

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

**MINUTES  
May 11, 2007**

The Executive Branch Audit Committee and the Division of Internal Audits met on May 11, 2007, at the Capitol Building Annex, Second Floor, 101 N. Carson Street, Carson City, Nevada. The meeting was videoconferenced between the Capitol Building Annex and the Grant Sawyer State Office Building, Suite 4600, 555 East Washington Avenue, Las Vegas, Nevada.

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**MEMBERS PRESENT:** Governor Jim Gibbons, Chairman  
Lieutenant Governor Brian Krolicki  
Secretary of State Ross Miller  
State Treasurer Kate Marshall  
State Controller Kim Wallin  
Dana L. Bridgman, CPA, Public Member

**MEMBER VIA VIDEOCONFERENCE:** Attorney General Catherine Cortez Masto

**DIVISION OF INTERNAL AUDITS  
STAFF PRESENT:** William Chisel, Chief  
Linda Law, Manager

Mike Colburn, Executive Branch Auditor IV  
Paula Ward, Executive Branch Auditor IV  
Joyce Garrett, Executive Branch Auditor III  
Vita Ozoude, Executive Branch Auditor III  
Shannon Selitsch, Executive Branch Auditor II  
Kirk Starkey, Executive Branch Auditor II  
Dennis Stoddard, Executive Branch Auditor II  
Janet L. Hardy, Administrative Assistant IV  
Connie Boynton, Administrative Assistant III

**OTHERS PRESENT:** See attached sign-in sheet.

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

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**A. Call to Order**

Governor Jim Gibbons, Chairman, called the meeting to order at 9:07 a.m., welcomed those present, and asked William Chisel to call the roll. All members except Secretary of State Ross Miller were present, and a quorum was noted. Governor Gibbons outlined how the meeting would proceed, beginning with Agenda Item B.

**B. Discussion and possible action regarding the minutes from the September 28, 2006, meeting as set forth in the backup material.**

Lieutenant Governor Krolicki stated, as the only returning elected official present at the previous meeting, he had reviewed the minutes and no corrections appeared to be in order.

Governor Gibbons called for a motion.

Motion: Move for approval of the September 28, 2006, meeting minutes.

By: Lieutenant Governor Brian Krolicki

Second: Dana L Bridgman, Member of the Public

Vote: Motion approved 6 – 0 (Secretary of State Miller was not present for the vote.)

**C. Discussion and possible action regarding amendments to the Division of Internal Audits' annual audit plan for fiscal year 2007 as set forth in the backup material. (NRS 353A.038)**

William Chisel, Chief, Division of Internal Audits, directed the Committee's attention to Tab 1, which included an amendment to the Division's 2007 annual plan. He discussed the revised list of agency audits to be performed.

Lieutenant Governor Krolicki expressed his appreciation for the approach the Division takes with Executive Branch agencies and others who request assistance. Internal Audits performs these audits in a cooperative, non-adversarial manner by making recommendations to improve the operation or performance of state agencies. This process gives agencies' management another tool they can use to enhance operational efficiency.

Governor Gibbons asked Mr. Chisel to describe how the Division interfaces with the work the Legislative Counsel Bureau (LCB), Audit Division, performs.

Mr. Chisel explained that Internal Audit's schedule and focus is led by this Committee; however, it also coordinates efforts with LCB Audit to avoid overlapping audits and minimize the time and staff impact on agencies. Often, when LCB Audit has examined one aspect of a department, Internal Audit will audit another program or aspect to provide a more encompassing assessment of department operations. The Division also follows-up on the implementation of LCB's audit recommendations.

Responding to comments from Attorney General Cortez Masto, Mr. Chisel said if it appears an audit subject involves issues that might come under investigation, the information is handed off to the Office of the Attorney General. He noted that the Division will work with the Committee and the Attorney General to avoid compromising an investigation and to ensure the process is protected. Ms. Cortez Masto requested audit dates be identified in

future reports, including dates audits are initiated, investigated, and completed. Mr. Chisel agreed that could be done.

Mr. Chisel described the audit selection process resulting from a risk analysis. The Governor requested that audits on the Department of Agriculture and the Tahoe Regional Planning Agency (TRPA) be given priority. Mr. Chisel agreed to give them priority.

Mr. Chisel noted some concern exists regarding two of the planned audits, i.e., whether the Division has clear jurisdiction to carry out audits on non-Executive Branch entities such as TRPA and the Rocky Mountain Low-level Radioactive Waste Board.

The Governor then asked if there were any further questions regarding the amended annual plan. There were none.

Motion: Move for approval of the Division of Internal Audits' amended annual audit plan.

By: State Controller Kim Wallin

Second: State Treasurer Kate Marshall

Vote: Motion approved 6 - 0 (Secretary of State Miller was not present for the vote.)

