

2013

MINUTES OF THE
LEGISLATIVE AUDIT
COMMITTEE



State of Colorado

ANGELA WILLIAMS, CHAIR
Representative

STEVE KING, VICE CHAIR
Senator

LUCIA GUZMAN
Senator

OWEN HILL
Senator

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

DAN NORDBERG
Representative

SU RYDEN
Representative

JERRY SONNENBERG
Representative

LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

January 15, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on January 15, 2013 at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Hill, Senator King, Representative Nordberg, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Representative Sonnenberg

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; Jeffrey Kahn, Greg Fugate, Derek Johnson, Jenny Page, Eric Johnson, and Lesa Fisher

ALSO PRESENT: John Salazar, Jeff Stalter, Department of Agriculture; Chris Wiseman, Colorado State Fair Authority; Ed Cordes, Board of Commissioners of the Colorado State Fair Authority; Kristi Cortez, Wall, Smith, Bateman, Inc.; Ken Lund, Kevin Tilson, Jennifer Cassell, Office of Economic Development and International Trade; Chris Underwood, Department of Health Care Policy and Financing; Maria Sobota, Department of Human Services; Joshua Epel, Doug Dean, Rebecca Quintana, Public Utilities Commission; John Conley, Statewide Internet Portal Authority and Board Member of EAGLE-Net Alliance

Election of Officers

A motion was made by Senator Tochtrop and seconded by Senator Hill to nominate Senator Steve King as Vice Chair of the Legislative Audit Committee for 2013. Motion passed unanimously.

7:03 A.M. Representative Sonnenberg arrived at the hearing.

**Colorado State Fair Authority
Financial and Compliance Audit
Fiscal Years Ended June 30, 2012 and 2011**

Department of Agriculture
John Salazar, Commissioner
Jeff Stalter, Director of Budget and Operations

Colorado State Fair Authority
Chris Wiseman, General Manager

Board of Commissioners of the Colorado State Fair Authority
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, Inc.
Kristi Cortez, Partner

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

Following introductions and opening remarks, Representative Garcia was invited to the table. Senator Giron was already seated at the table.

Kristi Cortez provided an overview of the report. Recommendation 1 was reviewed, discussed, and agreed to by staff from the Colorado State Fair Authority.

Chris Wiseman stated that the Fair is in the process of instituting a cashless payment system for concessions and on-grounds attractions.

In response to a question from Representative Sonnenberg, Mr. Wiseman stated that the projected increase in concession revenue by moving to the cashless system is \$250,000 to \$300,000.

In response to questions from Senator King, Mr. Wiseman stated that the cashless payment system will be implemented during the 2013 Fair and that the average increase in

revenue experienced at other state fairs after implementing the cashless system is between 26 and 56 percent.

In response to a question from Senator Tochtrop, Mr. Wiseman explained the new gate-admission system that will allow attendees to purchase tickets to all events at one location.

In response to questions from Senator Guzman and Representative Ryden, Mr. Wiseman discussed attendance trends and projections and the business strategies of other state fairs.

In response to a question from Representative Sonnenberg, Mr. Wiseman briefly explained the difference between commercial space and concession operating revenue.

In response to questions from Senators Hill and Tochtrop, Jeff Stalter and Commissioner Salazar briefly discussed projected revenues and subsidies provided by the Department of Agriculture to the Fair.

7:45 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Ryden to approve the minutes of December 12 and 13, 2012. Motion passed unanimously.

Colorado Enterprise Zone Annual Report

Auditor Ray introduced staff from the Office of Economic Development and International Trade before their presentation of the statutorily-required Enterprise Zone Annual Report. Kevin Tilson provided a summary overview of the report for fiscal years 2011 and 2012. There were no questions from the Committee.

Status Reports

Medicaid Eligibility Status for Adult Civil Patients at the Colorado Mental Health Institutes

Following introductions, Greg Fugate provided a brief overview of the May 2012 performance audit of the Medicaid Eligibility Status for Adult Civil Patients at the Colorado Mental Health Institutes.

Chris Underwood, Director of Provider Operations Division from the Department of Health Care Policy and Financing (HCPF), and Maria Sobota, Deputy Director of Operations for the Office of Behavioral Health from the Department of Human Services, provided a brief explanation of the actions taken by the Departments to implement each Recommendation.

In response to a question from Chair Williams, Mr. Underwood stated that the original implementation dates for Recommendations 1c and 1d were not met due to the need for more investigation by the HCPF's Program Integrity Section.

