

2012

MINUTES OF THE
LEGISLATIVE AUDIT
COMMITTEE



CINDY ACREE, CHAIR
Representative
ANGELA WILLIAMS, VICE CHAIR
Representative
LUCIA GUZMAN
Senator
JAMES KERR
Representative

State of Colorado
LEGISLATIVE AUDIT COMMITTEE
Legislative Services Building - Second Floor
200 East 14th Avenue
Denver, Colorado 80203

STEVE KING
Senator
JOE MIKLOSI
Representative
SCOTT RENFROE
Senator
LOIS TOCHTROP
Senator

REVISED
LEGISLATIVE AUDIT COMMITTEE

January 17, 2012
MINUTES

A meeting of the Legislative Audit Committee convened on January 17, 2012 at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Lois Tochtrop called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative J. Kerr, Senator S. King, Senator Tochtrop, Representative Williams

EXCUSED: Senator Renfroe

ABSENT: Representative Miklosi

The following staff members from the Office of the State Auditor (OSA), other state agencies, and members of the General Assembly were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Jonathan Trull, Deputy State Auditors; Sarah Aurich, Jeffrey Kahn, Heather Lin, Lesa Fisher

ALSO PRESENT: John Salazar, Department of Agriculture; Chris Wiseman, Lea Cassidy, State Fair Authority; Vince Vigil, Ed Cordes, State Fair Commission; Kristi Cortez, Wall, Smith, Bateman, and Associates, Inc.; Brett Johnson, Office of the Treasurer; Suzanne Brennan, Sean-Casey King, Sarah Roberts, Ginger Burton, Department of Health Care Policy & Financing; Representative Pace, Senator Giron, Representative Swerdfeger, Representative McKinley, Members of the General Assembly

7:02 a.m. Representative Miklosi arrived at the hearing.

Chair Tochtrop invited Representative Swerdfeger, Representative McKinley, and Senator Giron to the table.

In accordance with the rules of the Legislative Audit Committee, the Vice-Chair shall succeed to the Chair and a new Vice-Chair shall be elected. The Chair and Vice-Chair shall be members of opposite parties, and the Vice-Chair's post shall alternate chambers every two years. Therefore, Vice-Chair Representative Acree assumed the Chair.

State Auditor Ray presented Senator Tochtrop with a plaque and thanked her for her service as Chair of the Legislative Audit Committee during 2011.

Chair Acree opened the nominations for Vice Chair. A motion was made by Senator Tochtrop and seconded by Representative Miklosi to nominate Representative Williams for Vice-Chair. Representative Williams provided a brief summary of her service background in the General Assembly. Representative Williams was unanimously elected Vice-Chair.

Representative Pace arrived at the hearing and joined the table.

**COLORADO STATE FAIR AUTHORITY
FINANCIAL AND COMPLIANCE AUDIT
FISCAL YEARS ENDED JUNE 30, 2011 AND 2010**

Department of Agriculture
John Salazar, Commissioner

State Fair Authority
Chris Wiseman, General Manager
Lea Cassidy, Accountant

State Fair Commission
Vince Vigil, Chairman
Ed Cordes, Finance Committee Chairman

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Jeffrey Kahn, Managing Legislative Auditor

Wall, Smith, Bateman, and Associates, Inc.
Kristi Cortez, Partner

A motion was made by Senator Tochtrop and seconded by Representative Kerr to release the Colorado State Fair Authority financial audit. Motion passed unanimously.

Following introductions and opening remarks, Kristi Cortez presented an overview of the financial statements and Recommendations contained in the State Fair Authority (Authority) audit.

7:15 a.m. Senator Renfroe arrived at the hearing.

In response to a question from Chair Acree, Ms. Cortez explained what is included in the non-operating revenues and stated that non-operating grants are slightly up from previous years due to private grants and contributions.

Ms. Cortez reviewed Recommendation 1.

Following opening remarks and introductions of State Fair staff by Commissioner John Salazar, Representative Pace commended the Authority and Commission for their hard work.

In response to a question from Representative Williams, Chris Wiseman commented on the effect increases in gate admission and carnival passes had on revenues.

In response to a question from Senator Guzman, Mr. Wiseman stated that updates on the five year business plan will be provided to the Commission at their next meeting.

Senator King asked for an explanation of why admission prices were increased during a recession. Mr. Wiseman explained that there are days that admission prices are lowered as a discount day. Vince Vigil stated that there are members of the Commission who believe that attendance would be greater with a lower admission price and that they will be discussing this issue going forward.

7:31 a.m. In response to questions from Representative Swerdfeger, Mr. Wiseman stated that decreasing the number of days the Fair operates from 16 to 11 has resulted in a higher profit margin. Representative Swerdfeger also commended the Authority and Commission for their hard work.

In response to a question from Representative Miklosi, Mr. Vigil stated that the Commission has created a foundation which will seek donations to help fund programs such as 4-H and FFA.

In response to a question from Senator Giron, Mr. Wiseman stated that not only Pueblo, but the entire state benefits financially from the Fair.

In response to a question from Representative Kerr, Commissioner Salazar explained why the Fair should continue to be subsidized by the state. Representative Pace further stated that the Fair does not use any general fund money.

Ms. Cortez briefly reviewed the remaining Recommendations in the audit.

In a response to a comment from Senator Guzman, Mr. Vigil stated that the Authority has hired a new accountant and is working on policies and procedures to ensure that expenses are properly recorded.

In a response to a question from Representative Kerr, Ed Cordes briefly discussed the Authority's advertising plan.

In response to a request from Senator Renfroe, Mr. Wiseman agreed to provide the Committee a breakdown of advertising expenses; the number of attendees of the Fair; and the demographic information and number of students who participate in the Fair.

7:59 a.m. Committee recessed briefly.

**OFFICE OF THE STATE AUDITOR
ANNUAL REPORT
FISCAL YEAR 2011**

Office of the State Auditor
Dianne E. Ray, State Auditor
Jonathan Trull, Deputy State Auditor

Jonathan Trull briefly reviewed the Annual Report.

Senator Tochtrop commended State Auditor Ray for positive changes made to the reporting process resulting in greater transparency and accountability within the state.

In response to questions from Senator Tochtrop and Senator Guzman, State Auditor Ray briefly commented on the five year plan which addresses staffing and budgetary issues.

In response to a question from Representative Kerr, State Auditor Ray explained information provided in the reports currently being provided to the Committees of Reference and the Joint Budget Committee regarding the implementation status of outstanding audit recommendations throughout state agencies.

8:13 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Senator King to approve the minutes of December 12-13, 2011. Motion passed unanimously.

Status Reports with Agency Representation

Treasury Investment Program, Performance Evaluation, June 2011, Department of Treasury

Sarah Aurich provided a brief overview of the progress made by the Department of Treasury in implementing recommendations from the Treasury Investment Program performance audit presented to the Committee in July 2011. Out of a total of 4 recommendations, 1 has been implemented and 3 have been partially implemented.

Deputy State Treasurer Brett Johnson reviewed the progress made by the Department to address the Recommendations made in the audit.

Implementation of the Medicaid Pediatric Hospice Waiver Program, Performance Audit, May 2011, Department of Health Care Policy & Financing

Deputy State Auditor Monica Bowers provided a brief overview of the progress made by the Department of Health Care Policy and Financing in implementing recommendations from the Pediatric Hospice Waiver Program performance audit presented to the Committee in June 2011.

Out of a total of 11 recommendations (each subpart counted separately), 1 has been implemented and 10 have been partially implemented.

Suzanne Brennan, Medical and CHP+ Program Administration Office Director, reviewed the progress made to address the Recommendations made in the audit.

In response to a question from Chair Acree, Ms. Brennan stated that the current Colorado Benefits Management System does not present a barrier to implementing the Recommendations.

8:33 a.m. Other Business

Recovery Audit Report

Deputy State Auditor Kerri Hunter briefly reviewed the State of Colorado Recovery and Contract Audit report provided by the Office of the State Controller which outlines the audit progress for the recovery and contract compliance audit.

Reports to Be Released Without Benefit of a Formal Hearing

A motion was made by Representative Kerr and seconded by Representative Williams to release the following reports without benefit of a formal hearing:

1. Metropolitan State College of Denver, Financial and Compliance Audit, June 30, 2011 and 2010
2. Mesa State College, Financial and Compliance Audit, For Fiscal Years Ended June 30, 2011 and 2010

Motion passed unanimously.

8:40 a.m. Fiscal Year 2013 Budget Discussion

State Auditor Ray briefly discussed the 2013 budget and requested approval of an additional \$100,000 to reappropriated funding for personal services contracts, increasing the total amount to \$900,000.

A motion was made by Representative Kerr and seconded by Representative Williams to approve the additional \$100,000 to reappropriated funding for personal services contracts. Motion passed unanimously.

In response to a question from Senator Renfro, State Auditor Ray stated that she is concerned about the short intervals of audit requirements in bills being introduced and the impact to the budget.

Information Only

State Auditor Ray noted the distribution of unaudited, information only items requested by the Committee.



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LEGISLATIVE AUDIT COMMITTEE

January 31, 2012
MINUTES

A meeting of the Legislative Audit Committee convened on January 31, 2012 at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative J. Kerr, Senator Renfroe, Senator Tochtrop

EXCUSED: Senator S. King, Representative Miklosi, Representative Williams

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Deputy State Auditors; Michelle Colin, Crystal Dorsey, Lesa Fisher

ALSO PRESENT: Reeves Brown, Department of Local Affairs; Mike Beery, Board of Assessment Appeals; George Skiles, Sjoberg Evashenk Consulting, Inc.

7:03 a.m. Representative Williams arrived at the hearing.

**PERFORMANCE AUDIT OF
THE BOARD OF ASSESSMENT APPEALS
DECEMBER 2011**

Department of Local Affairs
Reeves, Brown, Executive Director

Board of Assessment Appeals
Mike Beery, Director

Office of the State Auditor
Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Michelle Colin, Managing Legislative Auditor

Sjoberg Evashenk Consulting, Inc.
George Skiles, Manager

A motion was made by Senator Guzman and seconded by Representative Kerr to release the Performance Audit of the Board of Assessment Appeals. Motion passed unanimously.

Following introductions and opening remarks, George Skiles presented a brief overview of Chapter 1.

7:09 a.m. Representative Miklosi arrived at the hearing.

In response to a question from Chair Acree, Mike Beery stated that the Board of Assessment Appeals (the Division) has not received direct requests from counties for additional resources to process the increase in submitted petitions.

In response to a question from Senator Tochtrop, Mr. Beery stated that Arapahoe, Douglas, Denver, and Jefferson counties have the highest number of appeals from the counties in Colorado and that approximately 70% of appeals are for commercial properties.

In response to a question from Representative Williams, Mr. Beery stated that the economic downturn has not resulted in a decrease in the number of petitions filed.

In response to a question from Representative Kerr, Mr. Beery explained that although Board members are required by statute to be appraisers they are not functioning as appraisers when issuing decisions and therefore are not required to issue a compliance report based on Uniform Standard of Professional Appraisal Practice requirements.

In response to a question from Senator Guzman, Mr. Beery stated that the Division does receive appeals from rural areas and that there has been a large increase in appeals from Pitkin and Eagle counties.

7:32 a.m. Recommendations 1 and 2 were reviewed, discussed, and agreed to by staff from the Division.

In a response to a question from Senator Renfroe, Mr. Beery stated that the Division has looked at trends in the types of errors seen in the appeals process and has tried to provide more comprehensive educational references on the Division's website. Senator Renfroe suggested that the Division should consider the complexity of the petition type when developing a process for holding prehearing conferences. Mr. Beery agreed.

In response to a statement by Representative Kerr, Mr. Beery stated that the Division has requested an opinion from the Attorney General as to whether the Division currently has the authority to issue summary orders or whether statutory changes are needed.

In response to a question from Representative Kerr, Mr. Beery stated that approximately 70% of cases are filed by repeat petitioners.

7:55 a.m. Recommendations 3 through 6 were reviewed, discussed, and agreed to by staff from the Division.

In response to a question from Senator Renfroe, Mr. Beery stated that the taxpayer petitioner does not have to sign a form indicating that they understand the appeals process.

In response to a question from Representative Kerr, Mr. Beery stated that the process for exchanging information prior to a hearing is intended to ensure that each party has a fair opportunity to review all evidence.

In response to various questions from Committee members, Mr. Beery stated that a greater number of appeals are awarded to petitioners with attorney representation. The steps being taken by the Division to ensure that it provides sufficient information to all parties involved in appeals cases were discussed.

8:38 a.m. Committee recessed briefly.

8:44 a.m. GENERAL BUSINESS

Minutes

A motion was made by Representative Kerr and seconded by Representative Williams to approve the minutes of January 17, 2012. Motion passed unanimously.

School Capital Construction Report, Financial Report January 2012

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the School Capital Construction Report. Motion passed unanimously.

Following a brief introduction, Crystal Dorsey reviewed the statutory requirement for the Office of the State Auditor to report annually on the amount of state education fund money expended in Colorado for school capital construction.



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LEGISLATIVE AUDIT COMMITTEE

**February 14, 2012
MINUTES**

A meeting of the Legislative Audit Committee convened on February 14, 2012 at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Senator S. King, Senator Tochtrop, Representative Williams

EXCUSED: Representative J. Kerr, Representative Miklosi, Senator Renfroe

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Deputy State Auditors; Cindi Radke, Lesa Fisher; other staff members were also present

ALSO PRESENT: David McDermott, Tammy Nelson, Office of the State Controller; Reggie Bicha, Reginald Jefferson, Julie Kerksick, Department of Human Services

7:02 a.m. Representative Kerr arrived at the hearing.

7:04 a.m. Senator Renfroe arrived at the hearing.

Following introductions, Deputy State Auditor Kerri Hunter provided an overview of the composition of Statewide Single Audit and how it will be presented to the Legislative Audit Committee (Committee) at this and the next two Committee hearings.

Deputy Hunter reviewed the Report Summary, opinion letters, and the Required Communications Letter.

7:14 a.m.

**STATE OF COLORADO
COMPREHENSIVE ANNUAL FINANCIAL REPORT
FOR FISCAL YEAR ENDED JUNE 30, 2011**

Office of the State Controller
David McDermott, State Controller
Tammy Nelson, Reporting and Analysis Manager

Following introductions, David McDermott briefly reviewed changes in accounting and reporting standards for FY11 and how these changes impacted the financial statements and the steps the Office of the State Controller has taken to ensure the General Assembly is able to see the General Fund in a way that meets both GAAP requirements and the needs of budget and legal compliance.

Tammy Nelson reviewed the Financial Statement Section of the Comprehensive Annual Financial Report (CAFR) which included the financial statements, the notes to the financial statements, and the Management's Discussion and Analysis (MD&A).

In response to a question from Chair Acree, Mr. McDermott stated that the increase in the general fund balance as a result of an increase in tax collection is due to accounting activity in the Department of Revenue and a change in the assessment of what will be collected long-term, not an increase in taxes. In response to a follow-up question from Chair Acree, Mr. McDermott stated that this will not offset a deficit created by a decrease in American Recovery and Reinvestment Act funds.

In response to a question from Representative Kerr, Mr. McDermott stated that there is no liability of future costs related to the Public Employees' Retirement Association represented in the financial statements.

7:55 a.m. In response to a request from Senator Renfroe, Ms. Nelson agreed to provide the Committee a written copy of her presentation.

In response to a question from Senator Renfroe, Mr. McDermott stated that it takes approximately two to five years before new Government Accounting Standards Board pension standards are fully incorporated into the CAFR.

8:08 a.m.

**STATEWIDE SINGLE AUDIT
FOR FISCAL YEAR ENDED JUNE 30, 2011**

Department of Human Services
Reggie Bicha, Executive Director
Reginald Jefferson, Director of the Office of
Administrative Solutions

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Cindi Radke, Managing Legislative Auditor

A motion was made by Representative Kerr and seconded by Representative Williams to release the Statewide Single Audit. Motion passed unanimously.

Following opening remarks, Recommendations 45 and 46 were reviewed, discussed, and agreed to by staff from the Department of Human Services (Department). Reggie Bicha clarified that the Department had been advised by federal agencies in previous years to report Food Assistance expenditures on the Exhibit K as a local government expenditure instead of a state expenditure.

In response to a question from Chair Acree, Mr. Bicha stated that Colorado counties determine Food Assistance eligibility and issue benefits to recipients. He stated that this is a state benefit even though the federal funds pass directly from the federal government to local grocery stores.

In response to a question from Senator Tochtrop, Mr. Bicha explained the process used by the counties to provide Food Assistance funds to recipients.

In response to a question from Senator Renfro, Mr. Bicha stated that the misclassification of funds on the Exhibit K did not jeopardize the State's ability to apply for grants.

Recommendation 47 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Ms. Radke stated that the fiscal costs of errors identified in the audit related to the Child Support Enforcement (CSE) program have not been assessed. Mr. Bicha stated that the randomness of the errors identified in the CSE program are not due to training issues alone but suggests that processes are not being consistently executed at the county level.

In response to a question from Senator Tochtrop, Ms. Radke agreed to provide the Committee the number of case files sampled per county.



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LEGISLATIVE AUDIT COMMITTEE

**February 28, 2012
MINUTES**

A meeting of the Legislative Audit Committee convened on February 28, 2012 at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative J. Kerr, Senator S. King, Senator Tochtrop

EXCUSED: Representative Miklosi, Senator Renfroe, Representative Williams

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Kerri Hunter, Deputy State Auditor; Marisa Neff, Ferminia Hebert, Lesa Fisher; other staff members were also present

ALSO PRESENT: Sue Birch, Antoinette Taranto, Bill Heller, Sarah Roberts, Chris Underwood, Department of Health Care Policy and Financing; Bob Lackner, Office of Legislative Legal Services

7:03 a.m. Representative Miklosi arrived at the hearing.

**STATEWIDE SINGLE AUDIT
FOR FISCAL YEAR ENDED JUNE 30, 2011**

Department of Health Care Policy and Financing

Sue Birch, Executive Director

Antoinette Taranto, Acting Client

& Community Relations Office Director

Bill Heller, Medicaid & CHP+ Managed Care

and Contracts Division Director

Sarah Roberts, Long Term Care Benefits Operations

Division Director

Chris Underwood, Provider Operations Division Director

and Financial & Administrative Services Office

Deputy Director

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Marisa Neff, Managing Legislative Auditor

Ferminia Hebert, Legislative Auditor

Following introductions and opening remarks, Recommendation 25 was reviewed. In response to a question from Senator Tochtrop, Marisa Neff stated that specific analysis was not performed during the audit to determine which counties have the highest percentage rate of untimely application processing. Sue Birch stated that the Department of Healthcare Policy and Financing (Department) tracks which counties experience a large number of issues and has established an Application Overflow Unit to provide resources to counties and Medical Assistance sites which have requested assistance with the increased number of applications submitted.

