Steve Sisolak
Governor
Chairman

Warren Lowman
Administrator
Division of Internal Audits
Governor's Finance Office

STATE OF NEVADA
EXECUTIVE BRANCH AUDIT COMMITTEE

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MEETING MINUTES

Date and Time: January 28, 2021, 10:00 AM

Location: Pursuant to the Governor's Emergency Directive 006, as extended, there was no physical location for this meeting. This meeting can be viewed on YouTube.

https://www.youtube.com/channel/UCF8zpKli9VhMDNVq_GsEYuQ/live

1. Call Meeting To Order/ Roll Call/ Remarks

Governor Sisolak, Chairman called the Executive Branch Audit Committee meeting to order at 10:00 am. Roll call established a quorum was present.

Members Present:

Governor Steve Sisolak, Chairman
Lieutenant Governor Kate Marshall
Secretary of State Barbara Cegavske
State Treasurer Zach Conine
State Controller Catherine Byrne
Attorney General Aaron Ford
Public Member Trudy Dulong

Governor Sisolak congratulated Public Member Trudy Dulong on her reappointment and thanked her for her commitment, dedication, and willingness to devote so much of her time to these items. Ms. Dulong thanked the Governor for reappointing her and said she looked forward to continuing to serve the public on the Executive Branch Audit Committee.

2. Public Comment

There were no requests to make public comment.

3. Approval of the July 6, 2020 Minutes.

Governor Sisolak asked for changes or corrections to the minutes. Secretary of State Cegavske noted that her staff talked with Division of Internal Audits staff and very minor corrections had been made to the draft minutes.

Motion: Approve the July 6, 2020 EBAC Meeting Minutes.
By: Secretary of State Cegavske
2nd: Controller Byrne
Vote: Passed unanimously

4. Presentation of Audit Reports Pursuant to NRS 353A.085.

A. (DIA 21-01) Department of Administration, State Public Works Division – Tenant Improvements and Building Maintenance.

Heather Domenici, Audit Manager noted Administrator Ward Patrick and Deputy Administrator Ron Cothran were representing the division (SPWD/B&G). The audit focused on enhancing fiscal management of expenditures on building maintenance and tenant improvements. Improved fiscal management is necessary to ensure accurate accounting of expenditures and revenues, reduce delays, and comply with state guidelines. Tenant improvements are agency requested projects facilitated by B&G and paid for by the agency. Building maintenance projects are funded through rent paid by the agency.

To improve transparency, accountability, and fiscal management of these projects, the audit made two recommendations:

First, B&G should define category 13 projects and establish policies and procedures to properly manage and estimate expenditures. B&G has no policy to clarify which types of expenditures should be charged to category 13, tenant improvements versus category 12, building maintenance. Over $200,000 of expenditures associated with these projects were improperly charged in 2018 through 2020. Additionally, $147,000 of agency requested projects could not be completed in 2020 because B&G did not have sufficient budget authority and did not submit a work program to IFC to increase the authority. Defining category 13 projects and establishing policies and procedures help ensure accurate accounting and will reduce delays in completing agency requested projects.

Second, B&G should use activity codes to track category 13 chargebacks. B&G currently tracks expenditures in Advantage (the state accounting system) by the building where the improvement was made rather than the agency to be charged. This tracking procedure is inadequate because expenditures in Advantage cannot be reconciled to B&G's internal tracking report that shows expenditures by agency. The state budget manual requires expenditures to be accurately coded. B&G can code project expenditures by agency using activity codes in Advantage. Tracking by activity codes will insure accurate reconciliation of expenditures to agency chargebacks and increase transparency over the process.

Lieutenant Governor Marshall noted the audit did not address the calculation methodology of rent B&G charges agencies and wanted to make a comment on the record that the issue needs to be looked at and the need to have some transparency in the process.

Warren Lowman, Division of Internal Audits (DIA) Administrator responded the issue of B&G rent calculation could be added to the audit plan the committee would be asked to approve later in the agenda. The Lieutenant Governor agreed.

B. (DIA 21-02) Department of Public Safety, Division of Parole and Probation – Caseloads.

Jeff Landerfelt, Audit Manager noted Chief Tom Lawson was representing the division (NPP). The audit focused on aligning NPP's caseload ratios to improve operational effectiveness. NPP applies caseload ratios to offender forecasts during the budget process to determine staffing needs for case handling positions. The caseload ratios reflect the collective judgement of NPP leadership on the workload to achieve optimal outcomes for supervised offenders. Caseload ratios established in the budget process are not always met. Rather, because of persistent vacancies in case handling positions, NPP often operates at caseload ratios higher than those deemed optimal by leadership during the budget process.

The audit made two recommendations. First, track the caseload ratios based on actual staffing levels. Although NPP tracks caseload ratios at the unit level, caseloads are not tracked in a manner that identifies where imbalances exist at the officer level. DIA's analysis shows that not only are significant portions of officers handling excessive caseloads but positions not intended to directly supervise offenders, Sergeants and Specialists, also carry direct supervision duties. Tracking caseload ratios at the officer level informs leadership when adjustments are needed to achieve optimal caseloads. Operating at desired caseload ratios is essential to performing proper levels of supervision needed to reduce offender noncompliance.

Second, the audit recommends NPP develop a plan to improve retention and expand recruitment. Research shows the law enforcement community is facing unprecedented recruitment challenges nationally; creative approaches are needed locally to ensure adequate staffing of critical public safety functions. High turnover in case handling positions has a direct impact on the effectiveness of offender supervision and results in an estimated $2.1 million annual loss of investment in trained officers. Documenting a plan to address recruitment and retention challenges as an integral part of the strategic plan will promote operational stability and help ensure adequate resources are directed at hiring and retaining individuals with a high potential for success with NPP. Recruitment efforts are centralized for all DPS divisions and this recommendation will be implemented at the department level.

Secretary Cegavske asked if the measures taken by the Governor to add increased pay help with hiring or assist in this issue at all?