**D. Presentation of the Division of Internal Audits' six-month follow-up status reports (NRS 353A.090).**

Mr. Chisel described the six-month review process and asked if there were any questions. Treasurer Marshall requested presentations on the six-month report regarding Financial Institutions, Department of Business and Industry.

**1. Department of Business and Industry - Financial Institutions Division**

• Question:

Treasurer Marshall questioned whether the recommendation to improve the revenue collection processes had been implemented.

Answer:

Steven Kondrup, Acting Commissioner of Financial Institutions, affirmed the recommendation was fully implemented and appropriate procedures were in place. The agency's billing and collection procedures were revamped. One full-time position is now responsible for the billing, payments, collections, and follow-up processes for the entire Division. A tracking log for receipts and certified mail was instituted. This system has enabled the Division to track examinations and reviews more closely, avoid delinquencies, and apply late charges where appropriate.

Further, Mr. Chisel explained Internal Audits' monitoring of recommendation implementation begins with the six-month report and continues on an annual basis until recommendations are fully implemented.

**2. Office of the Labor Commissioner – Prevailing Wages**

• Question:

Treasurer Marshall asked for an update on prevailing wage calculations.

Answer:

Michael Tanchek, Labor Commissioner, responded that the commission was treating the three prevailing wage recommendations as one. He discussed how the survey to establish the minimum wage for public works projects was conducted and discussed the 40 percent rule, which is used to establish the minimum wage on certain projects. If a particular wage is reflected consistently on the surveys, then that rate can be accepted and used.

- Question:

Treasurer Marshall asked Commissioner Tanchek if he had written the letter on pages 6 and 7 of the report.

Answer:

Mr. Tanchek replied he had.

Treasurer Marshall said she understood from the letter that Commissioner Tanchek does not need to follow a set rate plan to engage in significant reform of the regulations. She asked if what he meant in the letter was that he is not engaging in the rate setting process by himself.

Mr. Tanchek replied that was correct.

- Question:

State Controller Wallin asked, if \$4 million is being spent to participate in a survey, how are the numbers derived from the survey.

Answer:

Joyce Garrett, Executive Branch Auditor III, stated that she used Oregon as a model. In Oregon, it is mandatory for contractors to respond to the state's prevailing wage survey. We took into consideration Oregon's experience on the number of hours reported by contractors and compared this to the number of hours reported in Nevada. Based on Oregon's experience, we made assumptions on what prevailing wage rates would be in Nevada if the entire construction industry participated in the survey.

Governor Gibbons asked if there were any other questions for the Labor Commissioner. There were none.

3. Department of Corrections: Relief Factor

- Question:

Treasurer Marshall asked if an increase in the relief factor would help to provide security and vacation relief. Would it help to avoid situations where posts are shut down because correctional officers are not available? How serious is the problem?

Answer:

Don Helling, Deputy Director of Correctional Programs, Department of Corrections, stated the Department needs an increase in the relief factor to alleviate security concerns and to comply with new Peace Officers Standards and Training (P.O.S.T.) and Federal Emergency Management Agency (FEMA) requirements. The Department has experienced what is referred to as the "cold shutdown" of positions. He explained cold positions are those that are vacant due to staff shortages. Temporary cold positions are those that are shut down for four hours or less. When staff transfers an inmate to a medical appointment, for instance, hospitals require two correctional officers to accompany an inmate at all times. Those officers must be pulled from other duties. An increased relief factor will provide additional officers, so inmate coverage can remain at an acceptable level.

Darrell Rexwinkle, Deputy Director of Support Services, added, posts are staffed 83 percent of the time as a result of the current relief factor, which does not account for off-post duties such as physical exams, transports, and other situations. Posts must be staffed seven days a week, twenty-four hours a day. To do that, given staff turnover, training time, vacations, sick leave, transports, and range qualifications, the auditors determined it would take a relief factor of 1.824 staff per inmate, rather than the current 1.6 staff per inmate. The estimated cost to move the factor to 1.825 is \$28 million. Most other states surveyed had even higher relief factors.

**4. Department of Employment, Training and Rehabilitation – Employment Security Division**

Treasurer Marshall noted the response letter from the Employment Security Division has a target completion date for the 40-week NDNH database connectivity and outreach project of November 30, 2007. No representative from the agency was present to comment on this item.

**5. Department of Health and Human Services, Division of Child and Family Services**

- Question:  
Committee member asked about training for social workers who were missing over 10 percent of AFCARS (Adoption and Foster Care Automated Reporting System) data elements. If refresher UNITY training is done in Clark and Washoe counties, what about training in other counties?

Answer:

Paul Bowen, Information Technology Manager, Division of Child and Family Services, Department of Health and Human Services, responded that social workers in rural counties have access to training and have the same training requirements as social workers in urban areas.