7:18 a.m. Recommendation 25 was further discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Antoinette Taranto stated that she could not specifically explain the increase in the internal control error rate in the Children's Basic Health Plan (CBHP) Program. Ms. Taranto opted to explain how applications received are processed by both Medicaid and CBHP programs.

In response to a question from Senator Guzman, Ms. Birch stated that the Department is optimistic about the possibility of receiving approval from the Joint Budget Committee for a funding request for upgrades to the Colorado Benefits Management System (CBMS).

Chair Acree redirected her previous question about the increase in the internal control error rate in the CBHP Program to Ms. Neff. Ms. Neff stated that the 77% internal control error rate for CBHP Program applications is based on the 60 case files reviewed during the audit.

In response to a question from Senator King, Ms. Birch stated that there are two employees at the Department who are trained in Six Sigma management strategies.

Recommendation 26 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Chris Underwood stated that the Department is implementing changes to provider enrollment and verification processes according to new federal regulations. Mr. Underwood briefly explained the current enrollment process.

7:37 a.m. Recommendations 27 - 29 were reviewed, discussed, and agreed to or partially agreed to by staff from the Department. In response to a question from Chair Acree, Ms. Taranto explained the Department's training approach with the counties.

In response to a question from Representative Kerr, Ms. Taranto stated that the Department does not attempt recovery of claims paid for services in which the clients were found eligible as a result of a system failure and due to no fault of their own.

8:00 a.m. Recommendation 32 was reviewed, discussed, and partially agreed to by staff from the Department. In response to a question from Chair Acree, Kerri Hunter stated that a standard margin of error in an audit sample is three errors.

In response to a question from Senator Tochtrop, Ms. Taranto briefly reviewed the process the Department uses to recover overpayments to providers.

Recommendation 33 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Ferminia Hebert stated that there are federal requirements when conducting surveys of nursing facilities.

In response to a question from Senator Tochtrop, Sarah Roberts stated that the Department is in the process of automating procedures for monitoring the required time frames for surveys conducted by the Department of Public Health and Environment.

8:20 a.m. GENERAL BUSINESS

Minutes

A motion was made by Representative Kerr and seconded by Senator Tochtrop to approve the minutes of February 14, 2012. Motion passed unanimously.

Statutory Reports

Colorado Educational and Cultural Facilities Authority

Deputy Hunter reviewed the annual report from the Colorado Educational and Cultural Facilities Authority on the Moral Obligation Bond program as required by Section 22-30.5-409, C.R.S.

Statewide Internet Portal Authority

Deputy Hunter briefly reviewed the annual report from the Statewide Internet Portal Authority (SIPA) as required by Section 24-37.7-114(2), C.R.S. In response to a comment from Chair Acree, State Auditor Ray stated that there is currently a performance audit being

conducted at SIPA.

Colorado Health Benefit Exchange

State Auditor Ray briefly reviewed the 2011 Progress Report from the Colorado Health Benefit Exchange and stated that the Exchange did not have any moneys to report as required by Section 10-22-105(4)(b), C.R.S.

Other Business

Deputy Hunter briefly reviewed the Statutory Loan and Advance Report from the Office of the State Controller for the fiscal year ended June 30, 2011, which shows the outstanding loans and advances provided by the State Treasury to state agencies and Institutions of higher education. In response to a question from Senator Guzman, Deputy Hunter explained the difference between a loan and an advance.

State Auditor Ray provided an update on two pending audit requests. The request for an audit of the Division of Real Estate has been withdrawn; and, the request for an audit on the enforcement of restitution to victims is still in process.

The Committee reviewed Section 2-3-108, C.R.S., regarding the process used by General Assembly members to request an audit. After a thorough discussion on the pros and cons of introducing legislation to formalize the process, Representative Miklosi recommended that the current statute be maintained and the State Auditor educate members of the General Assembly on the preferred method used to submit an audit request. Senator Tochtrop suggested that the Committee members speak at their respective caucuses about the process.

State Auditor Ray requested members of the Committee to review the proposed 2012 Interim Calendar and be prepared to adopt the calendar as proposed, or amended, at the hearing on March 13, 2012.

There being no further business to come before the Committee, the meeting adjourned at 8:45 a.m. The next meeting scheduled is on March 13, 2012 at 7:00 a.m.

Minutes submitted by:

Lesa Fisher
Executive Administrator
Office of the State Auditor



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LEGISLATIVE AUDIT COMMITTEE

**March 13, 2012
MINUTES**

A meeting of the Legislative Audit Committee convened on March 13, 2012 at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative J. Kerr, Senator S. King, Senator Renfroe, Senator Tochtrop, Representative Williams

EXCUSED: Representative Miklosi

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Deputy State Auditors; Monika Treipl-Harnke, Renee Strebelinski, Matt Bush, Sarah Aurich, Lesa Fisher; other staff members were also present

ALSO PRESENT: Christopher E. Urbina, M.D., MPH, Rosalind Bedell, Brent Howe, Joni Reynolds, Department of Public Health and Environment; Brett Hanselman, KPMG LLP; Lieutenant Colonel Scott Hernandez, Lori Malcolm, Department of Public Safety; Brett Johnson, Office of the State Treasurer; Nick Lepetsos, Venture Capital Authority

**STATEWIDE SINGLE AUDIT
FOR FISCAL YEAR ENDED JUNE 30, 2011**

Presentation 1

Department of Public Health and Environment

Christopher E. Urbina, M.D., MPH, Executive Director
and Chief Medical Officer

Rosalind Bedell, Chief Operating Officer

Brent Howe, Controller

Joni Reynolds, Public Health Programs Director

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Monika Treipl-Harnke, Legislative Auditor

KPMG LLP

Brett Hanselman, Partner

Following introductions and opening remarks, Recommendations 15 and 16 were reviewed, discussed, and agreed to by staff from the Department of Public Health and Environment (Department).

7:10 a.m. Representative Miklosi arrived at the hearing.

In response to a question from Chair Acree, Brett Hanselman stated that pollution remediation outlays include property, plant, and equipment expenses and for the first ten years, the Environmental Protection Agency pays 90% of the costs and after that the Department will pay 90% of the costs.

In response to a question from Senator Guzman, Dr. Christopher Urbina stated that the length of time required to clean up a contaminated site varies depending on the site.

Recommendation 17 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Brent Howe stated that the Colorado Financial Reporting System (COFRS) did not compound any issue for the Department when recording accounting transactions.

Recommendation 59 was reviewed, discussed, and agreed to by staff from the Department. In response to questions from Representative Williams and Senator Guzman, Dr. Urbina stated that the Department has not incurred any penalties from the federal grant programs associated with inappropriately charged employee personnel costs.

In response to a question from Senator King, Dr. Urbina said that the Department will complete an assessment of the current procedures, policies, systems, and documentation to support personnel costs by the summer of 2012.

In response to a question from Senator Renfro, Mr. Howe stated that the Department has formed a workgroup to assess the process used to charge personnel costs across multiple grants. Dr. Urbina added that, if needed, they would consult with the federal grant administrators for clarification on any questions that may arise.

Recommendation 60 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Senator Guzman, Dr. Urbina stated that the Department receives the actual vaccines from the Immunization Cluster grant and that the vaccines have a shelf life of approximately one year.

In response to questions from Representative Kerr, Joni Reynolds explained the approximate quantity of vaccine doses represented by the \$38 million value of federally funded vaccines; what types of vaccines are received by Colorado; and, how the vaccines are distributed.

In response to a question from Representative Williams, Ms. Reynolds briefly explained the federal Emergency Preparedness Program.

In response to a question from Senator Renfro, Ms. Reynolds explained how the amount charged to patients to receive a vaccine is tracked. Ms. Hanselman stated that the monitoring of the Immunization Cluster Program will be discussed in the next Recommendation.

In response to a question from Representative Kerr, Ms. Reynolds stated that the quantity of vaccines received by the federal Immunization Cluster grant is based on an annual population estimate.

Recommendation 61 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Senator Tochtrop, Ms. Reynolds stated that it is the responsibility of the vaccinating providers to track their vaccine inventory separately based on private pay versus programs that provide vaccines at no cost.

In response to a question from Representative Kerr, Ms. Reynolds agreed to provide the Committee a detailed summary of the doses and costs of vaccines administered by the Department.

In response to a question from Chair Acree, Ms. Reynolds stated that vaccines received for the Vaccines for Children program are also distributed to county health departments.

7:49 a.m. The Committee recessed briefly.

**STATEWIDE SINGLE AUDIT
FOR FISCAL YEAR ENDED JUNE 30, 2011**

Presentation 2

Colorado Automobile Theft Prevention Cash Fund

Department of Public Safety

Lieutenant Colonel Scott Hernandez, Director of
Colorado State Patrol Administrative Services
Lori Malcolm, Colorado Automobile Theft Prevention
Authority (CATPA) Director

Office of the State Auditor

Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Renee Strelinski, Legislative Auditor

Following introductions, Deputy State Auditor Kerri Hunter briefly explained the Colorado Automobile Theft Prevention Cash Fund (Fund) and stated that no recommendations were made in this area.

In response to questions from Chair Acree and Senator Renfroe, Renee Strelinski and Lori Malcolm explained that the Fund is funded by fees paid by insurance companies and that insurance company donations stopped when legislation was passed in 2008 requiring insurers to pay \$1 annually to the Fund for each vehicle insured.

In response to a question from Senator King, Lt. Col. Scott Hernandez stated that he does not believe the program's effectiveness has reached a plateau.

In response to a question from Senator Renfroe, Lt. Col. Hernandez stated that there has been a decrease in auto theft nationally but that theft reductions can be specifically attributed to the Fund. Ms. Malcolm further stated that Colorado ranks higher in decreased theft than the national average.

In response to questions from Representative Kerr, Lt. Col. Hernandez explained the basic difference between grand theft and carjacking, and Ms. Malcolm discussed the new incentive to reduce "puffer" theft.

In response to a question from Senator Renfroe, Lt. Col. Hernandez stated that there are 3 full time state employees dedicated to the Fund.

8:10 a.m.

**STATEWIDE SINGLE AUDIT
FOR FISCAL YEAR ENDED JUNE 30, 2011**

Presentation 3

**Compliance with Colorado Funds Management Act and the
Tax Anticipation Note Act, Public School Fund**

Office of the State Treasurer
Brett Johnson, Deputy Treasurer

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Matt Bush, Legislative Auditor

Following introductions, Deputy Hunter briefly explained the Colorado Funds Management Act, the Tax Anticipation Note Act, and the Public School Fund and stated that no recommendations were made in these areas.

In response to a question from Senator Renfroe, Brett Johnson explained the reason for the increase of the premium on the sale of General Fund Notes from December 2010 to July 2011.

8:20 a.m. Representative Kerr left the hearing.

8:23 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator King and seconded by Representative Williams to approve the minutes of February 28, 2012. Motion passed unanimously.

Statutory Reports

Venture Capital Authority

Deputy State Auditor Monica Bowers introduced Nick Lepetsos, Chair of the Venture Capital Authority. Mr. Lepetsos provided a brief overview of the Venture Capital Authority's annual report.

In response to a question from Chair Acree, Mr. Lepetsos explained the difference between Colorado Fund I and Colorado Fund II.

In response to a question from Senator Renfroe, Mr. Lepetsos stated that \$50 million tax credits have been sold and agreed to provide the Committee the actual amount received to-date from that sale.

Regional Transportation Authority

Deputy Hunter briefly reviewed the 2011 annual report submitted by the Department of Local Affairs' Division of Local Government on rural transportation authorities. The annual report details the number of authorities that have been created, describes their boundaries, and specifies the rural transportation systems that are being provided and how they are being financed. In 2011 there were no new regional transportation authorities created in Colorado.

Report To Be Released Without a Formal Hearing

A motion was made by Senator King and seconded by Representative Miklosi to release the *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR), February 2012* report without benefit of a formal hearing. Motion passed unanimously.

Deputy Hunter stated that an unqualified opinion was issued on the TABOR Computations Report.

Audit Request

Senator King briefly reviewed his request to audit the Colorado Department of Transportation's adherence to the federal Highway Beautification Act and asked that a performance audit be approved. Deputy Bowers provided a summary of the evaluation on research conducted on of the request.

Representative Miklosi commended Senator King for making the request and seconded the recommendation to conduct the audit. Senator Guzman stated that she is also in support of the request and asked for clarification of federal regulations regarding signage.

Chair Acree called for a vote on the request. The request passed unanimously.

Other Business

A motion was made by Senator Tochtrop and seconded by Senator King to adopt the proposed 2012 interim calendar. Motion passed unanimously.

State Auditor Ray stated that a discussion was held by the Committee at the February 28, 2012 hearing about a Committee rule change regarding how an audit request is submitted by members of the General Assembly. Representative Williams asked for a review of the discussion.

A motion was made by Chair Acree and seconded by Representative Williams to authorize the Office of Legislative Legal Services' staff to prepare a draft amending the LAC Rule on the procedure used by members of the General Assembly to submit an audit request to the OSA. Representative Miklosi requested the draft be reviewed at the next hearing. Motion passed unanimously.

Chair Acree stated that she would like the Committee to discuss amending the statute that requires a bi-annual audit of the Colorado Automobile Theft Prevention Cash Fund to every 5 years.



CINDY ACREE, CHAIR
Representative
ANGELA WILLIAMS, VICE CHAIR
Representative
LUCIA GUZMAN
Senator
JAMES KERR
Representative

State of Colorado
LEGISLATIVE AUDIT COMMITTEE
Legislative Services Building - Second Floor
200 East 14th Avenue
Denver, Colorado 80203

STEVE KING
Senator
JOE MIKLOSI
Representative
SCOTT RENFROE
Senator
LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

**March 27, 2012
MINUTES**

A meeting of the Legislative Audit Committee convened on March 27, 2012 at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Senator Renfro, Senator Tochtrop, Representative Williams

EXCUSED: Representative J. Kerr, Representative Miklosi, Senator S. King

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Jonathan Trull, Deputy State Auditors; Manjula Udeshi, Derek Johnson, Lesa Fisher; other staff members were also present

ALSO PRESENT: Todd E. Olson, Governor's Office of Information Technology; Darin Kreimeyer, Chuong Thi, Ernst & Young LLP; Jennifer Okes, David McDermott, Department of Personnel & Administration; Gerald Marroney, Colorado Judicial Branch; Bob Lackner, Office of Legislative Legal Services

**PERFORMANCE AUDIT OF THE
CONSOLIDATION OF EXECUTIVE BRANCH
INFORMATION TECHNOLOGY, MARCH 2012**

Governor's Office of Information Technology
Todd E. Olson, Chief Financial Officer

Office of the State Auditor
Dianne E. Ray, State Auditor
Jonathan Trull, Deputy State Auditor
Manjula Udeshi, Managing Legislative Auditor

Ernst & Young LLP
Darin Kreimeyer, Principal
Chuong Thi, Manager

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the Performance Audit of the Consolidation of Executive Branch Information Technology. Motion passed unanimously.

7:01 a.m. Chair Acree acknowledged the arrival of Representative Kerr to the hearing.

7:05 a.m. Senator King arrived at the hearing.

Following introductions, opening remarks, and review of Chapter 1, Recommendation 1 was reviewed, discussed, and agreed to by staff from the Governor's Office of Information Technology (OIT).

In response to questions from Senator Guzman and Chair Acree, Chuong Thi and Darin Kreimeyer explained in further detail what is meant by "developing strong risk criteria" within the framework of this audit. Mr. Kreimeyer stated that risks should be looked at on a project by project basis.

In response to a question from Chair Acree, Mr. Kreimeyer stated that one of the key factors that hindered the progress made in the OIT consolidation project is the reoccurring change in leadership. Todd Olson agreed that the frequent change in OIT leadership is a barrier to developing a strategy for IT consolidation. Mr. Olson stated that OIT's Chief Information Officer is a cabinet position appointed by the Governor.

In response to a question from Senator King regarding the affects of frequent changes in senior management in the private sector versus the public sector, Mr. Olson stated that strategic plans and branding changes are probably more stable in the private sector when there is leadership turnover. A brief discussion was held regarding OIT staffing issues.

In response to a question from Senator Guzman, Mr. Olson explained that he tracks cost savings on a daily basis but does not collect documentation that would allow an auditor to validate those savings. Mr. Olson stated that he will maintain cost savings documentation going forward.

In response to a question from Chair Acree, Deputy State Auditor Jonathan Trull further explained factors that make it difficult for OIT to track IT expenditures and cost savings. Deputy Trull stated that no discussions have been held with the Joint Budget Committee (JBC) on how to give OIT full control of the overall IT spending for the State.

In response to a question from Senator King, Deputy Trull stated that OSA has looked at IT funding models from other States.

Recommendation 2 was reviewed, discussed, and agreed to by OIT staff.

In response to a question from Representative Williams, Mr. Olson stated that OIT needs strategic alignment with all state departments and a formal procurement mechanism in place in order to control the State's IT budget.

In response to a question from Senator Renfroe, Mr. Olson briefly discussed OIT's budget and staffing issues.

Recommendation 3 was reviewed, discussed, and partially agreed to by OIT staff. In response to a question from Chair Acree, Mr. Olson explained that OIT only partially agreed to this Recommendation because it does not have the resources available to complete a full statewide inventory of all information technology assets.

In response to questions from Senator Renfroe, Mr. Olson stated that there is not a master list of all IT inventory within the State, especially on assets that are valued at less than \$5,000. Mr. Kreimeyer stated that the lack of documentation on IT assets prevented a line-item audit of IT assets in each state department.

Recommendation 4 was reviewed, discussed, and agreed to by OIT staff. In response to a question from Senator Tochtrop, Mr. Olson briefly addressed her concern regarding the ability of OIT to implement any new tasks that may be statutorily assigned to OIT. He stated that the ability to implement new assignments would depend on whether or not sufficient resources were allocated.