Governor Sisolak noted salary and other compensation pressures are a key draw away from the state into municipalities and other law enforcement communities. Addressing salary increases would in fact help stem the tide of attrition. The Governor added there was a salary study done by DHRM that pointed out there is some mismatch in retirement benefits, which is sometimes cited as a key attraction to those officers leaving state service.

Public Member Dulong asked if the audit looked to any other agencies or other states to find anyone who is doing this better than we are or has ideas?

Mr. Landerfelt responded the research was actually pretty vague. It is mostly up to the local jurisdictions to figure out how they are going to best recruit, what are the elements of their compensation package, and other types of benefits they could offer. Best practices are really up to the judgement of hiring agencies because there are so many elements that vary between states, organizations, pay structures, and whether the parole and probation function is separate from or combined with the corrections function. There are lots of elements to consider that deserve attention at the highest levels to create solutions and address retention problems.

C. (DIA 21-03) Department of Corrections – Fiscal Processes.1.

Heather Domenici, Audit Manager noted Director Charles Daniels and his leadership team were representing the department (NDOC). The audit focused on NDOC's fiscal processes with the objective of developing recommendations to improve oversight of fiscal management and accounting practices. The audit found diminished oversight resulted in lost accountability of $29.2 million and reduced transparency for Offenders' Store Fund expenditures, unnecessary work programs, and significant payroll costs. Additionally, NDOC's contracting practices do not comply with state requirements.

The audit made four recommendations for NDOC to improve oversight of fiscal management and accounting practices:

First, NDOC should increase oversight of the Offenders' Store Fund. The audit found an average $11.9 million annually in Offenders' Store Fund expenditures were administered through regulations adopted internally and not in conformance with the Administrative Procedures Act as required by statute. NDOC can increase oversite of the fund by adopting regulations through the public administrative rule-making process, which will comply with legislative guidance, include the public in the process, and ensure rules for administering fund expenditures conform with statutory authority and legislative intent.

Second, NDOC should improve the accuracy of budgetary estimates and expenditure projections. A review of NDOC work programs processed in FY19-20 revealed an average of 64% or $13.6 million were unnecessary or misstated. The majority of these work programs were due to inaccurate projections or expenditure estimates resulting in 84% processed for the same or similar purpose as other work programs. NDOC can improve the accuracy of budgetary estimates and expenditure projections to eliminate these unnecessary and misstated work programs.

Third, NDOC should ensure contracting practices comply with state requirements. NDOC's contracting activities reduce transparency and do not comply with state requirements. NDOC did not disclose a memorandum of understanding to state oversight bodies that was used to improperly amend a $13.5 million state Master Services Agreement for telephone services. Further, NDOC did not obtain Board of Examiners' approval for three cooperative agreements with the U.S. Department of Justice.

Fourth, NDOC should improve oversight of personnel and payroll practices. Diminished oversight over NDOC personnel and payroll practices increases cost to the state by an average $3.7 million annually. Review of payroll registers and accounting records revealed misstated personnel costs recorded in budget accounts and significant overtime and paid administrative leave costs. NDOC can improve oversight over personnel and payroll practices by assigning pay location codes, obtaining approval for moving costs between budget accounts, ensuring employees follow overtime policies, and defining parameters for granting paid administrative leave.

Lieutenant Governor Marshall commented as soon as you bring up the Offenders' Store, over-expenditures, and lack of transparency, she becomes concerned because that is the only place offenders can get things they need or want, like shoes. There have been a number of news articles around the country about people who are incarcerated having to get money from their families but unable to get basic things like shoes. The fact that this is coming up in Nevada's Department of Corrections gives her a lot of concern. She asked to know if the follow-on audit will ensure that because someone is incarcerated does not mean they and their family are forced to buy at the farm shop like indentured servants, so to speak, at high rates, which then keeps the offender in a state of debt.

Administrator Lowman responded that DIA was going to take a deeper look into transactions for the Offenders' Store in the second audit. He added the second audit would get to most of the questions that were asked. He invited Director Daniels to comment on the question of competition to the stores.

Lieutenant Governor Marshall said she was not asking necessarily for competition unless that was a recommendation. She noted the store has a monopoly on anyone who needs anything at either the expense of the offender or their family. Are they able to have simple things like shoes? She saw some offenders working at state buildings and at the Capitol walking around in shoes that are basically taped. She would appreciate the second audit following up on an offender's access to the store for items they need.

Mr. Lowman responded the Lieutenant Governor's concerns would be included in the second audit and asked Director Daniels or his staff if they would like to comment.

Kristina Shea, NDOC Deputy Director for Support Services offered additional clarification. She noted the Offenders' Store issue and the information seen in the news are separate issues. The Offenders' Store Fund and the monies that are subject to NRS 233B are related to the cost of goods sold; anything associated with those costs would be part of what the inmate would actually pay for something. The department is committed to working with the AG's office to ensure NDOC is in compliance with NRS 233B moving forward. Ms. Shea noted there are separate mechanisms for offenders to purchase things versus the cost of goods sold that would be associated with the Offenders' Store Fund.

Lieutenant Governor Marshall thanked Deputy Director Shea and added she realized there is a lot of strain and a lot of vacancies and the kind of job NDOC does is very difficult. A lot of NDOC employees are working under difficult conditions. The Lieutenant Governor stated we still have to be diligent and make sure we are not abusing people or their families simply because they are incarcerated.

Governor Sisolak asked Director Daniels to speak to this issue. The Governor noted when they had this discussion at the Board of State Prison Commissioners that Secretary of State Cegavske and Attorney General Ford are on with him as it related to funding, sending money and the accounting of that money. There was an explanation given about how much can be sent in by the families every quarter for food and for other sundry type items. He asked if someone from NDOC could explain that process?

Deputy Director Shea explained that at the Board of State Prison Commissioners meeting, NDOC discussed AR 258 and there are a couple of different mechanisms. There is the mechanism where families send money directly into an offender's trust account; a lot of the conversation at the Board meeting dealt with the trust accounts. There are also other mechanisms where once the offender receives money into their trust account they can use some of that money to purchase things from the commissary and other avenues. There is also a package program where family members can directly purchase things for the inmates. It is a quarterly system. The limit is currently set at $125 a quarter and depending if it is a clothing item or a fee purchase program there are several different ways inmates receive items. There are department-provided services; the ability for the inmate to receive funds and buy directly from the commissary; the ability for the inmate and their family to send money; and the ability to send packages through the package program.