- Question:  
Committee member wanted to know if the employees' work performance standards have been modified yet.

Answer:

Mr. Bowen responded that he did not know the answer to that, but would provide the information.

**6. Health Division**

• Question:

Are the terminals still too slow for employees to work effectively?

Answer:

Janelle Mulvenon, Chief, Bureau of Early Intervention Services, replied that the agency purchased the terminal service software. It has been installed and is being used at this point.

**7. Department of Motor Vehicles (DMV)**

• Question:

Treasurer Marshall asked how much money could be returned to the transportation fund by using improved registration methods that reduce customer loads in field offices.

Answer:

Kirk Starkey, Executive Branch Auditor II, stated that DMV is working on reducing wait times. Lt. Governor Krolicki added that such methods are more of a convenience for the customer than they are a savings for the state. It is a customer satisfaction approach.

**8. Nevada Institutional Review Board (NIRB)**

- ✓ Establish an annual plan for reviewing research.
- ✓ Submit written reports quarterly to the Homeopathic Board as required by statute.

NIRB will be able to organize and prioritize its activities as well as provide deadlines for the researchers by using an annual plan.

For the quarter ended December 31, 2005, NIRB did not provide the required written reports timely.

• Question:

Treasurer Marshall asked for an update on the status of the NIRB report.

Answer:

Vita Ozoude, Executive Branch Auditor III, stated that legislation on the issue was pending, and he could not comment.

**9. Office of the Military**

Kirk Starkey, Executive Branch Auditor II, stated it was recommended that facility maintenance could be improved by expanding the program to the Henderson, Las Vegas, and Reno-Stead facilities. The agency complied and created an

automated work order system. It is estimated the implementation of this recommendation would reduce costs by \$500,000 annually.

- Question:  
Governor Gibbons asked how federal and state cost sharing would be calculated.

Answer:  
Major Cynthia Kirkland, the Adjutant General for the Office of the Military, stated that the cost-sharing calculation depends on the facility in question. Some facilities are 100 percent federally funded; however, others can be a 25-, 50-, or 75-percent cost split.

- Question:  
Governor Gibbons asked if the maintenance operation costs were allocated based on the ownership or title of the building.

Answer:  
Major Kirkland explained that if the building is a state-owned facility or a state-controlled facility, a larger share of state funds is required. It is generally the state's responsibility to maintain the premises.

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

**1. Department of Business and Industry, Mortgage Lending Division**

Joyce Garrett, Executive Branch Auditor III, Division of Internal Audits, presented the audit report.

Ms. Garrett stated the Mortgage Lending Division was established in July 2003 to oversee and serve the mortgage lending industry. The Division's responsibilities include:

- ✓ Licensing mortgage brokers and agents.
- ✓ Collecting fees to cover costs of licensing and oversight of Nevada's mortgage lending industry.
- ✓ Collecting fees to fund its operating expenditures.

Unused revenue from fees is carried forward annually in the form of a reserve to the next fiscal year.

The audit primarily addressed:

- Lowering license fees to bring the Division's reserve within established guidelines.

Ms. Garrett stated that lowering fees would reduce Nevada's Mortgage Lending Division's reserve by up to \$3.8 million.

This concluded Ms. Garrett's presentation, and she asked the Committee if there were any questions.

- Question:  
Governor Gibbons asked for a status report on mortgage lending companies, e.g., how many are facing a financial crisis and if the Division plans to review or audit brokers and agents who are in jeopardy of failure. If fees are lowered, will the Division still be able to ensure that companies providing mortgage lending services are adequately audited?

Answer:

Scott Bice, Commissioner, Mortgage Lending Division, stated the license and renewal fees are all set in statute. The examination fee, however, is set at \$60 per hour by regulation.

- Question:  
Governor Gibbons asked why examination fees are based on a per-hour rate while licensing fees are not.

Answer:

Mr. Bice responded that the licensing fees on companies and agents were established to cover the cost of doing background checks and ensure individuals meet the standards to obtain licensure. The examination fee of \$60 per hour covers operational audits of licensees.

Further, he stated the examination process results in companies being ranked, based on a rating scale of 1-5. Companies that receive a non-satisfactory score are reviewed more often.

- Question:  
How do you rank mortgage lending licensees?

Answer:

Mr. Bice explained that since the Division received an increase in the number of examiners and increased its examinations of licensees accordingly, non-satisfactory ratings have dropped from 40 percent to 20 percent.

**2. Department of Business and Industry, Real Estate Division**

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

Mr. Stoddard stated the Division regulates the real estate industry, including real estate brokers and sales people. The licensing section employs twelve staff, who license and review all Nevada brokers and sales agents, through its application and renewal process. In addition, licenses must be reviewed the first year and periodically thereafter.

The audit addressed the following issue:

- Implementing an on-line system for licensing and renewal processing.