State of Colorado

CINDY ACREE, CHAIR
Representative
ANGELA WILLIAMS, VICE CHAIR
Representative
LUCIA GUZMAN
Senator
JIM KERR
Representative

LEGISLATIVE AUDIT COMMITTEE
Legislative Services Building - Second Floor
200 East 14th Avenue
Denver, Colorado 80203

STEVE KING
Senator
SCOTT RENFROE
Senator
SU RYDEN
Representative
LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

June 4 & 5, 2012
MINUTES

A meeting of the Legislative Audit Committee convened on June 4, 2012 at 10:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree welcomed Representative Su Ryden as a new member to the Committee and called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative J. Kerr, Senator Renfroe, Representative Ryden, Senator Tochtrop, Representative A. Williams

EXCUSED: Senator S. King

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Deputy State Auditors; Greg Fugate, Christopher Harless, Cynthia Hochmiller, Jenny Atchley, Crystal Dorsey, Pooja Tulsian, Eric Johnson, Cindi Radke, Lesa Fisher

ALSO PRESENT: Chris Underwood, Marceil Case, Donna Kellow, Department of Health Care Policy and Financing; Dee Martinez, Ken Cole, Viki Manley, Joselyn Gay, Department of Human Services; Tim Glenn, Mike King, Rick Cables, Steve Cassin, Department of Natural Resources; Jeffrey Cummings, Ken Ross, Jeff Tetrick, Pinnacol Assurance; Matt Darden, Jason Patrick, Michael Green, Deloitte & Touche LLP; Brett Johnson, Department of Treasury; Herman Stockinger, Darrell Lingk, Glenn Davis, Colorado Department of Transportation

**Medicaid Eligibility Status for Adult Civil
Patients at the Colorado Mental Health Institutes
Department of Health Care Policy and Financing
Department of Human Services
Performance Audit, May 2012**

Department of Health Care Policy and Financing

Chris Underwood, Director, Provider Operations Division
and Deputy Director, Financial & Administrative Services
Office

Marceil Case, Section Manager, Accountable Care Program

Donna Kellow, Director, Audits & Compliance Division

Department of Human Services

Dee Martinez, Deputy Executive Director, Enterprise
Partnerships

Ken Cole, Director, Mental Health Institutes Division

Office of the State Auditor

Dianne E. Ray, State Auditor

Monica Bowers, Deputy State Auditor

Greg Fugate, Managing Legislative Auditor

Christopher Harless, Legislative Auditor

A motion was made by Representative Kerr and seconded by Senator Guzman to release the Medicaid Eligibility Status for Adult Civil Patients at the Colorado Mental Health Institutes performance audit. Motion passed unanimously.

Following introductions, Greg Fugate provided an overview of the audit.

10:12 a.m. In response to a question from Representative Williams, Chris Underwood stated that Colorado has adequate resources to service the caseload for Medicaid clients requiring public mental health services. Ken Cole added that the Mental Health Institutes at Fort Logan and Pueblo have not identified any shortfalls in providing access to eligible adult civil patients.

In response to a question from Chair Acree, Mr. Fugate stated that Medicaid pays a set amount established under contract with Behavioral Health Organizations (BHOs) for the cost of care for mental health patients.

In response to a question from Senator Tochtrop, Mr. Cole stated that there is a waiting list for admission to the two state hospitals for referrals from county jails for inmates that required evaluation of competency to stand trial and restoration of competency. He further explained that there was a federal law suit settlement that requires no single inmate wait more than 28 days to be admitted into the Institutes and that currently the Institutes are operating at a 21 day waiting period.

In response to a question from Chair Acree, Mr. Cole said that the State does not contract with private sector hospitals to treat indigent care patients requiring mental health services.

In response to a question from Chair Acree, Mr. Cole stated that there are approximately 1,000 psychiatric hospital beds available in the State but that he will provide the exact number to the Committee. Marceil Case agreed to provide the Committee with the opening date of the new HealthOne psychiatric unit in Colorado Springs.

10:20 a.m. In response to a question from Representative Ryden, Christopher Harless explained that case managers work throughout the patient discharge planning process to ensure that the patient has Medicaid and other benefits available upon discharge.

Recommendations 1 and 2 were reviewed, discussed, and agreed to by staff from the Department of Health Care Policy and Financing and the Department of Human Services.

In response to a question from Chair Acree, Mr. Harless explained the relationship between the number of claims compared to the number of patients for monthly capitation payments.

Mr. Underwood addressed a concern raised by Chair Acree regarding the upgrades to the Colorado Benefits Management System in relation to patient eligibility status. He further explained that the State must reimburse any erroneous payments that contain Federal Financial Participation (FFP) funds for any Medicaid claims paid for institution for mental diseases (IMD)-excluded patients. Ms. Case agreed to provide the Committee the exact annual dollar amount of FFP funds reimbursed to the federal government relating specifically to IMD-excluded patients.

10:42 a.m. In response to a question from Senator Renfro, Mr. Fugate said that the IMD exclusion has been in existence since Medicaid Title 19 was passed in the 1960's and has been amended since it was first enacted.

In response to a question from Senator Guzman, Donna Kellow explained the process for recouping funds from BHOs, alternative care facilities, and pharmacies for ineligible payments. Senator Guzman asked if the Departments have the necessary resources to implement the Recommendations outlined in the audit. Ms. Kellow and Mr. Underwood briefly explained the processes being developed to implement the Recommendations using existing staff.

In response to a question from Senator Tochtrop, Mr. Cole agreed to provide the Committee the number of outpatient mental health clients receiving services from the Community Mental Health Centers in rural areas of Colorado.

In response to a question from Representative Kerr, Mr. Underwood explained that Medicaid only has access to claims data and does not have access to Medicare data. Mr. Cole stated that the State Mental Health Institutes maintain only one medical record per patient and that patient billing records are not part of a patient's medical record.

In response to a question from Chair Acree, Mr. Cole agreed to provide the Committee information on the rate of occurrence of combining physical and behavioral health services within the same practitioners' office in the rural areas of Colorado.

10:52 a.m. Committee recessed briefly.

**Wildlife Cash Fund
Division of Wildlife
Department of Natural Resources
Performance Audit, May 2012**

Department of Natural Resources

Tim Glenn, Parks and Wildlife Board Chairman

Mike King, Executive Director

Rick Cables, Division Director, Colorado Parks and Wildlife

Steve Cassin, Chief Financial Officer, Colorado Parks
and Wildlife

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Cynthia Hochmiller, Managing Legislative Auditor

Jenny Atchley, Legislative Auditor

10:54 a.m. Committee came back to order. Following introductions, a motion was made by Representative Kerr and seconded by Representative Williams to release the Wildlife Cash Fund performance audit. Motion passed unanimously.

Jenny Atchley reviewed the recent merger of the Division of Wildlife (Division) with the Division of Parks and Outdoor Recreation and provided a brief overview of the audit scope. Ms. Atchley stated that this audit will discuss only information pertaining to the Division and the Wildlife Commission (Commission) when they were still separate entities (prior to the merger).

Cynthia Hochmiller reviewed the Commission's policy on the required unobligated reserve calculation and the Division's compliance with the policy. Recommendation 1 was reviewed, discussed, and agreed to by staff from the Division and the Commission.

In response to a question from Chair Acree, Mike King stated that the Division has implemented processes to ensure the accuracy of financial recordkeeping practices going forward.

In response to a question from Senator Guzman, Tim Glenn stated that it is the responsibility of the Commission to make sure the information provided by the Division is accurate. He said that a Finance and Budget Committee has been created to evaluate financial reports and a standing item to review financial updates has been added to the Commission's meeting agenda.

In response to a question from Representative Kerr, Mr. King explained that there is a long-term demographic trend related to urbanization, single-parent families, electronic gaming for youth, and other similar issues that is reducing outdoor recreational activities in the State of Colorado. Mr. King stated that a goal of the merger is to address this downward trend.

In response to a question from Representative Ryden, Mr. King stated that he believes that the Commission's lack of expertise on complicated financial calculations contributed to the problems the audit work identified. Mr. Glenn stated that the Commission was not receiving

calculations in accordance with Commission policy which resulted in the Commission making decisions based on wrong information.

11:19 a.m. In response to a follow-up question from Representative Ryden, Mr. Glenn stated that the Commission has suspended the policy that requires an unobligated reserve amount of no less than 10 percent of the Division's annual revenue. He said that the Parks and Wildlife Board (the Board) will work with Steve Cassin, Chief Financial Officer of Parks and Wildlife, and other financial staff to reevaluate their policies and create new policies that will better serve the organization subsequent to the merger.

Rick Cables stated that the Division bares the responsibility to be transparent with data provided to the Commission. He stated that the audit clarified the issues and serves as a great reference.

In response to questions from Chair Acree, Mr. Cassin stated that the allocation of Great Outdoors Colorado funds is prescribed by the Constitution. He said that most funds received by the Division have some type of restriction on their use. He said that the Board will establish a new reserve policy based on recommendations from the Finance and Budget Committee. Chair Acree requested a copy of the new policies once they are completed.

Recommendation 2 was reviewed, discussed, and agreed to by staff from the Division and the Commission.

In response to a question from Representative Kerr, Mr. King stated that there is not a good answer to explain how \$32.4 million in expenses were unaccounted for but that the decision to merge the Division with Parks and Outdoor Recreation was not based on bad information. Mr. Glenn stated that the omission of the \$32.4 million in expenses occurred because "money was spent but not deducted from the checkbook." He stated that items were overlooked because of high staff turnover.

Mr. Cassin explained that the \$32.4 million was accounted for in the state's accounting system but that when staff extracted financial data to present to the Commission they failed to include some expenses. He also stated that the staff turnover contributed greatly to the problem.

11:44 a.m. In response to questions from Senator Renfroe, Mr. Glenn explained that the Commission voted to suspend the unobligated reserve policy in order to be in compliance until the policy can be reevaluated. Mr. Glenn and Mr. Cassin both agree with the recalculations of unobligated reserve amount provided by the OSA.

Senator Renfroe asked why they are simply not following the auditor's calculations instead of rewriting the policy. Mr. Cassin said it is because they are not convinced that a 10 percent reserve is appropriate and that the policy needs to be reevaluated. Mr. Cables added that the audit revealed that the policy has definitional problems; that the policy is not statutory; that a 10 percent reserve amount needs to be reexamined; and that the Parks and Wildlife Division does not receive allocations from the general fund.

In response to a question from Chair Acree, Mr. Cassin stated that the Commission has a strategic plan to reach financial sustainability, address recruitment and retention, and establish a marketing strategy.

Representative Williams stated that blaming the issue on staff turnover is unacceptable and asked who has been held accountable for the issues revealed in this audit and who will be held accountable going forward. Mr. King stated that the state's personnel system provides many challenges and progressive discipline is not an easy thing for supervisors to address; but simply stated, there is a new Director and new Chief Financial Officer.

Senators Guzman and Tochtrop commended the OSA for their valuable work identifying the issues and the Division's willingness to accept responsibility to address the problems identified. Senator Tochtrop stated that she would like the Division to present before the Joint Agricultural Committees during the next legislative session.

Representative Kerr stated that the Committee needs to know exactly when the Recommendations are implemented.

In response to a question from Senator Renfroe, Mr. Glenn and Mr. Cassin explained that part of Recommendation 2 has an implementation date of September 2013 because the Division needs time to work through the merger and also to allow time for public testimony before establishing new policies.

Ms. Hochmiller reviewed the Division's expenses for Fiscal Years 2007 through 2011. There were no Recommendations in this area.

State Auditor Ray pointed out that the Medicaid Eligibility Status and Wildlife Cash Fund audits both contain positive statements that highlight areas in which the Departments are meeting requirements.

12:10 p.m. The Committee adjourned.

The meeting of the Legislative Audit Committee reconvened on June 4, 2012 at 1:42 p.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative J. Kerr,
Representative Ryden, Senator Tochtrop, Representative A. Williams

EXCUSED: Senator S. King, Senator Renfroe

1:46 p.m. Senator Renfroe arrived at the hearing.

**Pinnacol Assurance
Statutory Financial Statements
Years Ended December 31, 2011 and 2010
Financial Audit**

Pinnacol Assurance

Jeffrey Cummings, Audit Committee Chair
Ken Ross, President and CEO
Jeff Tetrick, Vice-President and CFO

Office of the State Auditor

Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Crystal Dorsey, Managing Legislative Auditor

Deloitte & Touche LLP

Matt Darden, Partner
Jason Patrick, Manager
Michael Green, Principal

A motion was made by Senator Tochtrop and seconded by Representative Kerr to release the Pinnacol Assurance financial audit. Motion passed unanimously.

Following introductions, Jason Patrick and Matt Darden provided an overview of the audit.

In response to a question from Representative Ryden, Mr. Patrick and Mr. Darden explained the difference between Statutory Accounting Principles (SAP) and Generally Accepted Accounting Principles (GAAP) and why Pinnacol Assurance (Pinnacol) uses SAP instead of GAAP.

In response to a question from Chair Acree, Jeff Tetrick explained why Pinnacol staff disagreed with prior year Recommendation 4 and therefore did not implement the Recommendation. Mr. Darden stated that the reason given for disagreeing with this Recommendation is valid and is not a significant issue.

In response to a question from Representative Williams, Ken Ross briefly explained how Pinnacol determines if a company is in good standing in order to receive dividends.

In response to a question from Representative Kerr, Mr. Ross discussed the trend of decreasing policy rates.

2:05 p.m. Michael Green presented a brief actuarial overview of a Reserve Analysis performed on Pinnacol.

In response to a question from Senator Tochtrop, Mr. Green stated that Pinnacol's loss ratio is slightly higher than the industry average but is in line with countrywide worker's compensation loss ratios.

In response to a request from Auditor Ray, Mr. Darden provided a clarification of Pinnacol's carried reserve position in the range associated with Deloitte clients.

2:40 p.m. Committee recessed briefly and came back to order.

**Tobacco Tax and Tobacco Settlement
Revenue Collections and Distributions
Departments of Revenue and Treasury
Financial Audit, March 2012**

Department of Treasury
Brett Johnson, Deputy State Treasurer

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Pooja Tulsian, Managing Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the Tobacco Tax and Tobacco Settlement Revenue Collections and Distributions financial audit. Motion passed unanimously.

Following introductions, Pooja Tulsian provided an overview of the audit.

In response to questions from Chair Acree, Brett Johnson explained that tobacco tax revenues are redistributed according to state statute; that the Department of Treasury has not looked at projections regarding the timeline of when the settlement funds will be depleted; and that tobacco tax revenue and tobacco settlement funds are redistributed differently according to statute.

3:30 p.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Kerr to approve the minutes of March 27, 2012. Motion passed unanimously.

Status Reports with Agency Representation

Colorado State Veterans Nursing Homes, Department of Human Services, Performance Audit, August 2011

Following introductions and a brief overview of the audit conducted on Colorado State Veterans Nursing Homes, Viki Manley, Director of the Division of State Veterans Homes, reviewed the status of some of the audit Recommendations.

In response to a question from Senator Tochtrop, Ms. Manley stated that the state's nursing homes census is stable, except for a decline in Rifle, Colorado. In a follow-up question from Chair Acree, Ms. Manley explained why census levels have declined in Rifle but stated that a \$4 million dollar construction grant is underway to keep the facility in Rifle competitive in the market.

In response to a request from Auditor Ray, Ms. Manley explained why some recommendations are only partially implemented and have a revised implementation date.

Motorcycle Operator Safety Training (MOST) Program, Performance Audit, September 2011

Following introductions, Eric Johnson provided a brief overview of the audit conducted on the MOST program.

Herman Stockinger, Deputy Executive Director of the Colorado Department of Transportation (CDOT), provided the Committee a written report on the MOST program research surveys and CDOT's recommendations on the future of the MOST program.

In response to a question from Chair Acree, Darrell Lingk, Director of the Office of Transportation Safety, clarified that CDOT modified objective criteria used to evaluate applications for MOST contracts.

In response to a question from Senator Renfroe, Mr. Lingk explained that CDOT determines the per-student tuition subsidy based on the type of training program, such as an experienced rider or a beginner. In response to a follow-up question from Chair Acree, Mr. Johnson stated that the basic (beginner) training fee without the subsidy ranges from \$159 to \$320.

In response to a question from Senator Renfroe, Glenn Davis, Manager of Impaired Driving Programs, stated that MOST funds are not used to reimburse contractors for equipment expenses.

In response to a question from Auditor Ray, Mr. Davis clarified that CDOT will not provide direct reimbursement of training program fees to students due to the high cost of delivering approximately 10,000 individual payments to students each year.

In response to a question from Chair Acree, Mr. Stockinger stated that students do not have to go through the MOST program to receive a motorcycle operator's license.

In response to a question from Chair Acree, Mr. Stockinger stated that the cost to administer the program does not outweigh the benefits to the students. In a follow-up question from Chair Acree, Mr. Johnson stated that the audit identified a lack of data needed to measure and assess the program's effectiveness.

Senator Tochtrop stated that it is critical to determine if a rider who is involved in a motorcycle accident had participated in a safety program before an evaluation can be made on the effectiveness of the program. Chair Acree asked CDOT staff what barriers are preventing them from obtaining accident data. Mr. Stockinger stated that the data is simply not readily available in Colorado, or nationwide, on motorcycle accidents and that they are implementing performance measures to address this issue.

In response to a question from Representative Ryden, Mr. Davis stated that he is not aware of any research conducted in other states to measure motorcycle safety program effectiveness.

In response to a question from Chair Acree, Mr. Stockinger commented on upcoming stakeholder meetings to discuss regulatory changes to clarify and modify CDOT's role and responsibilities for ensuring that MOST instructors maintain current certifications. In response to a follow-up question from Senator Tochtrop, Mr. Davis stated that instructors are recertified annually.

In response to a question from Chair Acree, Mr. Davis stated that CDOT will continue to improve its analysis of the MOST programs' effectiveness by conducting survey's and cross-referencing crash data that has recently become available. In response to a follow-up question from Chair Acree, Mr. Davis stated that CDOT can research historical data. Mr. Johnson stated that there is no reliable program data available prior to 2009 and this causes research of historical data difficult.

In response to a question from Senator Renfroe, Mr. Davis stated that the per-student tuition subsidy rate will remain at \$70 for the Basic Rider Course, increase to \$50 for the Experienced Rider Course, and increase to \$100 for the Basic Rider Course for residents in underserved areas.

In response to a question from Representative Ryden, Mr. Davis clarified the correlation of the Corona research report to the audit.

4:00 p.m. Committee recessed.