Director Daniels asked to also share that statutorily, NDOC is required to replace hygiene items, for example underclothing and shoes, at a minimum every six months or when needed. The Director was unsure about what the Lieutenant Governor referenced but said NDOC was statutorily required to provide the basic needs for the inmates and that they do.

Treasurer Conine asked about the grant award where only $63,000 of an $860,000 grant was spent within the initial expected time period. The Treasurer noted there was lots of work being done at the state level to try and increase the amount of federal funds available through grants and one of the big pieces is making sure we project accurately that we can use the funds. He asked how did that happen? How did NDOC request $860,000 and only spend $63,000 of the grant funds?

Deputy Director Shea responded looking at that specific grant forced NDOC to look at grants as a whole. She noted that in general there are a lot of areas for improvement in the department, including making sure NDOC accurately projects the grants and then making sure NDOC is executing them appropriately. Across NDOC there is grant funding that needs to be spent and there are issues with hiring staff able to implement the grant in a timely manner and dealing with the components of the mechanisms of redistribution of the funds. She said NDOC and the leadership team is committed to looking at whether it is an issue of hiring staff, being able to hire contract services, or other issues specifically related to the grants. She noted NDOC is committed to taking a deeper dive into how they can be more successful in requesting and executing grant funding and making sure it is providing programming in accordance with the grants.

Treasurer Conine appreciated the response and offered there might be a way his office could help.

Ms. Dulong offered that she works for a non-profit and they have millions of dollars in federal grants; they do not all get spent and it is not improving. There are a lot of things the federal government makes you go through to even access the grants as far as getting budgets approved. If you do not have all the personnel hired at the time they do not let you draw down the money. She appreciated NDOC is working as hard as they can but just from personal knowledge it is not always easy to spend all the money that they allocate to you.

D. (DIA 21-04) Department of Conservation & Natural Resources, Division of Environmental Protection – Certified Environmental Manager Oversight.

Jeff Landerfelt, Audit Manager noted Greg Lovato, Administrator was representing the division (NDEP). The audit focused on ensuring increased transparency and controlling clean-up costs, with the objective of improving oversight of certified environmental managers (CEMs). Improving oversight of CEMs would help ensure project costs are controlled as established by the cost guidelines.

The audit made four recommendations:

First, NDEP should reconcile project costs. Examination of sampled projects shows improvements are needed for reconciliation of claims associated with remediation tasks. Requiring invoice skill levels to reflect proposed skill levels would help ensure accuracy and prevent inflation of project costs. CEM invoices must be itemized to clearly identify costs associated with a specific proposed task. Ensuring reimbursement claims itemize costs associated with specific tasks and denying claims not meeting criteria will help ensure transparency of invoices.

Second, NDEP should establish a rate schedule for professional services to ensure consistent rates for CEMs. Current guidelines give CEMs the latitude to charge whatever rate they deem appropriate for any professional skill described in the cost guidelines. Examination of sampled underground storage tank projects revealed a 45% variance for staff geologist rates among four different CEMs. Overpayment through rate inflation may amount to as much as $1 million annually. Other states have established rate schedules to minimize variability for projects and professional services; NDEP could do the same.

Third, NDEP should strengthen CEM certification requirements. In a survey of remediation professionals in Nevada, they advised some CEMs may lack the necessary skills to properly assess and design remediation plans. Research indicated that CEM certification in Nevada is not as robust as other states. Strengthening CEM certification requirements will ensure individuals hired to manage remediation projects have a strong working knowledge of geological and engineering principles. Additionally, to improve oversight of CEMs and remediation projects, NDEP should adjust compensation to fill a key site management position. An NDEP site manager would protect the state's interests in remediation projects.

Fourth, NDEP should perform random verification of proofs of payment to ensure owner-operators of storage tanks are fulfilling their 10% financial obligations for remediation costs. NDEP established proof of payment guidelines that identify various claims reimbursement scenarios; however, not all scenarios require source documents, such as processed checks or bank statements to verify whether owner operators are meeting their financial obligations. In an effort to gain business, CEMs could stipulate in an informal agreement with the owner operator that they would accept 90% reimbursement from the fund award as payment in full. This agreement would effectively subsidize the owner-operator for their 10% financial obligation to the CEM. NDEP should randomly verify that appropriate copayments have been made by the owner-operator in scenarios where non-source documents, such as affidavits or letterhead declarations have been accepted.

E. (DIA 21-05) Department of Administration & Governor's Finance Office – Board of Pharmacy, Deferred Compensation.

Jeff Landerfelt, Audit Manager noted Rob Boehmer, Executive Director of the Nevada Deferred Compensation Program was representing the agency (NDC) and Dave Wuest, Executive Director and Brett Kandt, General Counsel were representing the Board of Pharmacy. The audit's objective was to clarify deferred compensation program statutory guidelines to help guide agency decisions.

The audit made two recommendations:

First, NDC should propose legislation clarifying state agency employer matching contributions to employee deferred compensation accounts. Clarifying legislation will ensure all state employees are treated equitably and the intent for state employee compensation limits are adhered to by agency management. NDC is a voluntary 457(b) retirement savings program for employees of the state and local governments. NDC accepts employer matching contributions despite unclear statutory guidance. There is no statutory language providing for employer matches; the language speaks only to managing a program for employee contributions.

The Board of Pharmacy employer matching contributions are unique and generous when compared to public and private sector matches. The Board's 50% match may not be excessive by private sector standards; however, the Board offers both PERS, a defined benefit pension plan, in addition to the deferred compensation plan with employer contribution, which is exceedingly rare in either a public or private sector plan. The Board's contributions may violate the intent of the 95% rule for state employee compensation relative to the Governor's salary. Three other state independent licensing boards contribute to the employees' 457(b) accounts but do so as a percentage of salary regardless of the employee's contribution. None of these boards participate in PERS. The Board of Pharmacy is the only board or state agency that provides contributions to employees deferred compensation accounts and also participates in PERS. The Nevada Deferred Compensation Program plans to fully implement the recommendation by July 2023.