Mr. Stoddard stated it is estimated that implementing an on-line system could free up five staff members for other duties, saving about \$196,000 annually.



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

- Question:  
Governor Gibbons asked if the on-line licensing would be for both initial licensure and renewals.

Answer:  
Mr. Stoddard stated that the recommendation is for the initial licenses, updates, and renewals.

- Question:  
Treasurer Marshall asked if user rates would increase for on-line processing.

Answer:  
Gail Anderson, Administrator, Nevada's Real Estate Division, said the agency has done cost projections and analyses, based on an anticipated license renewal projection of 22,625 licenses for fiscal year 2008 and a 3-percent convenience fee factor, which includes merchant and all other applicable fees. She noted, when a licensee is required to pay the convenience fee, the on-line participation rate is lower. When the agency absorbs the fee, the on-line usage rate is significantly higher. Real estate license law officials are seeing up to a 90 percent usage rate on-line when licensees pay no fees or a reduced license fee is offered.

- Question:  
Treasurer Marshall asked if the agency plans to pass the 3-percent transaction fee on to on-line users.

Answer:  
Ms. Anderson stated that was an option. The Division has considered using the State's e-payment system.

**3. Nevada State Office of Energy (NSOE) and State Public Works Board**

Mike Colburn, Executive Branch Auditor IV, Division of Internal Audits, presented the audit report.

Mr. Colburn introduced representatives from the NSOE and the State Public Works Board and identified their areas of expertise. He explained the NSOE is responsible for:

- ✓ Energy programming in Nevada.
- ✓ Acquiring and analyzing energy supply and demand data.
- ✓ Preparing annual reports regarding energy issues for the Governor and Legislature.

In addition, the report recommends NSOE's responsibilities be expanded to involve the analysis of energy savings improvement projects by:

- ✓ Monitoring agencies' energy usage, and.
- ✓ Reviewing capital improvement projects for potential energy savings.

The audit addressed the following topic:

Following the lead of other states that require their agencies to identify the type and amount of energy, as well as the age of the equipment used in each facility. This process helps to identify cost-effective energy use and encourages energy savings contracts. Currently, only state Public Works reviews capital improvement projects for energy savings opportunities. The advantage of using energy savings contracts versus capital improvement projects is that energy savings contracts may result in faster implementation and recovery of improvement costs through lower energy bills.

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

- Question:  
Governor Gibbons asked how often agencies would be requested to report data and what impact on agency staff would the collection of that data have.

Answer:

Mr. Colburn explained agencies in other states record the watts off their utility bills and use a basic form to report the necessary data regularly.

- Question:  
Lt. Governor Krolicki asked if the state is on track to achieve a 20-percent reduction in energy consumption by 2015.

Answer:

Rajendra Mehta, Deputy Director of NSOE, stated that the office already requests state agencies to submit the information; however, they rarely respond. Generally, there is no one agency employee designated to be responsible for collecting and reporting the data to NSOE. He asked Lorayn Walsler, who is project lead, to provide an update.

Lorayn Walsler, Grant and Projects Analyst I, NSOE, stated that a spreadsheet was created for the collection of baseline information, e.g., square footage; occupancy; and who is responsible, under the lease, for utility payments. Attaining the 20-percent reduction by the year 2015 is dependent upon balancing usage of agencies' energy costs in older buildings, which may not allow for energy savings, and agencies that are in newer, more energy efficient facilities. Agencies that move into brand-new buildings will likely have lower energy use. Simply changing light bulbs can reduce energy consumption by an estimated 9 percent.

**4. Nevada Office of Veterans' Services**

Kirk Starkey, Executive Branch Auditor II, Division of Internal Audits, presented the audit report.

Mr. Starkey stated the Office of Veterans' Services assists Nevada veterans and their dependents to obtain benefits they are entitled to from the United States Department of Veteran Affairs. Benefits include payments for:

- ✓ Disability,
- ✓ Hospitalization, vocational training, and
- ✓ Pensions.

The audit focused on two areas:

- Can the office improve its service to veterans, and
- Can the office decrease its legal liability risk?

The Office can improve services by seeking approval of four additional Service Officer positions. It was noted that, in a recent survey of other states, Nevada has the lowest ratio of service officers per veteran, which results in long wait times and frustration. An estimated 2,700 veterans go without service in Nevada each year.

The Office should also discontinue its Guardianship Program. The Guardianship Program is court-directed and provides service to only 38 veterans, at an estimated annual cost of \$200,000. The Attorney General's staff stated guardianship programs can create legal liability issues for the State. Other states were surveyed, and none used a guardianship program.

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

- Question:  
Treasurer Marshall asked if there is a way for the agency to help these men and woman without simply refusing them service. Private attorneys charge veterans for their services.