June 5, 2012

The Legislative Audit Committee came back to order on June 5, 2012 at 9:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative J. Kerr, Senator Renfroe, Senator Tochtrop, Representative A. Williams

EXCUSED: Senator S. King, Representative Ryden

The following staff members from the OSA and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Deputy State Auditors; Michelle Colin, Derek Johnson, Chris Laughlin, Jenny Atchley, Jenny Page, Lesa Fisher

ALSO PRESENT: Joshua Epel, Doug Dean, Rebecca Quintana, Public Utilities Commission; Mike King, Kim Burgess, Department of Natural Resources; David McDermott, Jennifer Henry, Department of Personnel and Administration

**Public Utilities Commission
Department of Regulatory Agencies
Performance Audit, May 2012**

Public Utilities Commission

Joshua Epel, Commission Chair
Doug Dean, Division Director
Rebecca Quintana, Director, Regulatory and Legal Affairs

Office of the State Auditor

Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Michelle Colin, Managing Legislative Auditor
Derek Johnson, Legislative Auditor
Chris Laughlin, Legislative Auditor

A motion was made by Representative Kerr and seconded by Representative Williams to release the Public Utilities Commission performance audit. Motion passed unanimously.

Following introductions, Chris Laughlin provided an overview of the audit. Recommendation 1 was reviewed, discussed, and agreed to by staff from the Public Utilities Commission Division (Division).

9:15 a.m. In response to a question from Chair Acree, Doug Dean described a few scenarios representative of a pending action before the Public Utilities Commission (Commission). Chair Acree asked for further clarification of exactly how the Commission defines a pending action. Mr. Dean stated that to avoid a conflict of interest, the Commissioners cannot discuss any item that is before them or expected to come before them within the next 30 days. He also stated that

there is a process to cure any communication that might occur unintentionally regarding a pending action.

In response to a question from Senator Renfroe, Mr. Dean and Rebecca Quintana stated that the Commission has modified the *ex parte* disclosure form and Commission rules to include email and telephonic communications as well as other disclosure information. In response to a follow-up question from Senator Renfroe, Ms. Quintana quoted the proposed new rule for the guidance of email communications.

Ms. Quintana discussed the permit-but-disclose communication process and the Commission's proposed amendments to its Rules of Practice and Procedure to codify this process.

In response to a question from Senator Renfroe, Ms. Quintana stated that in the case of permit-but-disclose communication, the Commissioner's will reference the communication in an *ex parte* disclosure as well but the *ex parte* discloser is not filed in an individual docket. In response to follow-up questions from Senator Renfroe, Ms. Quintana explained that the Commissioners do reference the docket number in their *ex parte* disclosure as a cross-reference and clarified timeframes specified in statute relating to communication disclosures.

9:40 a.m. Recommendation 2 was reviewed, discussed, and agreed to by Division staff. Mr. Dean discussed the Division's travel procedures and approval process.

9:53 a.m. Committee recessed briefly and came back to order.

GENERAL BUSINESS

Office of the State Auditor's Frequently Asked Questions (FAQs)

Jenny Page reviewed the FAQs listed on the OSAs website. The questions are categorized by audit authority, LAC, requests for audits, and the audit process. In response to a question from Senator Renfroe, Ms. Page stated that if appropriate, former employees will be interviewed during the survey phase of the audit process.

Office of the State Auditor's Validation of Realized Cost Savings Submitted by the Department of Natural Resources Under the State Employees' Ideas That Improve State Government Operations Incentive Program

A motion was made by Senator Guzman and seconded by Representative Williams to release the Department of Natural Resources cost savings report. Motion passed unanimously.

Following introductions, Jenny Atchley provided an overview of the employee incentive program established by House Bill 10-1264 before addressing the specific cost savings idea submitted by the Department of Natural Resources (Department). Ms. Atchley stated that the auditors could only verify \$201.95 in cost savings, or \$163.95 less than the Department originally reported.

In response to a question from Chair Acree, Ms. Atchley stated that the OSA spent 42.5 hours at a cost of \$2,932.50 to conduct the validation. Senator Tochtrop suggested the Committee consider running legislation to set a minimum cost saving for the documentation to require audited verification. Senator Guzman agreed.

Mike King, Executive Director of the Department, also agreed with the need to consider setting a minimum cost saving before audited verification is required but stated that he felt obligated by statute to formally submit this particular idea to the OSA.

In response to a question from Chair Acree, Mr. King stated that his Department would implement cost savings idea programs without statutory mandates just on the basis of good management.

10:25 a.m. Statutorily-required Audits and Current Audit Requests

Auditor Ray reviewed a list of statutorily-required financial and performance audits as of May 2012, OSA suggestions for possible statutory changes of required audit cycles, and current outstanding audit requests.

10:30 a.m. Chair Acree left the hearing and Vice-Chair Williams presided.

External Peer Review Report

Deputy State Auditor Kerri Hunter reviewed the statutorily-required External Peer Review Report conducted by the National State Auditors Association (NSAA) on the system of quality control of the OSA which encompasses the office's organizational structure and the policies adopted and procedures established to provide reasonable assurance of conforming with government auditing standards. Deputy Hunter reported the OSA received a clean opinion with no exceptions or comments. Auditor Ray added that only about half of the state auditor's offices that go through the NSAA external peer review process receive a clean opinion without a comment letter.

Audit Requests

Auditor Ray briefly reviewed a request from the Joint Budget Committee for an audit of the Colorado Regional Centers for individuals with developmental disabilities run by the Colorado Department of Human Services. A motion was made by Representative Kerr and seconded by Senator Guzman to authorize the OSA to proceed with preliminary research on the request for an audit of the Colorado Regional Centers for individuals with developmental disabilities run by the Colorado Department of Human Services. Motion passed unanimously.

Auditor Ray briefly reviewed a request from Representative Cheri Gerou for an audit of generic drug pricing for Medicaid. A motion was made by Representative Kerr and seconded by Senator Guzman to authorize the OSA to proceed with preliminary research on the request for an audit of generic drug pricing for Medicaid. Motion passed unanimously.

10:41 a.m. Statutorily-required Reports

State of Colorado Recovery and Contract Audit

Following introductions, State Controller David McDermott reviewed the State of Colorado Recovery and Contract Audit report. There were no questions.

Energy Outreach Colorado

Auditor Ray reviewed the Energy Outreach Colorado report which includes information for both the Low-Income Energy Assistance Act and for the Severance Tax Trust Fund. In response to a request from Senator Tochtrop, Auditor Ray agreed to research if a sliding scale is used when determining charitable energy network funds awarded to citizens for utility bill payment assistance and report that information back to the Committee.



State of Colorado

CINDY ACREE, CHAIR
Representative
ANGELA WILLIAMS, VICE CHAIR
Representative
LUCIA GUZMAN
Senator
JIM KERR
Representative

LEGISLATIVE AUDIT COMMITTEE
Legislative Services Building - Second Floor
200 East 14th Avenue
Denver, Colorado 80203

STEVE KING
Senator
SCOTT RENFROE
Senator
SU RYDEN
Representative
LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

July 16-17, 2012
MINUTES

A meeting of the Legislative Audit Committee convened on July 16, 2012 at 10:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative J. Kerr, Senator Renfroe, Representative Ryden, Senator Tochtrop

EXCUSED: Senator S. King, Representative A. Williams

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Jonathan Trull, Deputy State Auditors; Jenny Page, Manjula Udeshi, Eric Johnson, Lesa Fisher

ALSO PRESENT: Lt. Governor Joseph Garcia, Matt Gianneschi, Mark Cavanaugh, Department of Higher Education; George Skiles, Sjoberg Evashenk Consulting, Inc.; Bob Lackner, Legislative Legal Services; Carole Wright, Greg Smith, Jennifer Paquette, Public Employees' Retirement Association; Tom Cavanaugh, Ed Koebel, Eric Gary, Cavanaugh Macdonald Consulting; David Eberly, KPMG LLP; Barbara Brohl, John Vecchiarelli, Department of Revenue; Kathy Nesbitt, Jennifer Okes, Scott Madsen, Department of Personnel and Administration; Ellen Golombek, Jeff Fitzgerald, Department of Labor and Employment

**Performance Audit of the Implementation
of the College Opportunity Fund Program**

Department of Higher Education

Lt. Governor Joseph Garcia, Executive Director
Matt Gianneschi, Deputy Executive Director
Mark Cavanaugh, Chief Financial Officer

Office of the State Auditor

Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Jenny Page, Managing Legislative Auditor

Sjoberg Evashenk Consulting, Inc.

George Skiles, Audit Manager

A motion was made by Representative Ryden and seconded by Senator Guzman to release the Performance Audit of the Implementation of the College Opportunity Fund Program. Motion passed unanimously.

Deputy Auditor Monica Bowers made a brief statement about the statutory changes to the funding structure for Colorado higher education resulting from Senate Bill 04-189 and the purpose for conducting the audit on the College Opportunity Fund (COF) Program.

Following introductions and opening remarks, George Skiles provided an overview of the audit.

10:27 a.m. In response to a question from Representative Kerr regarding the ability of the Commission on Higher Education (Commission) to submit an annual budget request that reflect stipend amounts that keep pace with inflation and enrollment growth given the State's current economic position, Mr. Skiles stated that Recommendation 1a focuses only on the statutory requirement for the Commission to submit such a request.

In response to a question from Chair Acree, Mr. Skiles stated that there is no difference between the allocation formula between two-year and four-year institutions.

Lt. Governor Joseph Garcia stated that the Department agrees with Recommendation 1. In response to a question from Senator Renfroe about why the Department of Higher Education has not sought statutory change for budget submission requirements, Lt. Governor Garcia stated that the Commission will submit the annual budget request based on current statute even if the requested amount is unrealistic under current economic conditions. He further stated that there is a need to be cautious not to request statutory change that would undo the primary purpose for the COF Program. Lt. Governor Garcia clarified the difference between the Commission's budget request versus the Department's budget request.

In response to a question from Senator Renfroe, Lt. Governor Garcia explained why the fee-for-service amount fluctuates while the stipend amount remains fixed.

In response to a question from Senator Guzman, Lt. Governor Garcia stated that Colorado is the only State in the country that has adopted the funding structure similar to that

created by Senate Bill 04-189 and that the creation of new methods of funding higher education was expected to exempt some institutions from TABOR restrictions.

In response to a question from Chair Acree, Dr. Matt Gianneschi stated that stipends can be awarded to any eligible student enrolled in a public institution and is based on credit hours.

10:43 a.m. In response to a question from Senator Tochtrop, Lt. Governor Garcia explained how a student is made aware that a stipend is available and clarified that Pell Grants do not have an effect on the COF Program.

In response to a question from Representative Ryden, Lt. Governor Garcia stated that students need to apply in order to receive funds from the COF Program. Senator Tochtrop asked for further clarification of how a student is made aware of the COF Program.

Recommendation 2 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Mr. Skiles stated that using the database from the Division of Motor Vehicles sufficiently captures the majority of residency determinations. He also stated that educational institutions have a separate questionnaire that is used to further determine student eligibility.

In response to a question from Senator Renfroe, Mr. Skiles explained the risk-based data sample methodology used for the audit.

Recommendation 3 was reviewed, discussed, and agreed to or partially agreed to by staff from the Department. In response to a question from Chair Acree, Lt. Governor Garcia explained that it is the purview of individual institutions to implement the waiver process as they deem appropriate, within the confines of existing statute.

In response to a question from Senator Renfroe, Lt. Governor Garcia stated that any rule governing the waiver process does not impact the amount of funding an institution receives.

11:14 a.m. Recommendation 4 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Lt. Governor Garcia stated that the Department is in the process of developing a Statewide Master Plan that will include measurable and quantifiable goals and will be the foundation for updated institution performance contracts. Dr. Gianneschi clarified performance contract terms and annual procedures used for developing contracts.

In response to questions from Senator Renfroe, Lt. Governor Garcia explained that the Department is considering proposing a new funding model and student incentives. He explained that the Department is trying to keep the Statewide Master Plan broad and simple.

In response to questions from Representative Ryden, Lt. Governor Garcia said that the Department is looking at incentives for institutions that meet or exceed the goals set forth in their performance contract. He stated that certificate programs are currently not part of the COF Program.

11:35 a.m. Committee recessed briefly.

11:40 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Kerr to approve the minutes of June 4 and 5, 2012. Motion passed unanimously.

Overview of Legislative Process

Bob Lackner provided an overview of the drafting process for Legislative Audit Committee legislation during the 2013 Legislative Session.

A motion was made by Senator Tochtrop and seconded by Representative Kerr to introduce Committee bills pursuant to Joint Rule 24(b)(1)(D), instead of following the Legislative Council's process for interim committee bills; and, to authorize Legislative Legal Services to share confidential Committee bill drafts with the Office of the State Auditor (OSA) and authorizing OSA staff to share those bill drafts with state agencies as the OSA deems necessary. Motion passed unanimously.

Committee Rule Change

Auditor Ray proposed an amendment to the Legislative Audit Committee **Rule II. Election of Officers – Duties** to change the election of officers from the third Monday of January each year to the third Tuesday of January each year, or as soon thereafter as possible.

A motion was made by Senator Guzman and seconded by Representative Kerr to accept the amendment to the rule as proposed. Motion passed unanimously.

State of Colorado Recovery and Contract Audit

Auditor Ray provided a summary of the report submitted by the Office of the State Controller on the recovery audit contract, recovery audit status, and items noted in contractor's reports.

In response to a question from Chair Acree, State Controller David McDermott stated that not-for-profit organizations operate under grants rather than contracts but those grants are treated as personal services contracts by the Controller's Office; therefore, he does not feel that any recovery funds from not-for-profits were overlooked.

In response to questions from Chair Acree, Mr. McDermott stated that a request for information has been issued to determine the full scope of contracting with a vendor to make changes to the current Colorado Financial Reporting System.

12:00 p.m. Committee recessed.

1:30 p.m. Committee came back to order.

**Colorado Public Employees' Retirement Association
Financial Audit, Year Ended December 31, 2011**

Public Employees' Retirement Association
Carole Wright, Board Chair
Greg Smith, Interim Executive Director
Jennifer Paquette, Chief Investment Officer

Cavanaugh Macdonald Consulting
Tom Cavanaugh, Chief Executive Officer
Ed Koebel, Senior Actuary and Partner
Eric Gary, Senior Actuary

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor

KPMG LLP
David Eberly, Partner

A motion was made by Senator Guzman and seconded by Representative Kerr to release the Colorado Public Employees' Retirement Association (PERA) financial audit. Motion passed unanimously.

Following introductions, David Eberly provided a brief overview of the Colorado Public Employees' Retirement Association Comprehensive Annual Financial Report (CAFR) for the fiscal year ended December 31, 2011.

Following questions from Representative Kerr, Auditor Ray asked Mr. Eberly to explain the role of the internal actuaries at KPMG.

In response to questions from Representative Kerr, Greg Smith provided a brief explanation of the assumed rate of return and the request for proposal process used by PERA to select their actuarial firm.

2:00 p.m. Mr. Eberly discussed the audit report related to PERA that KPMG prepared. Mr. Eberly stated that there were no outstanding prior year audit recommendations and that there were no significant deficiencies or material weaknesses in internal control noted during the 2011 audit.

In response to a question from Senator Renfro, Mr. Smith commented on the Government Accounting Standards Board proposals that were recently approved and what effect that has on PERA.

Following introductions, Tom Cavanaugh discussed PERA's Actuarial Valuation Results as of December 31, 2011, and 30-year projections.

In response to a question from Senator Renfroe, Mr. Cavanaugh discussed the average increase in salary and benefits since 2002.

In response to a question from Representative Kerr, Mr. Cavanaugh clarified the 2013 calendar year funding results.

In response to a question from Representative Ryden, Mr. Smith stated that no benefit enhancement can be implemented without a full actuarial study to determine the cost.

In response to a question from Chair Acree, Mr. Cavanaugh clarified that the 30-year projections factor in future new hires.

Mr. Smith and Jennifer Paquette presented summary slides including information on PERA's membership, 2011 financial recap, investment asset allocation, and the PERAPlus Program.

3:20 p.m. GENERAL BUSINESS

Status Reports with Agency Representation

Department of Revenue Tax Processing Performance Audit

Manjula Udeshi provided a brief overview of the Department of Revenue Tax Processing performance audit that was released by the Committee in September 2011.

Following introductions of department staff, Barbara Brohl, Executive Director of the Department of Revenue, and Kathy Nesbitt, Executive Director of the Department of Personnel and Administration, provided a status update on the Recommendations from the audit.

In response to a question from Chair Acree, Ms. Brohl explained that errors are processed at different locations depending on the type of error being investigated because of system limitations.

In response to a question from Representative Ryden, Ms. Brohl stated that the Department of Revenue has not discussed the possibility of providing incentives to tax payers to encourage them to use the tax E-Filing system.

3:45 p.m. Committee recessed briefly.

Unemployment Insurance Program Performance Audit

Eric Johnson provided a brief overview of the Unemployment Insurance Program performance audit that was released by the Committee in November 2011.

Ellen Golombek, Executive Director of the Department of Labor and Employment (Department), introduced staff from the Department. Following introductions, Jeff Fitzgerald, Unemployment Insurance Program Director, provided a status update on the Recommendations from the audit. There were no questions.

4:00 p.m. Committee adjourned.

July 17, 2012

The Legislative Audit Committee came back to order on July 17, 2012 at 9:00 a.m. in the Audit Hearing Room, Legislative Services Building. Senator Lois Tochtrop called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Representative J. Kerr, Senator S. King, Senator Renfroe, Representative Ryden, Senator Tochtrop

EXCUSED: Representative Acree, Representative A. Williams

The following staff members from the OSA and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Jonathan Trull, Deputy State Auditors; Manjula Udeshi, Greg Fugate, Jenny Atchley, Lesa Fisher

ALSO PRESENT: Gerald Marroney, Chad Cornelius, Judicial Department; Dave Gustafson, Tom Villani, Wyant Data Systems, Inc.

**Colorado Judicial Department's
Integrated Colorado Courts E-Filing and
Judicial Paper on Demand Systems
Independent Verification and Validation Review
July 2012**

Judicial Department

Gerald Marroney, State Court Administrator
Chad Cornelius, Chief Information Officer,
Judicial Business Integrated With Technology Services

Office of the State Auditor

Dianne E. Ray, State Auditor
Jonathan Trull, Deputy State Auditor
Manjula Udeshi, Managing Legislative Auditor

Wyant Data Systems, Inc. (WDS)

Dave Gustafson, PMP[®], Vice President,
Technology & Product Development
Tom Villani, PMP[®], CBCP, Vice President,
Business Services

A motion was made by Senator Guzman and seconded by Representative Kerr to release the Integrated Colorado Courts E-Filing and Judicial Paper on Demand Systems Independent Verification and Validation Review. Motion passed unanimously.