Second, the Governor's Finance Office should refer facts to the Office of the Attorney General to determine if open meeting law violations were made by the Board on deferred compensation match decisions. The Board's approval of match increases may not have been transparent. Board meeting agendas and minutes do not refer to or provide details of deferred compensation match decisions. It appears the Board may have hidden match increases while simultaneously approving increases in license fees for the professionals regulated by the Board. The recommendation will be implemented by March 2021.

Treasurer Conine stated this audit was frustrating to him and was curious, could someone take him through the timeline of when there was a decrease in compensation due to the violations of the 95% rule in the first audit of Nevada's Independent Licensing Boards and when the additional deferred compensation matches were installed?

Mr. Landerfelt explained the first audit addressing salary and identifying those Boards that violated the 95% rule was reported to the committee in June 2018. The Board of Pharmacy was one of the 95% rule violators. The match increase from 10% to 30% was in June 2019; the 10% had been in place for about 20 years. There was another increase from 30 to 50% effective in January of 2020. Evidence from NDC shows a large sum contribution to the fund, retroactive to January 2020, was made in the May-June 2020 timeframe.

Treasurer Conine asked the Board that it all seems pretty coincidental and could anybody explain why that was taken on then as opposed to taken on beforehand, if not for the most obvious reason of trying to get around the 95% rule again?

Dave Wuest responded the timing is this, the match had been on for 19 years, so it is 19 years that the Board had been doing the match, and so what the audit was addressing, the 95% rule being a component of what was in effect for 19 years. The timing for this budget action started in the spring of 2019. It was approved in June 2019, and then the change in salary was actually October 2019. Mr. Wuest commented he understood the question about the timing but they were not related to each other; he referred back to the audit itself where it says the Board was not in violation of the 95% rule, that it is not part of their wage.

5. Presentation of Audit Six-Month Follow-Up Status Reports Pursuant to NRS 353A.090.

A. (DIA 20-05) Board of Pharmacy – Licensing Process.

Jeff Landerfelt, Audit Manager noted David Wuest, Executive Director and Brett Kandt, General Counsel were representing the Board of Pharmacy. Of the five recommendations contained on DIA Report No. 20-05, the Board fully implemented two and partially implemented three.

Regarding the first fully implemented recommendation to establish management oversight of the background check cycle, the Board created a full cycle tracking log with periodic reviews for potentially delayed background checks. The Board also modified the background check procedures manual to clarify that the Executive Director will request a civil name check in all cases when fingerprints have been rejected twice by the central repository.

To address the second fully implemented recommendation to account for fingerprint fees separately, the Board established a separate bank account for fingerprint fees that is reconciled monthly with internal records of background check transactions.

Regarding the three partially implemented recommendations: first, to enforce fingerprint authority more stringently, the Board modified regulation to define person of influence, conduct background checks on those with significant influence, and require licensees to update all officers listed with the wholesalers' official business on the annual registration.

The new regulations also address the second partially implemented recommendation to modify fingerprint protocols for license renewals, which now only require criminal background checks for initial wholesaler licensure but not for license renewal unless the updated annual list includes new stakeholders with significant influence. The new regulations were adopted in August 2020. The Board reports these recommendations have since been fully implemented. DIA will verify that the new regulations are practiced in the first annual follow-up.

The third partially implemented recommendation to require fingerprint background checks for other license types requires legislative action. The Board developed a bill draft request for the 2021 legislative session. Full implementation is expected July 2021.

B. (DIA 20-06) Department of Public Safety, Division of Parole and Probation – Offender Services.

Jeff Landerfelt, Audit Manager noted Chief Tom Lawson was representing the Division of Parole and Probation (NPP). Of the four recommendations contained in DIA Report No. 20-06, NPP fully implemented two and partially implemented two.

Regarding the first fully implemented recommendation to develop additional performance measures for programs and services, NPP modified its strategies to improve the discharge success rate in its most recent strategic plan. NPP also added a performance measure related to the case closure cycle time with underlying strategies to improve key operational support processes.

Regarding the second fully implemented recommendation to allocate resources to other successful programs and services, the April 2020 IFC reviewed and approved NPP's request to transfer funds to the Going Home Prepared category of Indigent Funding. Also, NPP documented in its most recent strategic plan an ongoing commitment to optimize indigent funding availability and obtain counseling program funding through grants and legislation.

Regarding the first of the two partially implemented recommendations to revise the division's definition of recidivism, NPP examined the current definition and considered each element proposed for inclusion by the audit. NPP reports that tracking the discharge success rate and calculating the recidivism rate in the future will capture an accurate picture of ongoing criminalistic behavior. NPP has included a requirement for the calculation of a recidivism rate in the solicitation for a new offender records management system.

To adopt internal controls for offender data, the final partially implemented recommendation, NPP provided updates to three of its operating manuals as guides for enhanced internal controls over data. NPP reports that all other internal control development will be implemented with the new records management system expected to be deployed during fiscal year 2022. DIA will verify full implementation on subsequent annual follow-ups.

Lieutenant Governor Marshall stated it is important that these partially implemented recommendations be followed. These recommendations involve the collection of data that allows us to better determine supervision status at any time and it is important that we collect data to review what measure we are evaluating. The Lieutenant Governor noted other states, Georgia for example, have been very successful in being able to improve outcomes by collecting data and certainly outcomes on recidivism. She stated that if we can find ways to facilitate people not having to return to prison, that is good for everyone. The Lieutenant Governor stated she really appreciated what the audit division is doing here and encouraged NPP to look to collect data so that we can measure what we are doing.

C. (DIA 20-07) Department of Administration, Purchasing Division – Foreign Vendor Management.

Heather Domenici, Audit Manager noted Kevin Doty, Administrator was representing the Purchasing Division. Of the three recommendations made in DIA Report No. 20-07 on foreign vendor management, two are partially implemented while one has no action.