Answer:

Tim Tetz, Executive Director, Office of Veterans' Services, explained that Veterans Services does not refuse to serve any Nevada veteran. He discussed the number and location of participants in the program. Until Veterans' Services gets some specific direction, through this audit and the Governor's office, it is unlikely circumstances will change. Mr. Tetz stated they are doing the best they can for Nevada's veterans with this program

- Question:  
Treasurer Marshall said she wanted to ensure that the veterans are not turned away.

Answer:

Mr. Tetz responded that the Office tries to assist veterans and often puts them in contact with other resources, including the federal Office of Veteran Affairs.

- Question:  
Lieutenant Governor Krolicki asked how much the State would have to invest to obtain that \$15 million in federal benefits for its veterans.

Answer:  
Mr. Starkey answered that the salaries of four additional officers, including benefits, would be about \$317,000, which would come out of the general fund. The return related to having the additional staff is enormous.

- Question:  
Lt. Governor Krolicki said it might be easier to get the positions approved if Internal Audits could quantify the potential federal benefits versus the cost to the State General Fund.

- Question:  
Ms. Bridgman asked if the \$200,000 in savings from discontinuing the Guardianship Program included one staff member and whether the State has paid costs or accrued liabilities associated with the Guardianship Program's fiduciary responsibilities.

Answer:  
Mr. Tetz said the \$200,000 figure Mr. Starkey referred to was in a memo written nine months ago. The figure included the costs of one position; postage, supplies, and maintenance for the 38 client accounts; and legal expenses for the Attorney General. In his opinion, the money would go to better use by helping out the other 300,000 veterans in Nevada. To his knowledge, no liability had been incurred as a result of the guardian's acts.

5. **Department of Administration, Buildings and Grounds, Mail Services**

Paula Ward, Executive Branch Auditor IV, Division of Internal Audits, presented the audit report.

Ms. Ward stated the audit's primary focus was:  
➤ Reducing Mail Services costs.

The State should evaluate contracting with a vendor to provide mail services, which could result in estimated savings to the State of up to \$480,000 per year.

Mrs. Ward described the three types of mail handled by Mail Services. The first type, clean mail, is mass mailing done by state agencies, which is the largest volume of mail handled at 90 million pieces per year. The second type, inter-office mail, includes letters and packages created by state agencies addressed to other state agencies, picked up and delivered by Mail Services. The third type, dirty mail, includes individual letters and packages created by state employees and sent to individuals and businesses, picked up by Mail Services and delivered through the United States Postal Service (USPS). Mail Services processes about 6 million pieces of dirty mail each year. Outsourcing dirty mail could result in an estimated \$480,000 savings to the State annually.

This concluded Mrs. Ward's presentation, and she asked the Committee if there were any questions.

The Committee requested clarification on the following:

- Question:  
Treasurer Marshall asked if Mail Services was leaning towards combining with the State Printing Office or outsourcing the mail.

Answer:

Cindy Edwards, Administrator, Buildings and Grounds, Mail Services, responded that outsourcing the dirty mail is something they are looking at because of cost savings. The process would require a request for proposal to determine the accurate costs of outsourcing. Her preference, however, would be to keep the service consolidated, since she estimated the net cost difference to be only about \$100,000.

Lt. Governor Krolicki complimented Mail Services on its operation. He said, in the years he has been in state government, he has never worried about mail service. In his view, Mail Services does a superb job. Governor Gibbons agreed.

- Question:  
Members asked what factors were considered in the savings calculations to make the comparison.

Answer:

Mrs. Ward responded that costs related to personnel, operating time, equipment upgrades, and depreciation were considered. She noted that Mail Services would be required to have some upgrades made to comply with USPS demands.

**6. Risk Management Division and Central Payroll Division – State Workers' Compensation Program**

Shannon Selitsch, Executive Branch Auditor II, Division of Internal Audits, presented the audit report.

Ms. Selitsch stated Workers' Compensation provides monetary benefits to state employees who have been injured on the job. The administration and oversight of this program is performed by two state agencies:

- ✓ Risk Management
- ✓ Central Payroll

Risk Management, through a third party administrator, issues compensation checks to injured employees; and, Central Payroll provides oversight to ensure that Workers' Compensation checks have been properly processed.

The audit focused on the following:

- Workers' Compensation overpayments, which were about \$14,000 in 2005.

- Ms. Selitsch stated that to prevent overpayments in the future it is recommended that:
- ✓ Risk Management provides a detailed listing of Workers' Compensation recipients to Central Payroll.
  - ✓ Central Payroll uses the listing to detect overpayments and ensure corrections are made by State agencies.

This concluded Ms. Selitsch's presentation, and she asked the Committee if there were any questions.

- Question:  
Governor Gibbons asked for clarification on the difference between Workers' Compensation benefits paid on an injured worker versus the death of a worker?