Following introductions and opening remarks, Recommendation 1 was review, discussed, and disagreed with and partially agreed to by Judicial Department (Department) staff.

9:15 a.m. Chair Acree arrived at the hearing.

Gerald Marroney stated that the Department disagreed with Recommendation 1a because the cyber security plan (ACSP) was actually submitted, but due to the resignation of the Department's Information Security Officer (ISO), the Acting CIO did not receive confirmation of the ACSP submission as it was delivered to the ISO. Mr. Marroney took full responsibility for forgetting that the plan had been filed as required by statute.

In response to a question from Chair Acree, Mr. Marroney stated that the Governor's Office of Information Technology's ISO is required under statute to notify the Department if they fail to submit their ACSP. The Department never received such notification which is indicative that the plan had been submitted as required.

In response to a question from Senator Tochtrop, Mr. Marroney explained what topic areas are included in the implementation plans, practices, and guidelines.

In response to a question from Chair Acree, Mr. Marroney explained how the Department tests their security plan and stated that improvements need to be made in this area. Deputy Auditor Jonathan Trull explained some of the barriers facing the State relating to cyber security. In response to a follow-up question from Chair Acree, Chad Cornelius discussed the Department's cyber security procedures in more detail.

In response to a question from Senator King, Mr. Cornelius stated that the Department would like to work with the new State Chief Security Officer to determine whether to conduct internal security testing or hire an external contractor to do testing.

Senator Guzman expressed her concern with the Department's responses to Recommendation 1 based on the auditor's addendum.

9:44 a.m. In response to a question from Chair Acree, Mr. Cornelius stated that the last penetration study was conducted in 2010 and that they are in the process of submitting a request for proposal for the next penetration study. Deputy Auditor Trull discussed the last penetration study that was conducted by the OSA. Auditor Ray clarified the OSA's role in auditing the cyber security of the State.

In response to a question from Chair Acree, Mr. Cornelius and Mr. Marroney discussed the Department's budget requirements for cyber security activities and some of the issues facing the State.

Recommendations 2-4 were reviewed, discussed, and agreed to or partially agreed to by Department staff. In response to a question from Chair Acree, Dave Gustafson stated that the quality control assurance program is being development internally by the Department. Mr. Marroney added that the Department helped co-develop the current software system being used and therefore is fully qualified to develop the quality control assurance program.

Recommendations 5 and 6 were reviewed, discussed, and agreed to by Department staff.

10:30 a.m. Committee recessed briefly.

GENERAL BUSINESS

Audit Requests

Enforcement of Restitution to Victims

Deputy Bowers reviewed the Office of the State Auditor's evaluation of an audit request from Representative Rhonda Fields of the enforcement of victims' restitution orders.

In response to questions from Chair Acree, Greg Fugate stated that the audit could potentially include the Judicial Department, Department of Corrections, and the Department of Human Services; and, that the Judicial Department is responsible for the administration of restitution payments.

A motion was made by Senator Tochtrop and seconded by Senator Guzman to proceed with the audit of the enforcement of victims' restitution orders. Motion passed unanimously.

Generic Drug Pricing for Medicaid

Deputy Bowers reviewed the Office of the State Auditor's evaluation of an audit request from Representative Cheri Gerou of the State's processes for receiving generic drugs at the lowest price for Medicaid patients.

In response to a question from Chair Acree, Jenny Atchley explained that the Department of Health Care Policy and Financing is in the process of restructuring their pricing methodology for determining which generic drugs they will include in the allowable pricing list. Auditor Ray stated that the audit will address questions about the methodology and will be focused on and limited to generic drug pricing.

In response to a question from Senator Renfroe, Auditor Ray addressed his concern on the scope of the audit.

In response to a question from Senator King, Ms. Atchley stated that the Department of Health Care Policy and Financing is scheduled to complete the restructuring of the pricing methodology by November 2012.

A motion was made by Senator Tochtrop and seconded by Representative Kerr to proceed with the audit of the State's processes for receiving generic drugs at the lowest price for Medicaid patients. Following further discussion the motion was voted on and passed unanimously.

Property Tax/Rent/Heat Rebate Program

Auditor Ray briefly reviewed a request from Representative John Kefalas for an audit of the Property Tax/Rent/Heat Rebate Program administered by the Department of Revenue. A motion was made by Senator Tochtrop and seconded by Representative Kerr to authorize the OSA to proceed with preliminary research on the request for the audit of the Property Tax/Rent/Heat Rebate Program. Motion passed unanimously.

Secure & Verifiable Discussion

Deputy Trull provided a brief overview of the Secure and Verifiable Identity Document Act and ongoing audit requirements as specified by House Bill 06-1306. In response to a question from Senator King, Deputy Trull discussed the history of the legislation that was



State of Colorado

CINDY ACREE, CHAIR
Representative
ANGELA WILLIAMS, VICE CHAIR
Representative
LUCIA GUZMAN
Senator
JIM KERR
Representative

LEGISLATIVE AUDIT COMMITTEE
Legislative Services Building - Second Floor
200 East 14th Avenue
Denver, Colorado 80203

STEVE KING
Senator
SCOTT RENFROE
Senator
SU RYDEN
Representative
LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

August 27-28, 2012
MINUTES

A meeting of the Legislative Audit Committee convened on August 27, 2012 at 10:00 a.m. in Hearing Room A, Legislative Services Building. Vice-Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Representative J. Kerr, Senator S. King, Representative Ryden, Senator Tochtrop, Representative A. Williams

EXCUSED: Representative Acree, Senator Renfroe

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Jonathan Trull, Deputy State Auditors; Eric Johnson, Nina Frant, Trey Standley, Jenny Page, Carleen Armstrong, James Taurman, Crystal Dorsey, Lesa Fisher

ALSO PRESENT: Henry Sobanet, Erick Scheminske, Office of State Planning and Budgeting; Jane Feldman, Independent Ethics Commission; Sherry Stwalley, Judicial Department; Cynthia Coffman, Jon Reitan, Department of Law; Douglas Wilson, Office of Colorado State Public Defender; Linda Weinerman, Dorothy Macias, Office of the Child's Representative; Gary Zimmerman, Heather Lizotte, Department of State; Brett Johnson, Department of Treasury; Dr. Christopher Urbina, Christopher Lindley, Department of Public Health and Environment; Robert Hammond, Leanne Emm, Department of Education; Bob Lackner, Legislative Legal Services

**Implementation of the State Measurement
for Accountable, Responsive, and Transparent
(SMART) Government Act
Performance Audit, August 2012**

Office of State Planning and Budgeting

Henry Sobanet, Director
Erick Scheminske, Deputy Director

Independent Ethics Commission

Jane Feldman, Executive Director

Judicial Department

Sherry Stwalley, Director, Planning and Analysis Division

Department of Law

Cynthia Coffman, Chief Deputy Attorney General
Jon Reitan, Budget Director

Office of the Colorado State Public Defender

Douglas Wilson, State Public Defender

Office of the Child's Representative

Linda Weinerman, Executive Director
Dorothy Macias, Legislative Liaison

Department of State

Gary Zimmerman, Chief of Staff
Heather Lizotte, Chief Financial Officer

Department of the Treasury

Brett Johnson, Deputy Treasurer

Office of the State Auditor

Dianne E. Ray, State Auditor
Jonathan Trull, Deputy State Auditor
Eric Johnson, Managing Legislative Auditor
Nina Frant, Legislative Auditor
Trey Standley, Legislative Auditor

A motion was made by Representative Kerr and seconded by Senator Tochtrop to release the SMART Government Act performance audit. Motion passed unanimously.

Following introductions and opening remarks by Deputy State Auditor Jonathan Trull and Director Henry Sobanet, Eric Johnson provided a brief summary of the SMART Government Act audit.

In response to a question from Representative Ryden, Mr. Johnson stated that it is not specified in statute whether the offices that are not subject to the SMART Government Act's

budgeting requirements are allowed to ask for guidance and review from the Office of State Planning and Budgeting (OSPB). Deputy Trull added that agencies are protective of their independence in the budgeting process and there is hesitancy to formalize processes. Mr. Sobanet stated that OSPB can accommodate an informal exchange of information and advice.

10:20 a.m. Trey Standley reviewed the summary of findings beginning with the compliance problems found with some department's strategic plans.

In response to a question from Representative Kerr, Mr. Standley stated that there were a variety of reasons why department's were not compliant with the SMART Government Act requirements but that a lack of understanding of the statutory requirements was a factor.

In response to a follow-up question from Representative Kerr, Mr. Standley stated that there was a mixed response from department's as to whether or not they found the requirements of the SMART Government Act burdensome or helpful.

In response to a comment from Senator Tochtrop, Deputy Trull discussed the perceived mind-set of the departments during this process and how the OSA used this audit as an educational opportunity for departments.

Mr. Standley continued with a review of the summary of findings related to departments' compliance with statutory requirements for performance-based goals and performance measures.

10:45 a.m. Recommendation 1 was reviewed, discussed, and agreed to by staff from OSPB. Mr. Sobanet stated that beginning this summer, OSPB and the Governor's Office will kick off a new *strategic operational planning* methodology for the Executive Branch that will be supported by continuous efforts to improve business processes throughout Colorado.

In response to a question from Representative Kerr, Mr. Sobanet stated that he believes the values in the SMART Government Act match with the leadership goals of the Governor.

In response to a question from Senator Tochtrop, Mr. Sobanet agreed that there needs to be a more formalized process used to solicit input from state employees.

11:04 a.m. Recommendation 2 was agreed to by staff from OSPB.

Nina Frant provided a brief overview of the structure of the Recommendations provided to the departments not subject to OSPB's oversight.

Recommendation 3 was reviewed, discussed, and agreed and partially agreed to parts by Jane Feldman, Executive Director of the Independent Ethics Commission (IEC). Ms. Feldman stated that the IEC did not have a clear understanding of the requirements of the SMART Act and that the process was extremely time consuming and burdensome to her since she is the only employee of the IEC. Deputy Trull stated that agency's can comply with the law without it being burdensome. Mr. Johnson added that the IEC did not have any performance measures so therefore compliance to the law could not be measured.

In response to a question from Representative Williams regarding the limited employee resources available at the IEC to work on their strategic plan, Deputy Trull stated that even a

one-person public agency should have a strategic plan with performance measures but smaller agencies, such as the IEC, would not be expected to generate the same level of report as the larger agencies. Representative Williams stated that the Committee should consider possible legislation in 2013 to modify the SMART Act requirements of smaller state agencies.

Recommendation 4 was reviewed, discussed, and agreed to by Sherry Stwalley, Director of Planning and Analysis Division within the Judicial Department. Ms. Stwalley provided a brief overview of the planning process used by the Judicial Department to develop their strategic plan.

Recommendation 5 was reviewed, discussed, and agreed to, except for Recommendation subpart 5d which was disagreed to, by staff from the Department of Law.

In response to a question from Senator Guzman, Deputy Trull stated that the OSA sought legal advice on the interpretation of the SMART Government Act [Section 2-7-202(11), C.R.S.] that states that performance measures “*should be reasonably understandable to the public and developed with the input of department employees and any certified employee organizations.*” Deputy Trull said that in conclusion, the OSA took a “plain reading” of the statute to mean that departments needed to develop their strategic plan with the input of department employees and any certified employee organizations in order to be in full compliance of the law.

Recommendation 6 was reviewed, discussed, and agreed to by Douglas Wilson from the Office of the Colorado State Public Defender. Mr. Wilson stated that the Office of the Colorado State Public Defender agrees with attempting to comply with the SMART Government Act.

Recommendation 7 was reviewed, discussed, and agreed to by staff from the Office of the Child’s Representative (OCR). Linda Weirnerman, Executive Director, stated that the OCR has amended its strategic plan to specify numerical fiscal year targets for each of their performance measures.

Recommendation 8 was reviewed, discussed, and agreed to, except for Recommendation subpart 8b which was disagreed to, by staff from the Department of State. In response to a question from Senator Tochtrop, Gary Zimmerman stated every employee within the Department of State was asked for their input in the development of the strategic plan.

Recommendation 9 was reviewed, discussed, and agreed to by Brett Johnson, Deputy Treasurer.

11:50 a.m. GENERAL BUSINESS

Minutes

A motion was made by Representative Kerr and seconded by Senator Tochtrop to approve the minutes of July 16 and 17, 2012. Motion passed unanimously.

Required Communications to Those Charged with Governance

Deputy State Auditor Kerri Hunter discussed the requirements of the Office of the State Auditor to communicate various matters to those charged with governance of the State of Colorado, as required under the Statement of Auditing Standards 114 (SAS 114), regarding the audit of Fiscal Year 2012 financial statements of the State of Colorado.

In response to questions from Representative Ryden, Deputy Hunter stated that the Statement on Auditor Standards No. 99, *Consideration of Fraud in Financial Statement Audit*, is a requirement that has been in place for several years and that no significant error or fraud has been identified while conducting the audit of the state's financial statements.

11:55 a.m. Committee recessed.

1:30 p.m. Committee came back to order.

**Amendment 35 Tobacco Funded Grant Programs
Department of Public Health and Environment
Performance Audit, July 2012**

Department of Public Health and Environment
Dr. Christopher Urbina, Executive Director and
Chief Medical Officer
Christopher Lindley, Director, Prevention Services Division

Office of the State Auditor
Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Jenny Page, Managing Legislative Auditor
Carleen Armstrong, Legislative Auditor
James Taurman, Legislative Auditor

A motion was made by Senator King and seconded by Senator Tochtrop to release the Amendment 35 Tobacco Funded Grant Programs performance audit. Motion passed unanimously.

1:35 p.m. Representatives Kerr and Williams arrived at the hearing.

Following introductions, Jenny Page provided a summary of the audit which was conducted to evaluate grant-making processes and determine whether grant monies funded with Amendment 35 tobacco tax are being used for their intended purposes.

Recommendation 1 was reviewed, discussed, and disagreed to by staff from the Department of Public Health and Environment (Department).

In response to a question from Senator King, James Taurman stated that the Department's strategic plan does not use the term "lobbying." In response to a follow-up question from Senator King as to whether the Department's strategic plan defines intent to change public policy and law, Mr. Taurman stated that the Tobacco Prevention Strategic Plan specially states "policy activities are essential to reducing tobacco prevalence in Colorado. Research has documented the effectiveness of laws and policies in a comprehensive tobacco control effort to protect the public from secondhand smoke exposure, promote cessation, and prevent initiation."

Dr. Christopher Urbina stated that the staff from the Department disagrees with Recommendation 1. He said that seeking a legal opinion from the Attorney General is

unwarranted as the use of Tobacco Prevention Program grant funds to support activities associated with policies to change societal norms is entirely consistent with the statutory mandates for expenditure of these funds on evidence-based programs.

In response to questions from Representative Acree, Dr. Urbina stated that the Department does not specially describe how local agencies use grant monies to contact local officials to discuss policy issues, but lobbying is prohibited; and, that seeking a legal opinion is not necessary because they are using best evidence-based practices supported by matter experts in the field of tobacco control and prevention.

Senator King stated that he has serious concerns over the Department's refusal to ask for a legal opinion from the Attorney General. Dr. Urbina stated that he does not have any further information to add regarding the Attorney General since they are following state statute and are in full compliance with the law.

In response to a question from Senator King, Dr. Urbina stated that grant funded programs in Delta, Grand Junction, Steamboat, Lamar, and Salida have been successful in educating policy makers to make decisions about how to change policies and law to reduce tobacco use among youth and children in local communities.

In response to a question from Representative Kerr, Dr. Urbina agreed to provide the Committee with information on whether or not controlled studies have been conducted on the impact to communities that have not received tobacco grant funding.

In response to a comment from Senator Guzman, Dr. Urbina agreed that it is difficult to impact tobacco use without changing policy or passing a law.

Following a brief discussion, Senator King stated that he has serious concerns about the use of tax payer money to educate local policy makers on changes in laws and policies and feels that policy discussion should be with legislators and not the Department of Public Health and Environment.

In response to a question from Senator Tochtrop, Dr. Urbina stated that several states use the same evidence-based strategy to educate local governments. Senator Tochtrop stated that she feels that the Department should agree with the Auditor's recommendation to seek a legal opinion from the Attorney General regarding this issue.

Deputy State Auditor Monica Bowers clarified the OSA's position regarding Recommendation 1.

Chair Acree respectfully requested the Department to reconsider their position and seek a legal opinion.

2:15 p.m. Recommendations 2 and 3 were reviewed, discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Dr. Urbina discussed the Department's plan for assessing the financial risk of applicants for the tobacco grants.

Recommendation 4 was reviewed and agreed to by staff from the Department. In response to a question from Senator Guzman, Dr. Urbina stated that the Department is

streamlining the process flow to ensure grant contracts comply with guidelines set forth in the State Procurement Manual and the Department's *Guide to Best Practices in Contract Management*.

A motion was made by Senator King requesting that the Legislative Audit Committee direct the Department of Public Health and Environment to obtain from the Attorney General, as soon as practical, an opinion on whether statute and the state constitution allow the tobacco prevention program to use grants to fund policy initiatives to help pass local laws and ordinances to prohibit smoking.

Chair Acree called for a second. No second was given so Chair Acree asked Senator King to restate the motion. Senator King restated the motion. Chair Acree seconded the motion.

Senator Tochtrop asked for clarification on whether or not the Committee has the authority to make this type of motion. Auditor Ray stated that Bob Lackner will be in attendance later in the day during the legislation discussion and could provide clarification at that time.

A motion was made by Chair Acree and seconded by Senator Tochtrop to table Senator King's motion until Mr. Lackner was present to provide clarification on the Committee's authority. Motion passed with a majority vote. Senator King opposed.

Recommendations 5 and 6 were reviewed, discussed, and agreed to by staff from the Department. In response to a question from Chair Acree, Dr. Urbina stated that grant funds are paid to grantees as reimbursements after costs have been incurred on their grant projects.

2:42 p.m. The Committee recessed briefly.

**Fiscal Health Analysis of Colorado School Districts
August 2012**

Department of Education

Robert Hammond, Commissioner

Leanne Emm, Assistant Commissioner, Public School Finance

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Crystal Dorsey, Managing Legislative Auditor

2:49 p.m. A motion was made by Representative Kerr and seconded by Senator Tochtrop to release the Fiscal Health Analysis of Colorado School Districts financial evaluation. Motion passed unanimously.