Recommendation one to improve outreach efforts to Nevada vendors and establishing a mechanism to track and measure the program's effectiveness has no action. The division was looking at changing a position to encompass a larger sphere of responsibilities and that has not happened to date.

Recommendation two, to seek a BDR to reinstate the inverse preference law as well as recommendation three to establish a statewide suspended/debarred vendor list will be presented to the 2021 Legislature. Full implementation is expected in July 2021.

Governor Sisolak asked about recommendation one and the position that is not filled to meet the needs identified as part of the audit that included assisting Nevada vendors draft applications for state contract requests for proposal. The Governor emphasized it has been his position and continues to be his position, and he highlighted he thinks he speaks for the Board of Examiners, that when we are getting these vendors we would prefer Nevada-based companies. The Governor asked why was that not done?

Kevin Doty, Administrator responded Purchasing Division had already filled the vendor outreach position prior to last February's EBAC meeting when the audit was presented. It was the intention to hopefully add a trainer position but the division could not get funding. Fortunately, the person hired is well-suited to train Nevada vendors. He is bilingual and served in the Peace Corp where he taught computer skills to people in the Dominican

Republic; he is ideally suited to do more of the training Purchasing Division wants to address towards Nevada vendors. Mr. Doty noted the division had done some of that training but had been limited by the pandemic. He explained the division had to do virtual vendor fairs as opposed to the typical in-person vendor fairs done in the past but they continue to try to add as many Nevada vendors to the list of potential vendors as possible.

Governor Sisolak said he appreciated the intentions and they are good intentions but you know what they say about intentions. The Governor added he knew that everything gets blamed on the pandemic in terms of we could not do it this way, we could not do it that way. The Governor reiterated one more time it is his expressed desire that whenever possible we use Nevada vendors. Whatever Purchasing Division had to do to get this done he was going to assume that it is going to be done by the next audit follow-up. Administrator Doty agreed.

D. (DIA 20-08) Department of Administration, Administrative Services Division – Bond Management and Accounting.

Heather Domenici, Audit Manager noted Mathew Tuma, Administrator was representing the division (ASD). DIA Report No. 20-08 focused on improving bond management and accounting. All three recommendations were partially implemented.

ASD reports broadening evaluation of SPWD project spending assumptions, calculations, and forecast methodology and has begun implementing retrospective forecast reviews. ASD additionally reviewed accounting procedures with staff, increased bond draw oversight, and increased participation in CIP planning processes, bond reallocations, and General Fund authorizations. ASD anticipates fully implementing the recommendations by July 2021 following implementation of the remainder of recommended bond spending forecast actions and completion of updates to written policies and procedures.

Treasurer Conine noted he was constitutionally required to talk about bonds. The Treasurer noted his office had seen the other side of this issue and wanted to thank ASD and everyone else involved for their commitment to making sure that the state borrows just as much money as we need and not a penny more while making sure that we can use those bond funds to get Nevadans back to work. The Treasurer said he was really grateful for the work ASD was doing and glad that it is working out.

E. (DIA 20-09) Governor’s Finance Office – Department of Public Safety, Division of Parole and Probation, Probation Cost Sharing.

Heather Domenici, Audit Manager presented the six-month follow-up of the Governor's Finance Office (GFO) DIA Report No. 20-09 on the Division of Parole and Probation, Probation Cost Sharing. GFO took no action on the one recommendation to develop a cost-sharing formula with counties for probation supervision costs. DIA is waiting a decision by the Office of the Governor on the recommendation.

F. (DIA 20-10) Department of Administration, State Public Works Division – Long-Term Office Space Planning Mechanism.

Jeff Landerfelt, Audit Manager noted Ward Patrick, Administrator is representing the State Public Works Division (SPWD). The audit contained five recommendations to address the state's lack of adequate long-term office space planning. SPWD noted in its response it would pursue legislative authority and funding to implement the recommendations in the 2023 legislative session. SPWD has taken no action on the five recommendations to date.

Governor Sisolak questioned the 2023 implementation date. The Governor noted the 2021 legislative session was starting Monday (February 1, 2021). He asked what has been the delay that we could not do this quicker than this?

Administrator Patrick responded the audit came out in July 2020, which was past the time for BDR requests as well as budget requests and that the audit was untimely in that regards. He anticipated getting started to work immediately after the legislative session and said SPWD will be developing build draft decision models as well as incorporating modifications to the capital improvement program planning process. He said it was SPWD's intention to fully implement the recommendations and the plan was to begin after the legislative session.

The Governor stated there was nothing he could do if it was because of the timeline but he would like SPWD to get going and not necessarily wait till the end of the legislative session because this is extremely important. Governor Sisolak noted he and his colleagues sit on the Board of Examiners and they are approving an awful lot of lease items; the state could save a lot of money and he did not want to put this off to the 2023 legislative session just because of the time the audit was issued. The Governor asked Mr. Patrick to get started on the recommendation as soon as possible. Administrator Patrick agreed.

Governor Sisolak asked how long will it take to get it done if we get a sponsor to carry a bill in the 2021 session? Mr. Patrick stated SPWD had an in-house Deputy Attorney General and would need to consult with her and get back within a day or two. The Governor directed Administrator Ward to get back to him by tomorrow (January 29, 2021).

G. (DIA 20-11) Department of Administration, Purchasing Division – Master Service Agreements for Direct Client Services & BOE Approval Process.

Heather Domenici, Audit Manager noted Kevin Doty, Administrator is representing the Purchasing Division. Of the three recommendations, all were partially implemented.

Recommendation one to delegate authority for procuring direct client services and recommendation three to allow the Clerk of the BOE to approve contracts for direct client services valued up to $100,000 will be included in a BDR submitted to the 2021 Legislature. The direct client services contract will be approved as to form by the Attorney General. The division anticipates that these recommendations will be fully implemented by July 1, 2021.

Recommendation two is also partially implemented. The division is establishing a compliance review program for agencies with delegated procurement authority for direct client services. The division is reviewing Arizona's compliance plan with an emphasis on risk and developing an in-house compliance program based on that model. The recommendation will be fully implemented by July 2021.