Answer:

Sue Dunt, Risk Manager, Risk Management, responded that both claims might be considered total disability benefits; however, a different process is used when the death of an individual is involved because benefits go to the spouse or dependents.

**7. Department of Corrections, Correctional Programs Division**

Joyce Garrett, Executive Branch Auditor III, Division of Internal Audits, presented the audit report.

Ms. Garrett stated the Division provides rehabilitative programs to inmates, including educational and vocational training, mental health counseling and therapy, and substance abuse treatment. She briefly outlined the substance abuse treatment program and recidivism rates for those in the program.

The primary focus of the audit was:

- Can the Division enhance performance monitoring of the men's substance abuse treatment program?

Ms. Garrett explained one way to determine the program's success is through measuring recidivism. The audit recommends the program adopt the Department of Corrections' method of measuring recidivism. The program could then compare its recidivism rate to the general inmate population to determine whether the program is successful.

This concluded Ms. Garrett's presentation, and she asked the Committee if there were any questions.

- Question:  
Governor Gibbons asked for an explanation of the recidivism rate calculation.

Answer:

Don Helling, Deputy Director of Correctional Programs, explained a new information system will come on-line July 1, 2007. The new system will collect a wider range of data and be able to retrieve and report information that is more detailed.

8. **Department of Health and Human Services, Bureau of Family Health Services – Women, Infants, and Children Program**

Vita Ozoude, Executive Branch Auditor III, Division of Internal Audits, presented the audit report.

Mr. Ozoude stated the Women, Infants, and Children (WIC) program is federally funded and administered by the Health Division. Nevada currently uses a smart card or an electronic system to deliver monthly supplemental food benefits to about 70 percent of WIC's estimated 50,000 participants. The remaining participants use paper coupons or checks.

The audit addressed the following:

- Can the Division continue to offer WIC benefits electronically, and
- A comparison of the cost of smart cards to magnetic stripe cards.

Mr. Ozoude explained that, due to the need to replace outdated equipment, additional funding is necessary to continue delivering WIC benefits electronically. Texas faced a similar situation and obtained additional federal funding from United States Department of Agriculture (USDA) to update its equipment. The audit recommends that Nevada seek additional federal funding from the USDA or other federal agencies to update its equipment.

Mr. Ozoude stated that based on audit calculations, the annual estimated cost for smart cards is approximately \$1.3 million, while the cost of the magnetic stripe card system is about \$1.7 million, assuming 100 percent participation. On an annual basis, the smart card is less expensive than the magnetic stripe. However, the magnetic stripe card provides a better benefit to vendors, i.e., no additional equipment or training is necessary.

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

The Committee requested clarification on the following:

- **Question:**  
Member asked why this audit was performed.

**Answer:**

Alex Haartz, Administrator, Health Division, stated that the Division disagreed with the USDA regarding whether or not current levels of utilization could be maintained. The USDA suggested it would perform a financial audit of Nevada's program. The Division turned to the Internal Audits staff to validate the Division's position. Program personnel continue to work with the USDA, and it continues to request more financial information and program data.

He stated that the federal position is the State should revert to a paper process if 70 percent participation cannot be maintained under an electronic system. He discussed technological and programmatic differences among the benefit payment options.

- Question:  
Treasurer Marshall inquired about the penetration rate for the smart card versus the magnetic card.

Answer:

Mr. Haartz explained that the difference in penetration rates stems from the number of checkout lanes equipped with card reader systems. Most stores and checkout lanes have debit/magnetic stripe readers, whereas reading smart cards requires additional equipment. Stores that are in the WIC program generally have only one to three lanes available for checkout using smart cards.

Further, smart cards and the paper check system previously used by WIC store or include information that restricts the types and brands of goods that can be purchased. Mag stripe cards do not have that capability and, therefore, participants can buy the brands and goods they choose. Finally, another drawback to a paper check is that it has to be used all at one time, whether it is convenient for the participant or not. Smart cards and mag cards allow buying smaller amounts over time.

**9. Nevada Department of Transportation, I-580 Freeway Extension**

Vita Ozoude, Executive Branch Auditor III, Division of Internal Audits, presented the audit report. He also introduced representatives of Nevada's Department of Transportation (NDOT) and Edward Kraemer & Sons, Inc. (EKS).

Mr. Ozoude explained the funding mechanism used for the construction of most highways in Nevada. Federal highway funding generally pays for 95 percent of the project, while the remaining 5 percent is supported by state and local government revenues. The I-580 Freeway extension is a state and federally funded highway project.

The audit addressed the following:

- History of I-580 Freeway extension.
- Options to resolve disputes.
- Can the Department enhance project management?