Following introductions, Crystal Dorsey provided an overview of the analysis. In response to a question from Chair Acree, Leanne Emm stated that there is no delay in the reimbursement of child nutrition payments to the School Districts once the District submits the expense for reimbursement.

In response to a question from Senator Tochtrop, Robert Hammond stated that currently there are no plans to consolidate rural school districts.

In response to a question from Chair Acree, Ms. Emm explained the outreach assistance provided by the Department of Education to help the districts with stress indicators. Ms. Emm stated that this is done on an annual basis.

In response to a question from Representative Kerr, Ms. Emm discussed the financial impact on the school districts resulting from the Public Employees' Retirement Association legislative mandates.

Auditor Ray provided summary remarks about the analysis.

3:20 p.m. GENERAL BUSINESS

Legislation

Senator King withdrew his motion made earlier in the day to have the Legislative Audit Committee direct the Department of Public Health and Environment to obtain from the Attorney General, as soon as practical, an opinion on whether statute and the state constitution allow the tobacco prevention program to use grants to fund policy initiatives to help pass local laws and ordinances to prohibit smoking.

Bob Lackner stated that the Legislature, in general, is not able to require an agency of the Executive Branch to act on any recommendation. Further discussion was held on the authority of the Committee and the OSA to request a formal opinion from the Attorney General. Auditor Ray stated that the OSA has received informal opinions in the past from the Attorney General. Mr. Lackner agreed to conduct further research into the authority of the Committee and the OSA.

Representative Kerr withdrew his second of the motion.

Deputy Bowers and Deputy Trull reviewed the status of past Recommendations which resulted in legislation or legislation discussions during past legislative sessions.

Deputy Bowers reviewed Recommendations from the Board of Assessment Appeals performance audit which was released in January 2012 that could lead to legislative change.

Auditor Ray discussed bill draft LLS 13-0036.01 relating to possible changes to modify statutory requirements directing the OSA to conduct specified reviews.

A motion was made by Senator Tochtrop and seconded by Representative Williams to amend bill draft LLS 13-0036.01 to include changes to modify statutory requirements directing the OSA to conduct specified reviews of the Verification of Cost Savings Achieved From Employee Innovative Idea, Travel and Tourism, and the Auto Theft Prevention Cash Fund. Motion passed unanimously.

Legislative Audit Committee Schedule

A motion was made by Senator Guzman and seconded by Chair Acree to move the Committee hearing dates of December 10 and 11, 2012 to December 12 and 13, 2012 due to a

Republican caucus retreat conflict. Motion passed unanimously.

4:00 p.m. Committee adjourned.

August 28, 2012

The Legislative Audit Committee convened on August 28, 2012 at 9:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Representative Acree, Senator Guzman, Representative Ryden, Senator Tochtrop, Representative A. Williams

EXCUSED: Representative J. Kerr, Senator S. King, Senator Renfroe

The following staff members from the OSA and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Jonathan Trull, Deputy State Auditors; Manjula Udeshi, Julie Chickillo, Greg Fugate, Christopher Harless, Jenny Page, Andrew Knauer, Sarah Aurich, Lesa Fisher

ALSO PRESENT: Kristin Russell, Todd Olson, Jim Lynn, Governor's Office of Information Technology; Patrick Teegarden, Michael McArdle, Peter Wingate, Department of Labor and Employment; Jennifer Okes, Department of Personnel and Administration; Barbara Brohl, Ron Kammerzell, Department of Revenue; Roger Hutson, Gaming Commission; Reginald Jefferson, Kenneth Cole, John Gomez, Al Estrada, Department of Human Services

Information Technology in Colorado State Government

Governor's Office of Information Technology
Kristin Russell, Secretary of Technology and
State Chief Information Officer
Todd Olson, Chief Financial Officer
Jim Lynn, Director of Service Operations

Office of the State Auditor
Dianne E. Ray, State Auditor
Jonathan Trull, Deputy State Auditor
Manjula Udeshi, Managing Legislative Auditor
Julie Chickillo, Legislative Auditor

A motion was made by Representative Williams and seconded by Representative Acree to release the Information Technology in Colorado State Government report. Motion passed unanimously.

Following introductions and opening remarks, Manjula Udeshi provided an overview of basic information on the structure, organization, and governance of IT in state government.

In response to a question from Chair Acree, Deputy Trull explained some of the barriers encountered when trying to capture overall state IT expenditures, such as having different

accounting and budgeting systems among state agencies.

Kristin Russell provided a brief overview of the reporting structure and functions of the Office of Information Technology.

9:30 a.m. Julie Chickillo provided an overview of IT funding and expenditures, IT strategic planning, legislation that will affect IT, and new state IT projects that will be pursued during Fiscal Year 2013.

In response to a question from Chair Acree, Ms. Chickillo stated that because of how IT spending is tracked in the State, it is not possible to determine the IT expenditures for the Department of Transportation or for each institution of higher education. Ms. Russell briefly explained steps being taken to address the issue of tracking IT expenditures in the future. In response to a follow-up question from Chair Acree, Todd Olson discussed the State's IT budget.

Further discussion was held in response to a request from Auditor Ray for an explanation from OIT staff regarding the changes expected in the 2013 long bill process in an effort to address the consolidation of the State's IT budget.

In response to a question from Representative Williams, Ms. Russell discussed broadband and rural broadband landscape in Colorado. Ms. Russell agreed to provide the Committee information on broadband availability and the roll, if any, the Public Utilities Commission has in tracking broadband data.

Deputy Trull briefly reviewed the IT initiatives, risk areas, and IT audits planned for Fiscal Year 2013. In response to a question from Chair Acree, Ms. Russell discussed strategic plans and target dates to address issues with the top 10 critical business applications at risk.

In response to questions from Representative Williams and Senator Tochtrop, Ms. Russell discussed broadband grant funding and stated that the broadband availability mapping does not indicate if there is duplicative infrastructure in the ground, it only measures the speed and availability into the household.

10:10 a.m. Committee recessed briefly.

GENERAL BUSINESS

10:15 a.m. Audit Requests

Colorado Regional Centers for the Developmentally Disabled

Deputy Bowers reviewed the Office of the State Auditor's evaluation of an audit request from Representative Cheri Gerou and the Joint Budget Committee of the Department of Human Services Regional Centers for people with developmental disabilities.

A motion was made by Chair Acree and seconded by Senator Guzman to proceed with the audit of the Colorado Regional Centers for the developmentally disabled. Motion passed on a roll-call vote of 5-0 as follows:

Senator Guzman:	Aye
Representative Ryden:	Aye
Senator Tochtrop:	Aye
Representative Williams:	Aye
Chair Acree:	Aye

Property Tax/Rent/Heat Rebate Program

Deputy Bowers reviewed the Office of the State Auditor's evaluation of an audit request from Representative John Kefalas of the Property Tax/Rent/Heat Rebate Program within the Department of Revenue.

A motion was made by Representative Williams and seconded by Senator Guzman to proceed with the audit of the Property Tax/Rent/Heat Rebate Program. Motion passed on a roll-call vote of 5-0 as follows:

Senator Guzman:	Aye
Representative Ryden:	Aye
Senator Tochtrop:	Aye
Representative Williams:	Aye
Chair Acree:	Aye

Governor's Office of Information Technology's Contract Award for E-mail Services

Auditor Ray reviewed a request from Representative Brian DelGrosso for an audit of the Governor's Office of Information Technology's contract award for e-mail services.

A motion was made by Senator Tochtrop and seconded by Representative Williams to authorize the OSA to proceed with preliminary research on the request. Motion passed unanimously.

Division of Real Estate

Auditor Ray reviewed a request from Representative Mark Barker for an audit of the Division of Real Estate in the Department of Regulatory Agencies.

A motion was made by Senator Tochtrop and seconded by Representative Williams to authorize the OSA to proceed with preliminary research on the request. Motion passed unanimously.

10:20 a.m. Status Reports with Agency Representation

Employment Verification and Public Contracts for Services Laws

Christopher Harless provided a brief overview of the October 2011 *Employment Verification and Public Contracts for Services Laws* performance audit.

Following introductions, Dr. Peter Wingate, Deputy Director, Division of Labor, and Jennifer Okes, Deputy Executive Director, Department of Personnel and Administration, provided a brief explanation of the actions taken by the Departments to implement each recommendation. There were no questions.

Division of Gaming

Jenny Page provided a brief overview of the October 2011 *Division of Gaming* performance audit.

Following introductions, Roger Hutson, Chair, Gaming Commission, discussed actions taken by the Gaming Commission to ensure a fair and competitive environment for the gaming industry in Colorado. In response to a question from Senator Tochtrop, Mr. Hutson further discussed the issue of multiple licenses for physically attached casinos.

Ron Kammerzell, Director, Division of Gaming, provided a brief explanation of the actions taken on Recommendations 2-5. There were no further questions.

Psychiatric Medication Practices for Adult Civil Patients

Andrew Knauer provided a brief overview of the May 2011 *Psychiatric Medication Practices for Adult Civil Patients* performance audit.

Following introductions, Ken Cole, Deputy Director, Office of Behavioral Health and Director, Mental Health Institutes Division, provided a brief explanation of the actions being taken to implement the remaining outstanding recommendations from this audit.

In response to a question from Senator Tochtrop, Mr. Cole stated that when a patient is under an involuntary or emergency medication order but refuses medication, the medication is still administered to the patient. Otherwise, the patient's refusal must be honored.

Colorado Mental Health Institute at Pueblo

Jenny Page provided a brief overview of the November 2009 *Colorado Mental Health Institute at Pueblo* performance audit.

Reginald Jefferson, Director, Office of Administrative Solutions, provided a brief explanation of the actions being to improve nonexempt employees' compliance with timekeeping and leave requirements.

Mr. Cole discussed the actions taken to strengthen policies and procedures for protecting patients and the public when a civil patient becomes missing. In response to a question from Chair Acree, Mr. Cole explained the escape and elopement policy and the notification process to authorities.



State of Colorado

CINDY ACREE, CHAIR
Representative
ANGELA WILLIAMS, VICE CHAIR
Representative
LUCIA GUZMAN
Senator
JIM KERR
Representative

LEGISLATIVE AUDIT COMMITTEE
Legislative Services Building - Second Floor
200 East 14th Avenue
Denver, Colorado 80203

STEVE KING
Senator
SCOTT RENFROE
Senator
SU RYDEN
Representative
LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

**October 15-16, 2012
MINUTES**

A meeting of the Legislative Audit Committee convened on October 15, 2012 at 10:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Representative J. Kerr, Senator S. King, Senator Renfroe, Representative Ryden, Senator Tochtrop, Representative A. Williams

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Michelle Colin, Acting Deputy State Auditor; Ferminia Hebert, Reed Larsen, Cindi Radke, Lesa Fisher

ALSO PRESENT: Kathy Nesbitt, Jennifer Okes, Matt Azer, Department of Personnel and Administration; George Skiles, Sjoberg Evashenk Consulting, Inc.

**Performance Audit of the Office of Administrative Courts
September 2012**

Department of Personnel and Administration

Kathy Nesbitt, Executive Director

Jennifer Okes, Deputy Executive Director

Matt Azer, Director, Office of Administrative Courts

Office of the State Auditor

Dianne E. Ray, State Auditor

Michelle Colin, Acting Deputy State Auditor

Sjoberg Evashenk Consulting, Inc.

George Skiles, Manager

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the Performance Audit of the Office of Administrative Courts. Motion passed unanimously.

Following introductions and opening remarks, George Skiles provided an overview of the Office of Administrative Courts (the Office), a brief fiscal overview, and a summary of the audit scope and methodology.

10:12 a.m. In response to a question from Representative Kerr, Mr. Skiles and Matt Azer explained in further detail the Office's revenue, expenditures, and employee appropriation.

Mr. Skiles presented an overview of workers' compensation hearings conducted by the Office. Recommendation 1 was reviewed, discussed, and agreed to by staff from the Office.

In response to a question from Senator King, Mr. Skiles and Mr. Azer discussed the Office's timeliness of hearings and decisions made by Administrative Law Judges (ALJ's), specifically regarding disfigurement cases.

10:41 a.m. In response to a question from Representative Ryden, Mr. Azer discussed the trends on the number of *pro se* cases brought before the Office. He stated that the Office does not track the outcomes from *pro se* cases but that the Division of Workers' Compensation should have the statistics, which he agreed to obtain and provide to the Committee.

Recommendations 2 and 3 were reviewed, discussed, and agreed to by staff from the Office.

In response to a question from Senator Renfroe, Mr. Skiles stated that the public perception survey was conducted anonymously and therefore specific results cannot be correlated to cases based on timeliness, ALJ's, or result of the hearing. Mr. Azer stated that a new survey will be conducted that will capture more information but still remain confidential.

In response to a question from Senator Renfroe, Mr. Azer stated that the Office is working on balancing resources, opening more court dates, and providing video conferencing as options to help in the timeliness of scheduling hearings and issuing decisions.

11:12 a.m.

Annual Report of Audit Recommendations Not Fully Implemented, October 2012

Office of the State Auditor

Dianne E. Ray, State Auditor

Michelle Colin, Acting Deputy State Auditor

Ferminia Hebert, Legislative Auditor

Reed Larsen, Legislative Auditor

A motion was made by Representative Williams and seconded by Representative Kerr to release the Annual Report of Audit Recommendations Not Fully Implemented. Motion passed unanimously.

Following opening remarks and introductions from Acting Deputy Michelle Colin, Ferminia Hebert presented an overview of the information contained in the report on the implementation status of all recommendations made by the OSA from January 2008 through June 2012.

11:35 a.m. Reed Larsen provided a brief explanation of how the outstanding recommendations are summarized in this report. Mr. Larsen explained that in July 2012, OSA requested updates from the departments on outstanding performance and IT recommendations. This gave departments the opportunity to provide the most recent implementation status for each recommendation including narratives on the progress made towards implementing each recommendation and a new implementation date if necessary. All financial recommendations will be updated after each annual financial audit is performed by OSA auditors.

Mr. Larsen provided an overview of the outstanding recommendations from the Department of Health Care Policy and Financing (HCPF).

Senator King and Senator Tochtrop expressed concern over the two recommendations from HCPF that are classified as a material weakness. Specifically, they are concerned whether or not clients are being denied or prevented from receiving services based on these findings. Chair Acree also expressed concern and asked if the departments are given an opportunity to explain why these recommendations are not implemented. Mr. Larsen stated that the departments were provided an opportunity to comment on outstanding recommendations in July 2012 when they submitted their updates to OSA.

Auditor Ray stated that the entire report will be presented to the Joint Budget Committee on November 15, 2012, and then to each corresponding Committee of Reference beginning in January 2013. This will give members of the General Assembly a chance to ask each department specific questions, such as why some recommendations keep getting pushed back and given new implementation dates.

Mr. Larsen briefly reviewed the status of recommendations from the Department of Human Services.

11:52 a.m. Auditor Ray introduced Cindi Radke, Legislative Audit Manager, and asked her to address the concerns regarding the recommendations made to HCPF that are classified as material weaknesses. She explained that these specific recommendations continue to be outstanding because they cannot be fully implemented until the Medicaid Management Information System is updated or replaced and changes related to healthcare reform are put in place. Ms. Radke reassured the Committee that these recommendations not being fully implemented do not prevent clients from receiving services.

11:55 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Williams to approve the minutes of August 27 and 28, 2012. Motion passed unanimously.

Proposed 2013 Session Calendar

Auditor Ray asked the Committee to review the proposed 2013 Session calendar for the LAC hearings. The Committee will be asked to vote on the calendar at the December 2012 Committee hearing.

11:56 a.m. The Committee adjourned.

1:28 p.m. Committee was called to order by Chair Acree. The roll was called with the following result:

PRESENT: Senator Guzman, Representative J. Kerr, Senator Renfroe, Representative Ryden, Senator Tochtrop, Representative A. Williams

EXCUSED: Senator King

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Michelle Colin, Kerri Hunter, Deputy State Auditors; Sarah Aurich, Mindy Gates, Cynthia Hochmiller, Jeffrey Kahn, Jenny Atchley, Lesa Fisher

ALSO PRESENT: John Bartholomew, Tom Massey, Chris Underwood, Nancy Dolson, Ellen Robinson, Department of Health Care Policy and Financing; Barbara Brohl, Abel Tapia, John Caligaris, Department of Revenue; Paul Niedermuller, Justin Petrone, CliftonLarsonAllen LLP; Jim Smith, State Board of Great Outdoors Colorado Trust Fund; Lise Aangeenbrug, Julie Coutant, Great Outdoors Colorado; Ryan Sells, Natasha Suzuki, Ehrhardt Keefe Steiner & Hottman, LLP; Bob Lackner, Legislative Legal Services; Mike Berry, Board of Assessment Appeals; Bruce Eisenhower, Department of Local Affairs

1:33 p.m. Senator King arrived at the hearing.

**Medicaid Hospital Provider Fee Program
Department of Health Care Policy and Financing
Performance Audit, September 2012**

Department of Health Care Policy and Financing

John Bartholomew, Deputy Executive Director

and Finance Office Director

Tom Massey, Deputy Director, Policy and Communications

Chris Underwood, Director, Provider Operations Division

and Finance Office Deputy Director

Nancy Dolson, Section Manager, Safety Net Programs

Ellen Robinson, Chair, Hospital Provider Fee Oversight

and Advisory Board

Office of the State Auditor

Dianne E. Ray, State Auditor

Monica Bowers, Deputy State Auditor

Sarah Aurich, Managing Legislative Auditor

Mindy Gates, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the Medicaid Hospital Provider Fee Program performance audit. Motion passed unanimously.

Following introductions and opening remarks, Sarah Aurich provided a summary overview of the Medicaid Hospital Provider Fee Program (Program) and the audit scope and methodology.

Recommendation 1 was reviewed, discussed, and agreed to by staff from the Department of Health Care Policy and Financing (the Department).

In response to a question from Representative Kerr, Nancy Dolson stated that the Department and the Medical Services Board can adequately address Program compliance issues without the need for additional legislation.

In response to follow-up questions from Representative Kerr, Ms. Dolson stated that cost reporting is already required from hospitals according to a standard set of guidelines which will ensure Program compliance and that she believes hospitals should already have the cost reporting data available so it should not cause an additional financial burden.

Recommendations 2 and 3 were reviewed, discussed, and agreed to by staff from the Department.

An in-depth discussion was held regarding the collection of excess hospital provider fees and the implications of the recommendation to the Medical Services Board to carry over excess provider fees year after year instead of refunding the excess to hospitals.