H. (DIA 20-12) Governor's Finance Office – Statewide Cell Phone/Mobile Devise Use.

Heather Domenici, Audit Manager stated DIA Report No. 20-12 contained three recommendations. One was fully implemented, one was partially implemented, and one has no action.

Recommendation three to revise SAM to reflect federal guidelines on cellphone stipends is fully implemented. The Board of Examiners approved the SAM update on October 13, 2020.

Per recommendation one, to develop a statewide cellphone mobile device use policy, GFO directed DIA to develop a statewide cellphone mobile device use policy and to update existing guidelines in SAM. DIA will collaborate with state agencies prior to finalizing the draft policy and following research from other states. This recommendation is expected to be implemented by October of 2021.

Recommendation two, to determine the best cellphone mobile device use option and assess if usage data supports cellphone mobile device expenditures, has no action as it is dependent upon the approval and implementation of recommendation one. If recommendation one is implemented, DIA expects recommendation two to be implemented by July 2022.

6. Presentation of Annual Follow-Up Status Reports.

A. (DIA 19-01) Secretary of State, Elections Division.

Heather Domenici, Audit Manager noted Chief Deputy Secretary of State Scott Anderson was representing the Office of the Secretary of State. There were five outstanding recommendations. Since the six month follow-up, the Elections Division fully implemented recommendation two to evaluate using Oregon's recall petition signature verification methodology. Around the same time as the audit, SB450 of the 2019 legislative session increased recall petition signature verification requirements and was signed into law by the Governor on June 1, 2019. The requirements were effective immediately.

The Elections Division reports it has partially implemented recommendations one and three through five. The division anticipates fully implementing recommendations one and three in early 2022 following full adoption of new and revised election regulations. The division anticipates implementing recommendations four and five within the next six to eight months.

Secretary of State Cegavske thanked the auditors for their patience and offered she loved what her office was doing. The Secretary noted everything that the auditors were saying, everything that they recommend is all very good and her office has done an excellent job.

The Secretary thanked Governor Sisolak and said she was very grateful for former Governor Brian Sandoval for suggesting that we have an audit of our divisions.

B. (DIA 19-02) Department of Conservation and Natural Resources, Division of Forestry.

Heather Domenici, Audit Manager noted State Fire Warden Kasey KC was representing the division (NDF). Of the four recommendations made in the audit, one was fully implemented, two were partially implemented, and one has no action.

The recommendation to collaborate with NDOC to expedite the billing process has been fully implemented. The division reported that NDOC and NDF are collaborating to expedite the billing process through communication and process improvements; however, there are still some delays in reimbursements. Recommendation one to automate the billing process was reported partially implemented but expected to be fully implemented by September 2020.

Recommendation three to develop a strategic plan for the wildlife fire protection program is partially implemented; the division still needs to adopt the updated strategic plan. DIA will confirm in the next annual follow-up whether this recommendation has been implemented.

Recommendation four is to seek authority to require participation in the wildland fire protection program. NDF reported there is no action on this recommendation. NDF will not seek authority to require participation but will continue to encourage voluntary participation in the program.

Lieutenant Governor Marshall stated participation allows cost-sharing between the state, cities, and counties where costs are incurred across jurisdictions. The Lieutenant Governor noted it appears that if locals do not participate, then the state is saying it will pay the entire cost. The state paying the cost is a policy decision for the Governor's Office to make, whether or not to require participation in the program and to determine the desired policy.

Governor Sisolak followed up on the Lieutenant Governor's questions and asked if NDF had a reason that some local jurisdictions were not participating, was it because of cost or time or what is it?

State Fire Warden KC responded there were different reasons why some entities are not participating. She noted most agencies across the state participate. A lot of the reasons why they are not participating is fire risk. Some of these departments just do not have a large fire risk. Other participants have a high fire risk and if they cannot budget appropriately for the fires that we are seeing, the increase in fires across the west, they choose to participate.

Clark County is one NDF has been working with over time. Mineral County is another example. NDF is working with Clark County and most entities have joined. NDF is waiting on Clark County, which will probably join this year.

The Governor asked if the problem was just Clark and Mineral Counties?

State Fire Warden KC responded those are the only non-participants other than Lyon County's General District issue that there is not a fire protection district that is actually in charge. A lot of that county is a state park in which NDF is now responsible under the Department of Conservation and Natural Resources. Those are the holes right now.

Lieutenant Governor Marshall asked how much money would the state save if participation in the wildland fire protection program was required?

State Fire Warden KC responded it is not a matter of saving; participation costs the state more money. Once a county decides to participate, it pays in a portion of funds. NDF has a formula that was created through this audit based on fire risk and also the areas within the county where we might be able to reduce those risks. Once a participant, access into NDF's emergency response account, budget account 4196, is granted, which allows NDF to assist counties in paying fire bills after 24 hours. NDF does not cover costs for the first 24 hours.

Lieutenant Governor Marshall asked why we would not want to require participation in something that allows us to reduce risk from fires and work together and collaborate across jurisdictions with respect to fire protection, given that we are in an area of the world where fires are a huge concern.

State Fire Warden KC agreed and noted NDF pulled together a panel of local fire chiefs as well as state and federal wildland and fire managers to discuss participation in the program. The consensus of the fire chiefs was they wanted to have the ability to opt in or opt out, particularly with the cost of opting in for them. NDF continues to show them every year how much the state pays on their behalf for fires. Most all of them are getting a pretty good deal to be in the system. In addition, NDF has beefed up the risk reduction piece in the last few years. NDF is working very closely with each of these departments to do reduction projects in high priority areas and to try to reduce that risk as NDF then owns it, to get them fire trucks or whatever we possibly can do to reduce that risk. It was the consensus of the fire departments to not want to require participation.

In particular, Elko County is an example. When NDF created the formula based on the data, it greatly increased Elko's cost. Elko's cost was just over a million dollars, though the average payout for Elko County is about $2.5 to $5 million annually because the fire risk is high. Elko wanted to continue the option, though they have not opted out. They wanted the option to be able to opt out. If they opt out, they ought to pay for their fire bills.