Mr. Ozoude stated the I-580 Freeway extension consists of 8.5 miles of freeway that bypasses the rural communities of Pleasant Valley, Steamboat, and Washoe City. The project was begun in 2003 at a contract cost of \$345 million, and the estimated completion date was 2009. Upon entering into a new contract in November 2006, the estimated completion date was revised to 2011. To date, the cost is estimated at about \$440 million. The difference in cost is largely attributable to inflation.

Originally, the project was divided into two packages, A and B, to address budgetary concerns and provide opportunities for local contractors to participate. Package A consisted of the Galena Creek Bridge, which would span 1,722 feet; three other bridges; and an access road. Package B, the larger of the two phases, included two interchanges, three additional bridges, and the roadwork.



The Department designed the Galena Creek Bridge using a unique construction method that incorporated an internal steel pilot truss, which was to be encased in concrete to form the structural arch of the bridge. Package A was put out to bid and was awarded to the lowest bidder, EKS, for \$79.5 million. EKS began construction on the project in 2003 and continued work through April 2006, during which time it completed several structures, including three bridges and access roads.

In April 2006, NDOT and EKS were involved in a dispute over the safety of constructing the bridge using NDOT's design in a wind-prone area. At that time, EKS was about 577 days behind the projected schedule. Both parties brought in engineering experts to assess the safety issue; however, no resolution was reached. In June 2006, to avoid potential litigation and further delays, NDOT and EKS agreed on a "no-fault termination" of the contract.

In November 2006, NDOT awarded a new contract for the remaining construction of the project to Fisher Sand & Gravel Company for \$393.3 million, which included the completion of the remaining Package A work, the Galena Creek Bridge, and all of Package B. The completion date was revised to 2011.

Mr. Ozoude stated that to improve project management NDOT should consider implementing a design-build process used by several other states, which he contrasted to NDOT's design-bid-build process that was in use in 2003. Experience in those states has been favorable, because design-build tends to decrease the amount of time it takes to get a project to bid and it moves the responsibility and liability for the final detailed design to the successful bidder. This also shortens project completion time.

He also described the use of escrow documents. Escrow documents are used by several states to avoid or resolve disputes regarding specifications and to capture the parties' initial understanding of bid documents and requirements. If escrow documents had been available for the I-580 Freeway extension, some aspects of the dispute may have been resolved. He recommends that the Department consider using escrow documents.

The difference between the 2003 estimated cost and the 2006 revised cost, approximately \$100 million, was primarily attributable to inflation, he said.

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

- Question:  
Lt. Governor Krolicki asked why NDOT has not used the escrow documents in the past.

Answer:  
Rick Nelson, Assistant Director of Operations, NDOT, stated that, although some other states have used escrow documents, it is not a universally accepted practice. The Department will have to establish policies and procedures for their use before the process can be implemented.

- Question:  
Governor Gibbons asked if the design-build process saves time and money.

Answer:

Mr. Nelson replied that when you are looking for speed and expeditious construction there are advantages and disadvantages. The advantage is that a team of engineers have the opportunity to employ innovation and creativity and may be able to uncover ways to mitigate some scheduling concerns that the contractor might have. That can save the state money. The speed at which a project is completed can have a financial benefit by avoiding inflationary materials costs over the life of the project. The disadvantage to design-build is that risk is being transferred from the owner or the State to the contractor, and you have to pay for that transfer of risk.

- Question:

Governor Gibbons asked if increase in project cost was principally due to inflated material costs or design changes.

Answer:

Mr. Nelson stated that there were minor design changes and discussion of the internal structure. However, during the period EKS was contractor, a period of hyperinflation was experienced in the construction industry, especially in the cost of concrete and steel.

- Question:  
Governor Gibbons asked for a cost breakdown of steel and concrete.

Answer:

Mr. Nelson discussed the use of concrete and steel in the project and stated that it was unfortunate that the pilot truss had not been accepted and incorporated into the bridge.

- Question:  
Governor Gibbons asked if the Department had incorporated a new pilot truss into the contract with the new contractor.

Answer:

Mr. Nelson responded yes. He also discussed other matters relating to the design method and execution of the new contract.

- Question:  
Governor Gibbons wanted to know what would happen with all the surplus steel.

Answer:

Mr. Nelson responded it is up to Fisher Sand & Gravel to use as it determines best. Some steel may be used for false work and some will be disposed of. The contractor has the right to re-engineer the Galena Creek Bridge design, depending on what appears to be a geometrically and structurally effective design. Several aspects of this topic were discussed at this time.

- Question:  
Governor Gibbons asked if EKS made any changes to the pilot truss framework.

Answer:

Mr. Nelson, NDOT, explained that EKS submitted a request prior to fabrication to split the segments in half to make them more manageable. It was NDOT's position that splitting the truss would result in additional joints in the truss, which might cause some loss of structural integrity. He discussed the dispute that arose due to the engineering assessments of the potential wind loads on the bridge segments and the disagreements with EKS, the "no-fault termination" of the first contract, the contractual rights of Fisher to re-design that part of the bridge under the new agreement, and the impact on costs.