2:20 p.m. The Committee recessed briefly.

**Colorado Lottery Financial and Compliance Audit
for the Year Ended June 30, 2012**

Department of Revenue

Barbara Brohl, Executive Director
Abel Tapia, Director, Lottery Division
John Caligaris, Controller, Lottery Division

Lottery Commission

Dana Franzen, Chair

Office of the State Auditor

Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Cynthia Hochmiller, Managing Legislative Auditor

CliftonLarsonAllen LLP

Paul Niedermuller, Partner
Justin Petrone, Senior Manager

A motion was made by Representative Kerr and seconded by Representative Williams to release the Colorado Lottery Financial and Compliance Audit. Motion passed unanimously.

Following introductions and opening remarks, Paul Niedermuller provided an overview of the report and the financial statements.

Recommendation 1 was reviewed, discussed, and agreed to by staff from the Department of Revenue.

In response to a question from Senator Guzman, Abel Tapia stated that lottery ticket retailers receive seven percent of scratch ticket sales and six percent of any jackpot from a ticket sold from their store, plus a bonus from high-tier winners.

2:51 p.m. Chair Acree was excused from the hearing. Vice-Chair Williams assumed duties of Chair. The Committee recessed briefly.

**The State Board of the Great Outdoors Colorado Trust Fund
Financial and Compliance Audit
June 30, 2012**

State Board of Great Outdoors Colorado Trust Fund
Jim Smith, Vice-Chair

Great Outdoors Colorado
Lise Aangeenbrug, Executive Director
Julie Coutant, Chief Financial Officer

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Crystal Dorsey, Managing Legislative Auditor

Ehrhardt Keefe Steiner & Hottman, LLP
Ryan Sells, Partner
Natasha Suzuki, Audit Manager

A motion was made by Senator Guzman and seconded by Representative Ryden to release The State Board of the Great Outdoors Colorado Trust Fund Financial and Compliance Audit. Motion passed unanimously.

Following introductions and opening remarks, Ryan Sells provided an overview of the report and the financial statements.

Recommendation 1 was reviewed, discussed, and disagreed to by members of the State Board of Great Outdoors Colorado Trust Fund (the Board) and staff from Great Outdoors Colorado (GOCO).

Lisa Aangeenbrug discussed the reasons the Board disagreed with the Recommendation. In response to a request from Representative Kerr, Auditor Ray expressed concern about the trend over the last five years where the Board has not met its fiduciary duty to ensure substantially equal expenditures over time in each of its four funding purposes.

3:08 p.m.

**Schedule of TABOR Revenue
September 2012**

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Jeffrey Kahn, Managing Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Kerr to release the Schedule of TABOR Revenue financial audit. Motion passed unanimously.

Following introductions, Jeffrey Kahn summarized the Schedule of TABOR Revenue

report. There were no recommendations in the report.

3:25 p.m. GENERAL BUSINESS

OSA Annual Report

Jenny Atchley reviewed highlights from OSA's Annual Report for Fiscal Year 2012. There were no questions from the Committee.

2013 Potential Legislation

Acting Deputy Michelle Colin provided a brief review of the Recommendations from the Board of Assessment Appeals performance audit released by the Committee in January 2012 that resulted in the Department of Local Affairs (the Department) seeking statutory change.

Mike Berry, Director of the Board of Assessment Appeals (the Board), and Bruce Eisenhower, Deputy Director and Chief Operating Officer from the Department, provided summary statements about pursuing statutory change to remove ambiguity regarding deadlines for the Board to issue decisions, give discretion to the Board to issue "Summary Decisions," and to allow the Board's filing fees to be adjusted annually.

In response to a question from Senator Renfroe, Mr. Berry explained why there is a different fee charged in cases of *pro se* taxpayer petitions versus those with legal or agent representation.

A motion was made by Senator Tochtrop to proceed with a bill draft. Before the motion received a second, further discussion was held.

In response to a question from Representative Kerr, Mr. Berry stated that even though the Department has not yet received an Attorney General's opinion regarding deadlines for the Board to issue decisions, they want to proceed with draft legislation based on discussions with OSA staff.

In response to a question from Representative Kerr, Mr. Berry agreed to provide the Committee with the exact number of *pro se* petitions filed.

In response to a question from Senator Renfroe, Mr. Berry stated that it would be very difficult to draft legislation that would allow the Department to adjust its fee structure based on characteristics of a case (e.g., complex or routine case).

The previous motion was repeated by Senator Tochtrop and seconded by Representative Ryden to proceed with a bill draft. Motion passed on a roll-call vote of 5-2 as follows:

Senator Guzman:	Aye
Representative Kerr:	Aye
Senator King:	No
Senator Renfroe:	No
Representative Ryden:	Aye
Senator Tochtrop:	Aye
Vice Chair Williams:	Aye

Auditor Ray briefly reviewed the bill draft and highlight sheet for LLS No. 13-0036.01 regarding a change in audit requirements directing the OSA to conduct specified reviews.

A motion was made by Senator Tochtrop to proceed with bill draft LLS No. 13-0036.01. Before a second was made, Auditor Ray asked the Chair to review additional items. Senator Tochtrop withdrew the motion.

Auditor Ray reviewed changes requested to the required audit cycle for Administrative Courts and Administrative Law Judges and other possible future statutory changes regarding audit requirements.

A motion was made by Senator Tochtrop and seconded by Senator Guzman to amend bill draft LLS No. 13-0036.01 to include the previous recommendations made by the Auditor Ray and to discuss the draft, as amended, at the next Committee hearing. Motion passed on a roll-call vote of 6-0 as follows:

Senator Guzman:	Aye
Representative Kerr:	Excused
Senator King:	Aye
Senator Renfroe:	Aye
Representative Ryden:	Aye
Senator Tochtrop:	Aye
Vice Chair Williams:	Aye

Updates

Auditor Ray provided an update on the audit requests of the Division of Real Estate and the Governor's Office of Information Technology contract award for email services approved for initial research at the August 2012 Committee hearing.

Auditor Ray provided an update on the discussion that was tabled at the August 2012 Committee hearing regarding a policy recommendation made to the Department of Public Health and Environment. Bob Lackner explained the specifics of the question being addressed in a formal opinion from Legislative Legal Services pertaining to the use of tobacco prevention program monies. The opinion will be brought to the Committee in December 2012.

Statutorily-required Report

Auditor Ray reviewed a memo that provided information on the Fire and Police Pension Association annual actuarial valuation reports for the Statewide Defined Benefit Plan and the Statewide Death and Disability Fund for the year beginning January 1, 2012.

Other Business

Deputy Bowers introduced a new intern from the Office of the Comptroller General in Puerto Rico and talked about the OSA's internship program. Auditor Ray added that there is no cost to OSA for this intern.

4:30 p.m. The Committee recessed.

October 16, 2012

9:00 a.m. Committee reconvened.

PRESENT: Chair Acree, Senator Guzman, Senator King, Representative J. Kerr, Senator Renfroe, Representative Ryden, Senator Tochtrop, Representative A. Williams

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Deputy State Auditor; Greg Fugate, Anne Jordan, Andrew Knauer, Heidi Schaefer, Christopher Harless, Lesa Fisher

ALSO PRESENT: Barbara Brohl, Heather Copp, Debbie Van Wyke, Marcia Waters, Jordan Beezley, Department of Revenue; Martha Cochran, Conservation Easement Oversight Commission; Representative Wes McKinley

**Conservation Easement Tax Credit
Department of Revenue, Division of Real Estate
Performance Audit, September 2012**

Department of Revenue

Barbara J. Brohl, Executive Director
Heather Copp, Deputy Executive Director
Debbie Van Wyke, Manager, Conservation Easement Program

Division of Real Estate

Marcia Waters, Director
Jordan Beezley, Manager, Conservation Easement Program

Conservation Easement Oversight Commission

Martha Cochran, Commission-Chair and
Executive Director, Aspen Valley Land Trust

Office of the State Auditor

Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Greg Fugate, Managing Legislative Auditor
Anne Jordan, Legislative Auditor
Andrew Knauer, Legislative Auditor
Heidi Schaefer, Legislative Auditor

A motion was made by Representative Kerr and seconded by Senator Guzman to release the Conservation Easement Tax Credit performance audit. Motion passed unanimously.

Following introductions and opening remarks, Andrew Knauer provided a general definition of a conservation easement and more specifically, an overview of Colorado's conservation easement tax credit requirements and processes.

In response to a question from Chair Acree, Debbie Van Wyke stated that the extent of the original owner's liability for a tax credit can depend on whether the credit is claimed by a transferee within the time frame specified in their contract. If the contract does not specify a time frame, then the donor cannot donate another easement until the transferee uses the existing credit.

In response to a question from Senator King, Ms. Van Wyke discussed some of the reasons why Taxpayer Service Division (TPS) staff do not perform a basic verification that the conservation purpose reported by the landowner is consistent with one or more of the four allowable conservation purposes.

Recommendation 1 was reviewed, discussed, and agreed to by staff from the Department of Revenue (DOR).

9:30 a.m. In response to questions from Senator King, Greg Fugate indicated that there may be sources available from other States on statistical information related to court cases that involve disputes on conservation purposes and that he will work with DOR to locate this information and, if available, provide it to the Committee.

Auditor Ray clarified that the purpose of the audit was only to determine whether there are effective internal controls in place to ensure that conservation easement tax credits being claimed and used are valid.

Recommendation 2 was reviewed, discussed, and agreed to by staff from DOR.

In response to a question from Chair Acree, Mr. Fugate stated that the audit did not specifically examine if there is an additional cost to a taxpayer when a credit is disallowed.

In response to a question from Senator King, Ms. Van Wyke stated that DOR has expanded the checklists for TPS staff to use as part of their reviews.

9:50 a.m. Recommendation 3 was reviewed, discussed, and agreed to by staff from DOR.

In response to a question from Chair Acree, Ms. Van Wyke explained why it took so long to determine the extent and significance of data inaccuracies in its electronic management systems and steps being taken to correct this issue.

In response to a question from Senator King, Ms. Van Wyke agreed to provide the Committee the fiscal note to DOR for the conservation easement tax credit program.

In response to questions from Senator Guzman and Chair Acree, Ms. Van Wyke, Mr. Fugate, and Martha Cochran explained use restrictions on easement deeds.

In response to a question from Representative Ryden, Barbara Brohl discussed DOR's involvement with the Office of Information Technology in the development of ongoing information systems.

Recommendations 4, 5, and 6 were reviewed, discussed, and agreed to by staff and members from DOR, the Division of Real Estate (DRE), and the Conservation Easement Oversight Commission (CEOC).

In response to a question from Chair Acree, Ms. Van Wyke and Ms. Brohl stated that the taxpayer is given an opportunity to provide documentation to substantiate their tax credit claim and also allowed to protest any disallowances in a personal face-to-face meeting.

In a follow-up question from Chair Acree, Ms. Van Wyke stated that taxpayers involved in a conservation easement dispute case will not have a property lien imposed on them as long as the case is in court or continuing efforts to resolve the dispute are taking place.

Senator King raised the question as to whether or not Recommendation 4 needs to be defined in statute. Mr. Fugate stated that current statute adequately addresses the consultation process between DOR, DRE, and the CEOC.

10:20 a.m. In response to a question from Senator Renfroe, Ms. Brohl and Ms. Van Wyke discussed DOR's efforts to improve communication, understanding, and cooperation with taxpayers to resolve disputes in a timely manner.

Martha Cochran stated that the CEOC is committed to improving communication with DOR and DRE. However, she added that members of the CEOC prefer the substantive compliance approach versus the strict compliance approach when reviewing conservation easement transactions that DOR refers for consultation.

In response to questions from Senator Renfroe, Mr. Fugate stated that historically, DOR has made the final decision on allowing or disallowing conservation easements. Auditor Ray stated that she notified the Governor's Office concerning Recommendation 11, which addresses a pre-approval process for reviewing and approving claims.

Recommendations 7, 8, and 9 were reviewed, discussed, and agreed to by staff from DRE.

10:50 a.m. In response to a question from Senator Renfroe, Jordan Beezley stated that DRE bases their appraisal review process on Uniform Standards of Professional Appraisal Practice (USPAP) compliance requirements and provided an example of potential USPAP violations that have been identified through DRE's desk review process.

Recommendation 10 was reviewed, discussed, and agreed to by staff from DRE and DOR.

In response to a question from Senator Renfroe, Auditor Ray explained that if the conservation easement holder is no longer certified, DRE no longer has the authority to investigate complaints against the holder, even if it continues to hold tax-credit-generating conservation easements.

In response to a follow-up question from Senator Renfroe, Mr. Fugate further explained the risk to the State when certification is not maintained and some of the issues the State would encounter by owning easements.



State of Colorado

LEGISLATIVE AUDIT COMMITTEE
 Legislative Services Building - Second Floor
 200 East 14th Avenue
 Denver, Colorado 80203

CINDY ACREE, CHAIR
 Representative
 ANGELA WILLIAMS, VICE CHAIR
 Representative
 LUCIA GUZMAN
 Senator
 JIM KERR
 Representative

STEVE KING
 Senator
 SCOTT RENFROE
 Senator
 SU RYDEN
 Representative
 LOIS TOCHTROP
 Senator

LEGISLATIVE AUDIT COMMITTEE

December 12-13, 2012
MINUTES

A meeting of the Legislative Audit Committee convened on December 12, 2012 at 10:00 a.m. in the Audit Hearing Room, Legislative Services Building. Vice Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Angela Giron, Representative J. Kerr, Senator S. King, Senator Renfroe, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Representative Acree

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Deputy State Auditor; Michelle Colin, Acting Deputy State Auditor; Eric Johnson, Trey Standley, Manjula Udeshi, Sarah Aurich, Kate Shiroff, Jenny Page, Lesa Fisher

ALSO PRESENT: Dr. Christopher Urbina, Martha Rudolph, William Allison, Garry Kaufman, Department of Public Health and Environment; Jim Lyons, Sierra Research; Kristin Russell, Todd Olson, Jonathan Trull, Office of Information Technology; John Conley, Statewide Internet Portal Authority; Jack Arrowsmith, Statewide Internet Portal Authority Board; Bob Lackner, Julie Pelegrin, Legislative Legal Services; Barbara Brohl, Debbie Van Wyke, Marcia Waters, Hollis Glenn, Jordan Beezley, Department of Revenue; Martha Cochran, Conservation Easement Oversight Commission

**Automobile Inspection and Readjustment Program
Department of Public Health and Environment
Performance Audit, November 2012**

Department of Public Health and Environment

Dr. Christopher Urbina, Executive Director and

Chief Medical Officer

Martha Rudolph, Director of Environmental Programs

William Allison, Air Pollution Control Division Director

Garry Kaufman, Air Pollution Control Division Deputy Director

Office of the State Auditor

Dianne E. Ray, State Auditor

Michelle Colin, Acting Deputy State Auditor

Eric Johnson, Managing Legislative Auditor

Sierra Research

Jim Lyons, Manager

A motion was made by Senator Tochtrop and seconded by Representative Ryden to release the Automobile Inspection and Readjustment Program (AIR Program) performance audit. Motion passed unanimously.

Following introductions and opening remarks, Eric Johnson provided an overview of the AIR Program audit.

10:35 a.m. Representative Brian DelGrosso joined the hearing.

Recommendation 1 was reviewed, discussed and partially agreed to by staff from the Department of Public Health and Environment (Department).

In response to a question from Senator Tochtrop, William Allison clarified the model-year exemption period.

In response to a question from Senator King, Mr. Allison explained that the Department is waiting until 2015 when the current contract with Envirotest ends to make certain changes to the AIR Program.

In response to a question from Senator Renfroe, Mr. Allison stated that the Department believes the AIR Program continues to be a necessary, cost-effective, and appropriate strategy.

Further discussion was held regarding the cost-effectiveness of the AIR Program.

Recommendation 2 was reviewed, discussed and partially agreed to by staff from the Department.

In response to a question from Representative Kerr, Garry Kaufman discussed challenges of on-board diagnostic system testing as a possible replacement for tailpipe testing.

11:21 a.m. GENERAL BUSINESS

State Auditor Ray presented Representative Kerr with a special recognition gift for his time serving on the Committee.

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Kerr to approve the minutes of October 15 and 16, 2012. Motion passed unanimously.

Office of Information Technology Presentations

Office of Information Technology

Kristin Russell, Secretary of Technology & CIO

Todd Olson, Executive Director IT Innovation Effort (I2E)

Michael Dillon, Chief Operations Officer

Jonathan Trull, Chief Information Security Officer

Office of the State Auditor

Michelle Colin, Acting Deputy State Auditor

Manjula Udeshi, Managing Legislative Auditor

Consolidation of Executive Branch Information Technology – Status Report

Following introductions and opening remarks, Manjula Udeshi provided a brief overview of the *Consolidation of Executive Branch Information Technology* performance audit released by the Committee in March 2012.

Kristin Russell provided an update on the implementation status of Recommendations from the audit. There were no questions from the Committee.

COPE Services – Statutorily-required Report Submitted to OSA

Ms. Russell reviewed the Collaboration, Office Productivity, & E-mail (“COPE”) Report which is statutorily-required to be submitted to the Joint Budget and Legislative Audit Committees.

In response to a question from Senator Renfroe, Ms. Russell stated that moving to Google Docs would not affect the ability of State agencies to process requests relating to the Colorado Open Records Act.

Todd Olson gave a brief summary of the cost benefit analysis section from the COPE Report.

Contract Award for Email Services

The OSA received a request in July 2012 to audit the Governor’s Office of Information Technology’s (OIT) contract award for email services to the State. An alternative to pursuing an audit was agreed upon, which is to have OIT address certain questions regarding the contract award.

Michael Dillon discussed various mechanisms in place for monitoring the success of switching to Google email services.

Mr. Olson discussed why OIT contracted with Google through the Statewide Internet Portal Authority instead of contracting with Google directly. In response to questions from Representative DelGrosso, Mr. Olson and Ms. Russell explained why a request for proposal was not required and discussed the cost-benefit analysis conducted by OIT.

Jonathan Trull addressed the security features of the Google email product. In response to a question from Representative DelGrosso, Mr. Trull explained how it was determined that Google provided the best product for the price.

In response to a question from Senator Renfroe, Mr. Trull discussed the security of the State's external web portal.

12:00 p.m. Recess for lunch.

1:30 p.m. Representative Acree joined the hearing and called the meeting back to order. Representative DelGrosso was appointed for the afternoon of December 12th to cover for Representative Kerr.