Governor Sisolak interjected that he did not understand. NDF is saying they get to opt in or out but if they do not opt in they still get help, NDF still covers the costs. The Governor concluded that does not make any sense.

State Fire Warden KC responded that if they opt out NDF does not cover any fire costs. NDF and all responding agencies bill the county, which is responsible for the fire costs.

Governor Sisolak asked to clarify that the local jurisdictions want to maintain the option of opting in or out. If not opting in, are they opting out or is there a middle, Switzerland position? State Fire Warden KC replied most of them are opting in. Most of the local jurisdictions continue to see value and are choosing to opt in other than the couple of counties that do not have a large wildland fire risk.

The Governor asked is Elko in or Elko out? State Fire Warden KC answered Elko is currently in; Elko has been in since the inception of the program. Elko is currently paying at a lesser rate. She noted in the last budget session, NDF tried to give Elko an increased rate annually to try to not have such a high increase at one time.

Governor Sisolak asked how much is Elko paying? Is there a payment plan or what is going on? State Fire Warden KC thought Elko was paying $800,000 on its $1.2 million buy-in rate.

Governor Sisolak advised NDF to get Elko County up to the $1.2 million because everybody has got to pay their fair share. State Fire Warden KC responded that was NDF's goal. The Governor acknowledged the goal and advised it needed to get done.

Lieutenant Governor Marshall stated her view is that costs, work, and best practices need to be coordinated and shared across all jurisdictions and we should be working together. She noted that if Nevada has the kinds of fires seen in Australia and in California, we're all going to be on the hook for the cost, one way or the other. The Lieutenant Governor advised NDF to make sure we are doing this in the most cost effective manner that allows us to potentially mitigate fire risk whether or not a particular area of the state is a high fire risk or not. The Lieutenant Governor suggested this issue deserved further review.

Governor Sisolak thanked the Lieutenant Governor and understood what she was saying but if you are going to be in and opt in and we are obligated to pay the entire expense that is related to a fire, you have got to pay your fair share of opting in. If NDF is telling me there are participants that are $300,000 or $400,000 light, they have to pay or otherwise the other jurisdictions are all subsidizing them again. The Governor said he would appreciate the State Fire Warden taking care of the issue. State Fire Warden KC responded she would and that NDF is negotiating the contracts currently; she appreciated the guidance.

C. (DIA 19-03) Occupational and Professional Licensing Boards – Governance.

Jeff Landerfelt, Audit Manager noted Terry Reynolds, Director was representing the department (B&I). Mr. Landerfelt stated that because legislative action is required, both recommendations contained in DIA Report No. 19-03 on Board governance remain partially implemented. The first recommendation is to establish executive branch oversight of boards under B&I. Currently, B&I has no such authority to oversee the activities of the Boards. B&I reports it will address any related legislation that emerges during the 2021 session. As with the first recommendation, B&I expects to implement the second recommendation to establish standards for regulatory, financial, and administrative operations after it receives the necessary authority.

D. (DIA 19-04) Nevada State Board of Dental Examiners – Board Operations.

Heather Domenici, Audit Manager noted Dr. David Lee, Board Secretary Treasurer, Frank DiMaggio, Executive Director, and Phil Su, General Counsel were representing the Board.

DIA Report No.19-04 focused on enhancing dental board operations. The first annual follow-up was a good news story.

There were four outstanding recommendations. Since the six-month follow-up, the Board fully implemented recommendations one through three by ensuring license compliance monitoring is conducted by investigators instead of at the discretion of the Executive Director; consulting with the Commission on Ethics; requiring ethics law trainings for board members; and hiring employee investigators instead of contractors. The Board reports it has partially implemented recommendation four and anticipates full implementation by April 2022 following adoption of revised regulations by the Legislature.

Governor Sisolak asked if the Board continued to maintain an outside lobbyist? General Counsel Phil Su responded the Board did and recently retained Alfredo Alonzo and his team to assist the Board. The Governor noted the Board had changed outside lobbyists. Mr. Su responded they met in subcommittee to review and consider lobbyist candidates and went to the Board for final approval.

E. (DIA 19-05) Department of Conservation and Natural Resources, Division of Environmental Protection – Petroleum Fund.

Jeff Landerfelt, Audit Manager noted Greg Lovato, Administrator was representing the division (NDEP). Of the five recommendations contained on DIA Report No. 20-06, NDEP has fully implemented three and partially implemented two.

Regarding the first of the three fully implemented recommendations, to adopt internal controls and processes to monitor costs and reduce risks of fraud and/or abuse of the fund by auditing cases and conducting site visits, NDEP developed user guides to ensure consistency when processing claims and to strengthen the approval of claims payments. Additionally, a new Board to Review Claims policy resolution was adopted to consolidate and update several existing policies and resolutions with provisions that outline an inventory and inspection process for remediation equipment reimbursed by the fund. To address the recommendation to revise enrollment and reimbursement policies, NDEP revised an existing Board policy resolution to clarify what clean-up costs are eligible for reimbursement. Additionally, NDEP created a bill draft request for the 2021 legislative session proposing statutory language to clarify pre-registration tank testing requirements. For the final fully implemented recommendation to develop additional risk-based decision making tools to assist in reducing clean-up times, NDEP expanded coordination between responsible units to establish consistency in utilizing risk based decision making tools to expedite the clean-up of cases. NDEP completed a comparative analysis of open cases based on EPA data. This comparison showed Nevada's main clean-up time is about seven years, which is consistent with other states benchmarked in the audit. NDEP has reduced the number of active cases by 18 of the 24 legacy cases identified during the six-month follow-up for possible closure; only six remain in need of additional remediation or monitoring.

For the first of the two partially implemented recommendations to follow statute for third party liability, the audit reported that third party liability funds may only be paid to satisfy third party claims. NDEP staff, citing Board resolution 2007-10, asserted that third party liability funds may be used for corrective actions to mitigate potential third party liability claims. The audit concludes that resolution 2007-10 exceeds the regulatory authority expressed in NAC 445C.280. NDEP supplied legal analysis from staff in the Attorney General's office supporting its interpretation. DIA's position remains that owner-operators may not access funds earmarked for public protection. If additional funds are needed for clean-up, NDEP should seek legislative action to increase regulatory limits. DIA drafted a request for an official opinion from the OAG as to whether the board resolution comports with the intent of NAC 445C.280; this request remains in process.