Public Utilities Commission

Derek Johnson provided a brief overview of the May 2012 performance audit of the Public Utilities Commission (PUC).

Following introductions, Doug Dean, PUC Director, provided a brief explanation of the actions taken by the PUC to implement each Recommendation. There were no questions from the Committee.

Other Business

Amendment 35 Tobacco Tax Funded Grant Programs Draft Letter to the Joint Budget Committee, as requested by the LAC

Jenny Page provided a brief summary about the request by the Committee to prepare a letter to the Joint Budget Committee (JBC) regarding tobacco tax funded grant programs.

Ms. Page stated that discussions with the JBC identified possible concerns in the draft letter as follows: 1) the timing of the budget process and figure setting, and the timing of the grant making process of the Department of Public Health and Environment (Department) is complicated since the Department has to estimate the tobacco tax revenue and the amount of funds it thinks the grant programs will receive, 2) providing a budget line-item breakdown by type of grant will be difficult because the figure setting occurs long before the applications for the grants are received, and 3) providing detail line-item breakdowns could have the unintended effect of restricting how funds are used.

Ms. Page stated that an option that might be considered by the Committee would be to reword the letter to ask the JBC to have the Department report to the JBC the types of policy grants funded by tobacco taxes and an accurate accounting of policy grants and how grantees are spending the funds. The Committee could also request that the JBC hold the Department accountable during budget hearings for how the grant funds are being spent.

Ms. Page stated that the State Auditor requested a legal opinion from the Office of Legislative Legal Services (OLLS) in which it was confirmed that the State Constitution and statute do not allow the Department to use Amendment 35 revenues to fund certain types of policy initiatives.

A motion was made by Senator Tochtrop and seconded by Representative Ryden to have the Auditor's office recreate the letter so that CDPHE will report back to the JBC and the LAC with accounting for the grants, the JBC will hold them more accountable to the findings and the expenditure of monies, and that the letter will include a copy of the legal opinion obtained from OLLS. Motion passed unanimously. Chair Williams asked Ms. Page to redraft the letter.

The Committee agreed to a suggestion from Auditor Ray allowing OSA to send the redraft of the letter to the Committee electronically for comments and once approved, forward the letter to the JBC.

Senator King asked for and received confirmation that the legal opinion obtained from OLLS will also be sent to the JBC.

Statewide Internet Portal Authority (SIPA)

Auditor Ray reviewed the statutorily-required financial audit submitted by SIPA. There were no questions from the Committee.

Audits Released Without a Hearing

A motion was made by Senator Tochtrop and seconded by Senator Guzman to release the following reports without benefit of a formal hearing:

1. Colorado Bridge Enterprise, Annual Financial Statements, Fiscal Year 2012
2. Colorado High Performance Transportation Enterprise, Annual Financial Statements, Fiscal Year 2012
3. University of Colorado at Boulder Department of Intercollegiate Athletics, Independent Accountants' Report on Applying Agreed-Upon Procedures, For the Year Ended June 30, 2012
4. State of Colorado, University of Northern Colorado, Athletics Department, Year Ended June 30, 2012
5. Colorado State University, Independent Accountants' Report on Application of Agreed-Upon Procedures, Year Ended June 30, 2012

Auditor Ray provided a brief summary of the reports released without a hearing.

In response to a question from Senator Tochtrop, Auditor Ray confirmed that the Bridge Enterprise financial statement is from the FASTER Program.

Audit Request and Inquiry

Auditor Ray provided an update on a request received in December 2012 from Senator Steve King for a performance and financial audit on EAGLE-Net Alliance, and an inquiry received in October 2012 from Representative Ryden on whether the State Auditor has the authority to audit the Community First Foundation.

Auditor Ray reported that she requested and received an informal opinion from the Attorney General's office which concluded that the State Auditor does not have audit authority over EAGLE-Net Alliance or the Community First Foundation.

In response to a question from Representative Sonnenberg, Auditor Ray stated that EAGLE-Net Alliance is subject to local government audit law which means that they have to contract with a CPA firm to have an independent audit conducted annually. The audit must then be submitted to OSA. Representative Sonnenberg requested a copy of the audit.

John Conley, Board Member of EAGLE-Net Alliance, was invited to the table. Mr. Conley stated that EAGLE-Net Alliance is comprised of several local governments across Colorado and that he is unsure if the Department of Local Affairs has any oversight over EAGLE-Net Alliance.

