's Financial Management's ARRA review status.

Mr. Chisel told the Committee to look in tab 1; page 3, there was a list of the audits that they were doing on ARRA. He said they had completed two of the audits and were anticipating finishing the reset in fiscal year 12.

Mr. Chisel asked the Committee if there were any questions.

The Committee had none.

H. Presentation of the follow-up status for Legislative Counsel Bureau's audit report recommendations issued November 5, 2009 and April 13, 2010

Mr. Chisel told the Committee to look at tab 1; page 4, there was a list of the LCB audits they had performed follow-ups on. Mr. Chisel said after LCB presents their audit, they go out and determine the status and present it to the Director of the Department of Administration who then presents it to the LCB Audit Sub-Committee. He said no significant issues were identified.

Governor Sandoval asked if, there was a document that summarizes to follow-up status.

Mr. Chisel said they do a letter and would make sure the Committee receives a copy.

Governor Sandoval said he would like a copy so he would know what was going on.

Governor Sandoval asked the Committee if there were any questions.

The committee had none.

I. Public Comment

Governor Sandoval asked if any member of the public had comments
There were none.

J. Comments of the Committee Members

There were none.

K. Adjournment

Governor Sandoval called for a motion of adjournment

Motion: Move for approval of motion for adjournment.

By: Lieutenant Governor Brian Krolicki

Second: Secretary of State Ross Miller

Vote: Motion approved 7-0

The Governor adjourned the meeting at 11:10 a.m.

Respectfully submitted by,

Steve Weminger for

Mike Colburn, CPA, Administrator
Department of Administration
Division of Internal Audits

Prepared by,

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