**Statewide Internet Portal Authority
Performance Audit, November 2012**

Statewide Internet Portal Authority
John Conley, Executive Director

Statewide Internet Portal Authority Board
Jack Arrowsmith, Chairman

Office of the State Auditor
Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Sarah Aurich, Managing Legislative Auditor
Kate Shiroff, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the Statewide Internet Portal Authority (SIPA) performance audit. Motion passed unanimously.

Following introductions, Senators Jeanne Nicholson and Bill Cadman were acknowledged by the Chair and welcomed to the table.

Sarah Aurich provided historical background information on the creation and purpose of SIPA and an overview of the audit.

In response to a question from Representative Ryden, Ms. Aurich stated that the majority of SIPA's fund balance is kept in an operating account.

In response to a question from Chair Acree, Ms. Aurich briefly discussed SIPA's primary role in carrying out its statutory duty to enter into and monitor contracts with its vendors.

In response to various questions, Ms. Aurich provided clarification on the fee revenue collected through the transaction payment engine.

Recommendations 1 and 2 were reviewed, discussed, and agreed to by staff from SIPA and the SIPA Board, with the exception of Recommendation 2d to which SIPA and the SIPA Board disagreed.

In response to a question from Chair Acree and Representative DelGrosso, John Conley discussed the steps needed to protect sensitive data.

1:55 p.m. Senator Giron arrived at the hearing.

Recommendation 3 was reviewed, discussed, and agreed to by staff from SIPA and the SIPA Board.

Ms. Aurich reviewed Chapter 3 of the audit which addresses SIPA's system of internal controls, including SIPA's financial policies and procedures related to processing the receipt of payments and the approval of expenses.

In response to a question from Representative DelGrosso, Ms. Aurich explained the purpose of an independent audit and State Auditor Ray clarified that most fraud is detected through whistle-blowing and not through independent audits.

In response to questions from Representative Ryden and Chair Acree, discussion was held regarding SIPA's lack of urgency to implement Recommendations from prior audits.

Recommendations 4, 5, and 6 were reviewed, discussed, and agreed to by staff from SIPA and the SIPA Board.

In response to questions and comments from the Committee, Ms. Aurich stated that the findings in this audit are outside the norm of typical audit findings. Mr. Conley agreed that these findings are unacceptable, that SIPA agrees with the Recommendations, and work is being done to correct the issues.

In response to a question from Representative Ryden, Mr. Conley stated that, not including contractors, SIPA pays approximately \$290-\$600 monthly on accounting fees and \$40,000 in legal fees annually.

2:50 p.m. In response to a comment from Senator Tochtrop, State Auditor Ray clarified that OSA was just given statutory authority to audit SIPA two years ago and that follow-up audits will more than likely be conducted.

Recommendations 7 and 8 were reviewed, discussed, and agreed to by Staff from SIPA and the SIPA Board.

Closing remarks were made by Senators Cadman and Nicholson who are both members of the SIPA Board.

3:30 p.m. GENERAL BUSINESS

Board of Assessment Appeals – Status Report

Acting Deputy Colin briefly reviewed highlights from the December 2011 Performance Audit of the Board of Assessment Appeals (BOAA). She stated that of the 16 Recommendations, 9 are implemented, 4 are partially implemented, and the remaining 3 Recommendations are scheduled to be implemented in June 2013, which is the original implementation date provided in the audit.

Mike Beery reviewed the implementation status of all Recommendations from the audit. There were no questions from the Committee.

2013 Potential Legislation

Board of Assessment Appeals – Acting Deputy Colin reviewed bill draft LLS No. 13-0151.01 which would remove ambiguity regarding deadlines for the BOAA to issue decisions, give discretion to the Board to issue “Summary Decisions,” and adjust the fee structure for the Board.

A motion was made by Senator Tochtrop and seconded by Representative Williams to put bill draft LLS No. 13-0151.01 onto bill paper. Motion passed unanimously.

The Committee discussed the different options presented in the bill draft. A motion was made by Senator Renfroe and seconded by Representative DelGrosso to proceed with bill draft LLS No. 13-0151.01 with the language of Option B. Motion passed on vote of 6-2 as follows:

DelGrosso:	Aye
Giron:	No
King:	Aye
Renfroe:	Aye
Ryden:	Aye
Tochtrop:	No
Williams:	Aye
Acree:	Aye

Bill Sponsors: Tochtrop
DelGrosso / Ryden
Co-Sponsor: Renfroe

Discussion was held regarding the inclusion of a safety clause. A motion was made by Senator Tochtrop and seconded by Representative DelGrosso to include a safety clause on the bill. Motion passed on vote of 7-1 as follows:

DelGrosso:	Aye
Giron:	Aye
King:	No
Renfroe:	Aye
Ryden:	Aye
Tochtrop:	Aye
Williams:	Aye

Acree: Aye

Modification of Audit Requirements – State Auditor Ray reviewed bill draft LLS No. 13-0036.01 concerning the modification of certain statutory requirements directing the OSA to review compliance with statutory obligations.

A motion was made by Senator Tochtrop and seconded by Representative Williams to put bill draft LLS No. 13-0036.01 onto bill paper. Motion passed unanimously.

Following discussion relating to a safety clause, a motion was made by Senator Tochtrop and seconded by Representative Ryden to put bill draft LLS No. 13-0036.01 onto bill paper with a safety clause. Motion passed on vote of 7-1 as follows:

DelGrosso: Aye
Giron: Aye
King: No
Renfroe: Aye
Ryden: Aye
Tochtrop: Aye
Williams: Aye
Acree: Aye

Bill Sponsors: Tochtrop
Williams

Co-Sponsor: None

Conservation Easement Tax Credit – Andy Knauer reviewed potential legislation being requested by the Department of Revenue, Division of Real Estate, and the Conservation Easement Oversight Commission regarding the pre-approval process of conservation easement tax credits.

4:26 p.m. Senator Tochtrop was excused from the hearing.

A motion was made by Senator King and seconded by Representative DelGrosso for the Committee to ask Legislative Legal Services staff to draft legislation to bring a bill draft to the Committee for review regarding the conservation easement tax credit pre-approval process. Motion passed on vote of 7-0 as follows:

DelGrosso: Aye
Giron: Aye
King: Aye
Renfroe: Aye
Ryden: Aye
Tochtrop: Excused
Williams: Aye
Acree: Aye

Further discussion regarding the conservation easement tax credit pre-approval process will be held at the next Committee meeting.

Other Business

Legislative Legal Services Formal Opinion – Use of Tobacco Sales Tax Revenues as Grants to Fund Policy Initiatives

Jenny Page reviewed highlights from the performance audit released by the Committee in August 2012 on Amendment 35 Tobacco Tax Funded Grant Programs at the Department of Public Health and Environment (Department).

Julie Pelegrin, Office of Legislative Legal Services, reviewed the formal opinion regarding the use of tobacco sales tax revenues as grants to fund policy initiatives.

Discussions were held regarding the course of action the Committee should take to clarify state statute. The discussion was laid over until the next meeting on December 13, 2012.

A motion was made by Representative Williams to request the Joint Budget Committee (JBC) to create a budget line item to determine where monies are being spent and if they meet the criteria as specified by Amendment 35. No second was requested by the Chair.

Colorado Customized Training Program – Statutorily-required Report Submitted to OSA

State Auditor Ray briefly reviewed the statutorily-required report from the State Board for Community Colleges and Occupational Education on the cost-effectiveness of the Colorado Customized Training Program in assisting economic development in Colorado.

5:15 p.m. The Committee recessed until December 13, 2012.

December 13, 2012

9:00 a.m. The Legislative Audit Committee reconvened on December 13, 2012 at 9:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Cindy Acree called the meeting to order. The roll was called with the following result:

PRESENT: Senator Angela Giron, Representative Chris Holbert, Senator S. King, Representative Ryden, Senator Tochtrop, Representative Williams, Chair Acree

EXCUSED: Senator Renfroe

The following staff members from the Office of the State Auditor (OSA) and other agencies were in attendance:

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter, Deputy State Auditors; Michelle Colin, Acting Deputy State Auditor; Jeffrey Kahn, Lesa Fisher

ALSO PRESENT: Kathy Nesbitt, Jennifer Okes, Larry Friedberg, Mike Karbach, Department of Personnel & Administration; Erick Scheminske, Governor's Office of Planning and Budgeting; Gerald Marroney, David Kribs, Colorado Judicial Department; Bill Mosher, Trammell Crow Company; Matthew Blackmon, Department of Labor and Employment; Josh Leonard, Scott Hileman, Deloitte Financial Advisory Services LLP; Michelle Lucero, Dawn Bookhardt, Stephen M. Jordan, George Middlemist, Metropolitan State University of Denver; Rod Filliben, Ian Roe, KPMG LLP; Julie Pelegrin, Legislative Legal Services

**Performance Evaluation of State Capital Asset Management
and Lease Administration Practices
November 2012**

Department of Personnel & Administration

Kathy Nesbitt, Executive Director
Jennifer Okes, Deputy Executive Director
Larry Friedberg, State Architect
Mike Karbach, Real Estate Programs Asset Manager

Governor's Office of Planning and Budgeting

Erick Scheminske, Deputy Director

Colorado Judicial Department

Gerald Marroney, State Court Administrator
David Kribs, Chief Financial Officer
Marty Galvin, Internal Auditor Manager

Trammell Crow Company

Bill Mosher, Director of Development and Investments

Department of Labor and Employment

Matthew Blackmon, Budget Director

Office of the State Auditor

Dianne E. Ray, State Auditor
Michelle Colin, Acting Deputy State Auditor

Deloitte Financial Advisory Services LLP

Josh Leonard, Partner
Scott Hileman, Director

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the Performance Evaluation of State Capital Asset Management and Lease Administration Practices. Motion passed unanimously.

Following introductions and opening remarks, Scott Hileman provided an overview of the evaluation which compared the State's management practices for real estate assets and leases with real estate industry practices.

Recommendation 1 was reviewed, discussed, and agreed to by staff from the Office of State Planning and Budgeting (OSPB) and the Office of the State Architect.

In response to a question from Chair Acree, Mr. Hileman stated that it depends on which branch of government initiates a capital project as to where it will appear in the State's budget.

Recommendations 2 and 3 were reviewed, discussed, and agreed to by staff from OSPB, the Office of the State Architect, and the Colorado Judicial Department.

In response to a question from Chair Acree, Larry Friedberg discussed the working relationships established between the Office of the State Architect and other state agencies, including higher education, during the administration of capital construction projects.

Recommendation 4 was reviewed, discussed, and agreed to by staff from OSPB and the Office of the State Architect.

In response to a question from Chair Acree, Mr. Friedberg discussed the use of historic preservation funds for the maintenance of historically designated buildings.

Recommendation 5 was reviewed, discussed, and agreed to by staff from OSPB and the Office of the State Architect.

Discussion followed concerning possible legislation to address various issues identified in this evaluation.

10:20 a.m. The Committee recessed briefly.

Josh Leonard briefly reviewed Chapter 3 from the evaluation concerning lease operating expenses.

Recommendation 6 was reviewed, discussed, and agreed to by staff from the Office of the State Architect.

Recommendation 7 was reviewed, discussed, and agreed to by staff from the Department of Personnel & Administration and the Department of Labor and Employment.

Recommendation 8 was reviewed, discussed, and agreed to by staff from the Office of the State Architect.

**Metropolitan State College of Denver
Financial and Compliance Audit
June 30, 2012 and 2011**

Metropolitan State University of Denver
Michelle Lucero, Vice Chair, Board of Trustees
Dawn Bookhardt, Trustee
Stephen M. Jordan, PhD, President
George Middlemist, Associate Vice President of
Finance and Administration

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Jeffrey Kahn, Managing Legislative Auditor

KPMG LLP
Rod Filliben, Partner
Ian Roe, Audit Manager

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the Metropolitan State College of Denver financial and compliance audit. Motion passed unanimously.

Following introductions and opening remarks, Rod Filliben briefly reviewed the audit and stated that there were no findings in the June 30, 2012 audit.

**Higher Education TABOR Enterprise Status
November 2012**

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Jeffrey Kahn, Managing Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Williams to release the Higher Education TABOR Enterprise Status report. Motion passed unanimously.

Following introductions and opening remarks, Jeffrey Kahn briefly reviewed the Higher Education TABOR Enterprise Status memo. There was no discussion.

11:35 a.m. The Committee recessed briefly.

11:40 a.m. GENERAL BUSINESS

Legislative Legal Services Formal Opinion – Use of Tobacco Sales Tax Revenues as Grants to Fund Policy Initiatives

Discussions were resumed regarding the formal opinion on the use of tobacco sales tax revenues as grants to fund policy initiatives. Senator King expressed his concern at the lack of cooperation by the Executive Director of the Department of Public Health and Environment to obtain a formal opinion from the Attorney General.

Senator King suggested that the Committee contact the Governor's Office to clarify the Administration's policy on this issue.

Representative Williams suggested that the Committee request the Joint Budget Committee (JBC) to create a budget line item to determine where monies are being spent and if they meet the criteria as specified by Amendment 35.

In response to a question from Chair Acree, State Auditor Ray clarified the scope of past audits conducted by the OSA in relation to Amendment 35 funds.

A motion was made by Chair Acree and seconded by Representative Ryden to have the Committee send a letter to the JBC asking them to create line items in the budget for the purpose of tracking the grant allocations from the Department of Public Health and Environment. Motion passed unanimously. A draft of the letter will be available at the January 15th meeting for review.

A motion was made by Senator King for the Committee to request the Governor to talk with the Attorney General and get an opinion from the Attorney General as to the constitutional legality of what the Department of Public Health and Environment has done in fiscal years 2010 and 2011 in reference to State tax dollars. Julie Pelegrin clarified the motion. Chair Acree asked Senator King to rephrase his motion.

A motion was made by Senator King and seconded by Chair Acree that the Committee meet with Legislative Legal Services to draft a letter to the Governor to frame the question regarding if the constitution allows an executive branch agency to use taxpayer dollars to influence local policy. Motion failed on vote of 4-3 as follows:

Giron:	No
Holbert:	Aye
King:	Aye
Renfroe:	Excused
Ryden:	No
Tochtrop:	No
Williams:	No
Acree:	Aye

AIR Program Legislation

A motion was made by Senator Tochtrop that the Committee move forward with a bill draft exempting model years 2005 and newer. Discussion followed after which Senator Tochtrop withdrew her motion.

A motion was made by Chair Acree that the Committee ask the Department of Public Health and Environment to look at developing a proposal for an alternative emissions control program and bring this back to the Committee in one year and if at that time the issues are still not addressed, the Committee can address it through statute or other remedies. No second was made and the motion was withdrawn.

A motion was made by Chair Acree and seconded by Representative Ryden to lay this discussion over until the next meeting. Motion passed unanimously.

12:24 p.m. Audits Released without a Hearing

A motion was made by Representative Acree and seconded by Representative Williams to release the following reports without benefit of a formal hearing:

1. Adams State College, Financial and Compliance Audit, Fiscal Years Ended June 30, 2012 and 2011
2. Auraria Higher Education Center, Financial and Compliance Audit, June 30, 2012 and 2011
3. Colorado Community College System; Basic Financial Statements and Compliance Audit; June 30, 2012 and 2011
4. Colorado School of Mines, Financial Statements and Independent Auditors' Reports, Financial Audit Years Ended June 30, 2012 and 2011, Compliance Audit Year Ended June 30, 2012
5. Colorado State University System, Financial Statements and Independent Auditors' Reports, Financial Audit Years Ended June 30, 2012 and 2011, Compliance Audit Year Ended June 30, 2012
6. Fort Lewis College, Financial and Compliance Audit, Fiscal Years Ended June 30, 2012 and 2011
7. Colorado Mesa University, Financial and Compliance Audit, Fiscal Years Ended June 30, 2012 and 2011
8. University of Colorado, Financial and Compliance Audit, June 2012 and 2011
9. University of Northern Colorado, Financial and Compliance Audits, Years Ended June 30, 2012 and 2011
10. Western State College of Colorado, Financial and Compliance Audit, Fiscal Years Ended June 30, 2012 and 2011
11. CollegeInvest College Savings Program Funds, Financial Statements and Independent Auditors' Reports, Financial Audit Years Ended June 30, 2012 and 2011, Compliance Audit Year Ended June 30, 2012

12. CollegeInvest Prepaid Tuition Fund, Financial Statements and Independent Auditors' Reports, Financial Audit Years Ended June 30, 2012 and 2011, Compliance Audit, Year Ended June 30, 2012
13. Colorado Student Loan Program dba College Assist, Department of Higher Education, State of Colorado, Denver, Colorado, Financial and Compliance Audits, Fiscal Years Ended June 30, 2012 and 2011
14. Colorado State Veterans Nursing Home at Fitzsimons, Financial Statements and Additional Information with Independent Auditors' Reports, Year Ended June 30, 2012
15. Division of Gaming, Department of Revenue, State of Colorado, Financial Statements and Independent Auditors' Report, June 30, 2012 and 2011

Annual Executive Summary of Performance Audits of Tobacco Settlement Programs

Deputy Bowers briefly reviewed the Annual Executive Summary of Performance Audits of Tobacco Settlement Programs which is required by C.R.S. 2-3-113(5).

Audit Requests

State Auditor Ray stated that the request from Representative Mark Barker to audit the Division of Real Estate in the Department of Regulatory Agencies has formally been withdrawn.

State Auditor Ray reviewed a request submitted by Senators Tochtrop and Steadman for an audit of the discretionary fund and reimbursement practices and policies used in the Department of State. A motion was made by Senator Tochtrop and seconded by Representative Ryden to authorize the OSA to proceed with preliminary research on the request to audit the Secretary of State. Motion passed unanimously.

Other Business

State Auditor Ray reviewed the proposed 2013 Session calendar for the Committee hearings. A motion was made by Senator Tochtrop and seconded by Representative Ryden to adopt the proposed calendar. Motion passed unanimously.

State Auditor Ray reviewed the Committee Rule for Election of Officers.

State Auditor Ray stated that the OSA budget proposal will be brought before the Committee in January 2013 for approval.

State Auditor Ray discussed the meeting that was held with the JBC on November 15, 2012 regarding the presentation on the audit recommendations that have not been implemented by the various state agencies.

State Auditor Ray announced that a new Information Technology Deputy Director has been hired and will begin in February 2013.

State Auditor Ray presented Chair Acree with a special recognition gift for her time serving as Chair of the Committee.