In response to a question from Chair Williams, Mr. Conley agreed to provide a copy of the letter from the United States Department of Commerce National Telecommunications & Information Administration which addresses why the federal government is withholding grant money from EAGLE-Net Alliance.

In response to a request from Representative Sonnenberg, Auditor Ray agreed to arrange to have engineers from the EAGLE-Net Alliance infrastructure team to provide an overview of their operations at a future Committee hearing.

Legislation

Eric Johnson provided a brief summary of the Recommendations from the Automobile Inspection and Readjustment Program performance audit and previous legislation discussion by the Committee.

Senator Tochtrop requested to have a member of OLLS attend the Committee hearing scheduled for January 26, 2013 to discuss the language of a bill draft.

Greg Fugate provided a brief update on the Conservation Easement Tax Credit proposed legislation and stated that a bill draft will be available for review at the LAC hearing on January 26, 2013.

There being no further business to come before the Committee, the meeting adjourned at 8:45 a.m. The next meeting scheduled is on January 26, 2013 at 7:00 a.m.

Minutes submitted by:

Lesla Fisher
Executive Administrator
Office of the State Auditor



State of Colorado

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LEGISLATIVE AUDIT COMMITTEE

January 29, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on January 29, 2013, at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator King, Representative Ryden, Representative Sonnenberg, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, Representative Nordberg

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; Vickie Heller, Chris Laughlin, Greg Fugate, Eric Johnson, and Lesa Fisher

ALSO PRESENT: Kevin Patterson, Scott Morrissey, Colorado Energy Office

7:03 a.m. Senator Hill arrived at the hearing.

**Colorado Energy Office
Governor's Office
Performance Audit, December 2012**

Colorado Energy Office
Kevin Patterson, Governor's Deputy Chief of Staff
and Interim CEO Director
Scott Morrissey, Building Program Manager

Office of the State Auditor
Dianne E. Ray, State Auditor
Michelle Colin, Acting Deputy State Auditor
Vickie Heller, Legislative Auditor
Chris Laughlin, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Senator Guzman to release the *Colorado Energy Office Performance Audit* (December 2012). Motion passed unanimously.

Following introductions and opening remarks, Vickie Heller provided an overview of the Colorado Energy Office (CEO) audit.

In response to a question from Senator Tochtrop, Kevin Patterson stated that CEO has been involved in conversations with various stakeholders regarding strategic planning for alternate and renewable energy sources.

In response to a question from Representative Ryden, Ms. Heller stated that the Weatherization Assistance Program is CEO's largest and longest-standing program.

Recommendations 1 and 2 were reviewed, discussed, and agreed to by staff from CEO.

In response to a question from Senator King, Mr. Patterson said that CEO does use outside resources, such as the State Controller's Office and other private vendors, for developing training programs.

In response to a question from Senator Hill, Mr. Patterson discussed CEO staff experience and training using the State's Contract Management System.

In response to a question from Representative Sonnenberg, Chris Laughlin and Ms. Heller clarified the time periods included in the audit and test work.

Recommendation 3 was reviewed, discussed, and agreed to by staff from CEO.

In response to a question from Representative Ryden, Mr. Patterson stated that CEO is adapting existing best practice processes where appropriate, but they want to formalize a more standard process that can stand up to scrutiny.

In response to a comment from Representative Sonnenberg, Mr. Patterson addressed the concern over CEO's contract monitoring process, and the lack of staff training on contract management overall.

In response to a question from Senator Guzman, Mr. Patterson stated that CEO is excluded from the requirements of the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act, but has opted to participate anyway.

In response to a question from Representative Ryden, Ms. Heller stated that the scope of the audit work did not include interviews with vendors, contractors, or citizens who might benefit from CEO's programs.

In response to a question from Senator Tochtrop, Mr. Patterson stated that the high staff turnover rate can be attributed to natural changes that occur with at-will employment with a new gubernatorial administration.

In response to questions from Representative Sonnenberg, Mr. Patterson stated that one of the eight project managers referenced in the audit is still employed with CEO, and that the senior management team has decreased from seven to four in the last two years.

In response to a question from Senator Hill, Scott Morrissey stated that a \$16.4 million contract funded by the American Recovery and Reinvestment Act was used to provide revolving loans to support early stage development of Colorado companies to introduce new products, and that out of the \$16.4 million, approximately \$4 million is still available for future loans.