Regarding the final partially implemented recommendation to adhere to legislative intent for Petroleum Fund awards, NDEP developed a bill draft request for the 2021 legislative session that redefines small business. Proposed definitions include thresholds based on gross income, net income, fuel sales, and fuel through-put.

Secretary Cegavske asked if any of the site visits that she questioned at the last meeting had been done or are being considered to be done and when the OAG opinion regarding the third party liability and funding would be coming? The Secretary asked if the audit staff talked with tank owners during the audit?

Mr. Landerfelt deferred the site visit question to NDEP but noted from the audit that NDEP had changed the resolution to set up a field inspection process for remediation of equipment. He told the Secretary the OAG request had been drafted and submitted to the OAG but had no further status update. In response to the Secretary, Mr. Landerfelt said audit staff did not speak directly with owner operators of underground storage tanks as it was not necessary for data collection in the audit.

Attorney General Ford responded to Secretary Cegavske and said he would check into the status of the OAG opinion request.

Administrator Lovato responded to Secretary Cegavske about the field visits. He said as a part of that recommendation, NDEP has been continuing to verify that the systems are in place and that NDEP had set up processes for doing that. NDEP is requesting additional funding from the petroleum fund as a part of this budget cycle to add a position in order to perform those field visits for the upcoming biennium.

7. Status of Outstanding Audit Recommendations.

Heather Domenici, Audit Manager reported the status of audit recommendations that were still outstanding as of June 30, 2020 and asked for any questions.

Governor Sisolak stated he did not want audit staff to go through the report in detail. The Governor noted this report is 16 pages of outstanding recommendations. The Governor asked when using language like the division represents there will be no further work on the recommendation, that is kind of like an in your face, they are not going to work on the recommendation anymore, is that how I should take that or not?

Warren Lowman, Administrator replied the Governor's interpretation is exactly correct. He explained DIA talks with the agencies to understand why they are making the decision and in some cases ask to continue to follow-up to get to the intent of the recommendation. Essentially what the Governor described is what it is.

Governor Sisolak stated he had a problem with that situation. The Governor noted if DIA has done these audits, and he commended DIA for doing a great job that was absolutely incredible and saving the state a lot of money, and this committee takes the time to listen to them and accept them, and then there are agencies saying well, geez, thanks for the recommendation but stick it, we are not doing anything, he did not like that. The Governor advised sending a letter to each of these agencies and say that is not an acceptable response or do something because he did not know what the rest of the committee feels but a lot of time goes into this work and if agencies categorically dismiss them, he did not appreciate it.

Treasurer Conine interjected he could not agree more.

Attorney General Ford agreed and noted the committee may want to take it beyond a recommendation and make it a directive. He advised that approach would be something to consider as well because he could understand why someone would think that they have the discretion to define a recommendation.

Secretary of State Cegavske offered that she too was not happy about it but we may not know all the circumstances. If Administrator Lowman could go over all of those with the Governor, that would be preferable to make sure. The Secretary agreed with sending a letter asking for more detail why the agencies cannot or are not going to take any more action.

The Governor said he agreed with some of what the Secretary said and noted, for example, the Secretary of State status notes are acceptable. The Governor highlighted the Secretary has a plan and made an adjustment. The Governor thought some agencies just seem dismissive. The Governor directed Administrator Lowman to get with his office on this issue and expressed his intent to follow-up with agencies. Administrator Lowman said he would follow up with the Governor's Office.

8. Estimated Benefits to Nevadans from Audit Recommendations.

Heather Domenici, Audit Manager reported the estimated dollar benefits to Nevadans from audit recommendations that had been implemented. DIA calculates the dollar benefit for nine years following the recommendation being implemented. In Fiscal Year 2020, for every dollar invested in the Internal Audits Section there was a return of $77.

Governor Sisolak commented he had circled that number and said it shows that it is working. The Governor stated he had served on audit committees for Clark County and the university system and he appreciated DIA did not play gotcha with audits and was not trying to catch somebody or embarrass them. The Governor noted these were great recommendations and that is why he was concerned why agencies dismissed recommendations because it is $77 for every dollar invested, $98 million in total, which is absolutely outstanding.

9. Approval of the Division's Annual Report Pursuant to NRS 353A.065.

Jeff Landerfelt, Audit Manager, asked the committee for approval of the 2020 annual report. Mr. Landerfelt described the report contained various details of DIA's accomplishments through the year and asked if any members had questions.

Governor Sisolak commented he appreciated the report and that it was very well done. The Governor asked for a motion on acceptance and approval of the DIA 2020 annual report.

Ms. Dulong, Public Member commented as being a career auditor she would love to motion for approval because it is a great report. Ms. Dulong thanked the DIA staff.

Motion: Approve the DIA 2020 Annual Report.
By: Public Member Trudy Dulong
2nd: Secretary of State Cegavske
Vote: Passed unanimously

10. Approval of the Annual Audit Plan Pursuant to NRS 353A.038.

Jeff Landerfelt, Audit Manager introduced the 2021 annual audit plan and noted that audits in red are additions resulting from DIA's internal risk assessment process since the last audit plan was approved. The 2021 plan will also include the requested audit from Lieutenant Governor Marshal on SPWD/B&G rent calculations.

Motion: Approve the DIA 2021 Audit Plan as amended.
By: Lieutenant Governor Marshall
2nd: Secretary of State Cegavske
Vote: Passed unanimously

11. Committee Members' Comments

Lieutenant Governor Marshall thanked the audit staff for the great jobs they were doing. Governor Sisolak added the committee members appreciate the work of the audit staff.

12. Public Comments

There were no requests to make public comment.

13. Adjournment

Motion: Adjourn the January 28, 2021 EBAC meeting.
By: Attorney General Ford
2nd: Treasurer Conine
Vote: Passed unanimously