- Question:  
Ms. Bridgman questioned if the \$100 million was actually limited to inflation.

Answer:

Mr. Nelson stated that there were two things to consider. One was inflation and the other was the \$18-million claim that EKS filed against NDOT.

- Question:  
Ms. Bridgman asked for clarification.

Answer:

Mr. Nelson responded that inflationary factors were considered when NDOT was making its decision to execute a "no fault termination," the thing that was driving NDOT's decision was the package B work. The addition of the \$265 or \$300 million project for package B was important, and Package A, including the Galena Creek Bridge, needed to be completed as soon as possible and before Package B could be undertaken. The loss of buying power on package B, which is on the order of \$2.5 to \$3 million a month for every month of delay, was factored in. The \$18-million claim, the cost of potential litigation, and the fact that contract buying power was being decreased by \$2.5 million per month, were key considerations in getting package B out for bid and getting the project completed.

Lt. Governor Krolicki stated that, in his view, this situation made considering a design-build approach compelling. The difference in expert opinions, the perception of the project by the contractor, and the variation in engineering approach as to safety, made this project a very expensive lesson. This situation should be avoided in the future.

Brenna Nelson, representative from EKS, stated she wanted to clarify a couple things. EKS disagreed with the Department's position that problems related to the pilot truss were related to fabrication. The fabrication issue only came up when the \$18 million worth of delays came up. The problem with transportation was moving such large units.

EKS contended that the primary problem was with the strength of the actual design. EKS believed that the structure itself needed to be strengthened, major

design modifications were needed, and EKS requested change orders to address the structural vulnerabilities of the truss and the ability to erect it. They requested change orders to strengthen the truss, via the cords and laterals.

- Question:

Governor Gibbons asked why EKS bid on a project if its engineers or project people thought the design could not be built as proposed.

Answer:

Brenna Nelson stated that bidding on this project was no different from on any other projects. NDOT engineers had signed off the plans, and no problem was anticipated. The size of the segments never came up, and the issue of whether or not the trusses were going to be strong enough to withstand wind loads during the erection was not discussed. EKS did not know the wind speeds and the wind loadings, because it did not design the bridge. NDOT did the engineering. EKS received the plan sheets and assumed they were designed to account for the wind velocity and wind loading that would occur during the erection sequence.

- Question:

Lt. Governor Krolicki asked why the one-year versus the five-year calculations became such a big determining factor.

Answer:

Mr. Nelson responded that the wind loads are very analogous to flood levels. He explained that the primary concern was the vulnerability of the arch to high winds during construction, and how that vulnerability would affect worker safety. Expert opinions varied widely, depending on whether a one- or five-year calculation was made. When you have experts in wind engineering on both sides using different criteria, EKS did not feel comfortable about the safety of the construction.

Ms. Nelson replied that when the window of opportunity for risk associated with safely constructing the arch was expanded from about thirty days to over one hundred days, based on their experts' opinion, the project became too dangerous.

- Question:

Lt. Governor Krolicki asked whether liability insurance could have been purchased to protect the project instead of redesigning, and was purchasing such insurance an industry standard.

Answer:

Mr. Nelson responded that was not industry standard. Discussion followed.

**F. Presentation of Division of Internal Audits audit follow-up report for the Legislative Counsel Bureau (LCB) audit recommendations issued February 28, 2006 and May 16, 2006 – William Chisel, Chief, Division of Internal Audits.**

The Division of Internal Audits performs the follow-up process on all LCB audit findings and recommendations. They work with agencies to help them implement recommendations. Six-months after an LCB audit is released, the Division issues a report on the status of

recommendations to LCB through the Department of Administration. Follow-up reports were issued on the following LCB audits:

- ✓ Cultural Affairs – Director's Office
- ✓ State Library and Archives
- ✓ Transportation Services Authority
- ✓ Division of Industrial Relations
- ✓ Risk Management Division

No significant concerns exist at this time regarding agencies' responses.

**G. Public Comment**

No comments were offered by the public.

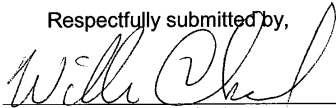
**H. Comments of Committee Members**

Governor Gibbons commended the Internal Audits Division on its presentation.

**I. Adjournment**

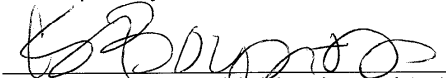
**The Governor adjourned the meeting at 11:45 a.m.**

Respectfully submitted by,



William Chisel, CPA  
Chief  
Division of Internal Audits

Prepared by,



Connie Boynton, Administrative Assistant  
III  
Division of Internal Audits