In response to a follow-up question from Senator King, Mr. Morrissey stated that all of the companies that received loans from the \$16.4 million contract are still in business today.

Recommendations 4 and 5 were reviewed, discussed, and agreed to by staff from CEO.

In response to a question from Representative Nordberg, Mr. Patterson agreed to provide the Committee with details of a \$25,000 expenditure that was only supported by the notation "2008 Membership," and three other expenditures totaling about \$23,800 for annual membership dues to industry organizations.

In response to a question from Chair Williams, Mr. Patterson stated that he feels CEO does not have any other option but to meet the aggressive schedule of the implementation dates for completing the Recommendations.

There was discussion on bringing CEO back before the Committee for a status update.

8:30 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Sonnenberg to approve the minutes of January 15, 2013. Motion passed unanimously.

Legislation

Conservation Easement Tax Credit Program

Greg Fugate provided a brief update on the Conservation Easement Tax Credit proposed legislation. Auditor Ray stated that she is hopeful a bill draft will be available for review at the Committee hearing on February 12, 2013.

Automobile Inspection and Readjustment Program

Senator Tochtrop stated that a previous member of the Legislative Audit Committee is carrying Senate Bill 13-061 resulting from Recommendations from the *Automobile Inspection and Readjustment Program Performance Audit* (November 2012). Auditor Ray stated that there is concern that Senate Bill 13-061 does not address all the issues identified in the audit as discussed by the Committee.

Eric Johnson stated that Senate Bill 13-061 would extend the model exemption period from four years to 10 years, and for senior citizens, their first automobile would also be exempt from emissions. Senate Bill 13-061 does not address the concern the Committee expressed about the time frame for implementing these changes. Chair Williams asked Senator Tochtrop to work with the bill sponsor concerning the time frame.

Audit Request

Secretary of State

Deputy Auditor Kerri Hunter briefly reviewed the request received from Senator Tochtrop and Senator Pat Steadman in October 2012 for a special audit on the use of the Secretary of State's discretionary fund and travel reimbursements. On December 13, 2012, the Committee approved a request from the State Auditor to conduct preliminary research on the feasibility of the audit. Deputy Auditor Hunter reviewed the evaluation completed by OSA staff.

In response to questions from Senator King, Auditor Ray stated that the average cost to conduct an audit is approximately \$175,000, but she would estimate a cost of \$100,000 for this audit due to the limited scope. Auditor Ray stated that the annual discretionary fund for the Secretary of State's Office is \$5,000.

In response to a question from Senator Guzman, Auditor Ray stated that it would take approximately six months to complete the audit.

A motion was made by Senator King and seconded by Representative Sonnenberg to table the request until after the completion of both the criminal investigation by the Denver District Attorney's Office and the investigation by the Colorado Independent Ethics Commission. The motion failed on the following tied vote:

Senator Guzman	No
Senator Hill	Aye
Senator King	Aye
Representative Nordberg	Aye
Representative Ryden	No



ANGELA WILLIAMS, CHAIR
Representative

STEVE KING, VICE CHAIR
Senator

LUCIA GUZMAN
Senator

OWEN HILL
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Senator

LEGISLATIVE AUDIT COMMITTEE

February 12, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on February 12, 2013, at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Representative Nordberg, Representative Ryden, Representative Sonnenberg, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, 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; Kerri Hunter, Deputy State Auditor; Cynthia Hochmiller, Greg Fugate, and Lesa Fisher

ALSO PRESENT: David McDermott, Tammy Nelson, Robert Jaros, Office of the State Controller; Barbara Brohl, Debbie Van Wyke, Marcia Waters, Department of Revenue; Chris West, Conservation Easement Oversight Commission; Greg Yankee, Colorado Coalition of Land Trusts

**State of Colorado
Statewide Single Audit
Fiscal Year Ended June 30, 2012**

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

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

A motion was made by Senator Tochtrop and seconded by Senator Guzman to release the *State of Colorado Statewide Single Audit* (Fiscal Year Ended June 30, 2012). Motion passed unanimously.

7:06 a.m. Senator Hill arrived at the hearing.

Following introductions, Deputy Auditor Kerri Hunter provided an overview of the composition of the *State of Colorado Statewide Single Audit* (Fiscal Year Ended June 30, 2012), and how it will be presented to the Legislative Audit Committee (Committee) at this and the next two Committee hearings.

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

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

Recommendation No. 15 was reviewed, discussed, and partially agreed to by staff from the Office of the State Controller (OSC).

Various questions were raised by Committee members concerning possible solutions that would ensure all information necessary for the OSC to compile the budget-to-actual schedules within the State's *Comprehensive Annual Financial Report* (CAFR) is obtained from the State's higher education institutions.

David McDermott stated that the OSC does not have line authority over the institutions and cannot force reporting compliance.

Senator Tochtrop requested further discussion at a later date by the Committee about possibly carrying legislation to address the limited authority of OSC to enforce compliance during the recovery audit process. In response to a question from Representative Sonnenberg, Chair Williams stated that the Committee does have the authority to draft legislation to address this issue.

**State of Colorado
Comprehensive Annual Financial Report
For the Fiscal Year Ended June 30, 2012**

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

Tammy Nelson reviewed the Financial Statement Section of CAFR, focusing on the Management's Discussion and Analysis. There were no questions from the Committee.

7:50 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator King and seconded by Senator Tochtrop to approve the minutes of January 29, 2013. Motion passed unanimously.

State of Colorado Recovery and Contract Audit, Fiscal Years 2008 through 2010

Following introductions, Deputy State Controller Robert Jaros provided a summary of Statute (Section 24-30-203.5 C.R.S.).

In response to a question from Senator King, Mr. Jaros agreed that the recovery audit process required by Statute is not cost effective. Mr. Jaros stated that of the \$25.3 billion in payments that were reviewed, approximately \$1 for every \$2 million was paid improperly.

In response to a question from Representative Ryden, Mr. Jaros stated that this is the first recovery audit conducted by the State.

In response to a question from Senator King, Mr. McDermott stated that statute requires the recovery audit to be conducted every 3 years.

8:15 a.m. Executive Session

A motion was made by Senator Tochtrop and seconded by Representative Ryden that the Committee go into executive session in accordance with Statute [Section 24-6-402(3)(a)(III), C.R.S.] to discuss the Attorney General's formal opinion, its implications, and the effectiveness of future recovery audits. Motion passed unanimously.

8:40 a.m. The Committee came out of executive session.

Conservation Easement Tax Credit Bill Draft

Greg Fugate provided a brief update on bill draft LLS. No. 13-0558.02 concerning an application and review process for issuing tax credit certificates for a state income tax credit allowed for the donation of a perpetual conservation easement.

Senator Tochtrop stated that she believes it would be premature to move to put the bill draft on bill paper until the stakeholders' working group has completed the work on the draft.

Senator Guzman requested to continue the discussion at the Committee hearing on February 26, 2013. In response to a question from Senator Guzman, Auditor Ray stated that Committee members are welcome to attend the stakeholders' working group meetings.

In response to a question from Representative Sonnenberg, Mr. Fugate introduced the members of the stakeholders' working group. Chris West addressed Representative Sonnenberg's concern that landowners be involved in the working group discussions.

Discussion was held regarding development of a pre-fiscal note to the bill.

In response to a request from Representative Sonnenberg, Mr. Fugate agreed to provide him an electronic copy of the bill draft.

Chair Williams requested Mr. Fugate to provide an update at the next hearing.

Audits Released Without a Hearing

A motion was made by Senator Tochtrop and seconded by Senator Guzman to release the following reports without benefit of a formal hearing:

1. *State of Colorado, Department of Treasury, Statement of Federal Land Payments (For the Year Ended September 30, 2012).*
2. *Schedule of Computations Required Under Article X, Section 20, of the State Constitution (TABOR) (February 2013).*

Motion passed unanimously.

2013-14 OSA Budget

Auditor Ray provided a brief overview of the 2013-14 OSA Budget. A motion was made by Senator Tochtrop and seconded by Senator Guzman to approve the 2013-14 OSA budget request. Motion passed unanimously.

Auditor Ray stated that representatives from EAGLE-Net Alliance will be in attendance at the February 26, 2013, hearing, and requested Committee members to forward any questions they may have to her by Friday, February 22, 2013.

There being no further business to come before the Committee, the meeting adjourned at 8:55 a.m. The next meeting scheduled is on February 26, 2013, at 7:00 a.m.

Minutes submitted by:

Lesa Fisher
Executive Administrator
Office of the State Auditor



State of Colorado

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Legislative Services Building - Second Floor
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Senator

LEGISLATIVE AUDIT COMMITTEE

February 26, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on February 26, 2013, at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Representative Nordberg, Representative Ryden, Representative Sonnenberg, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, 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, Kerri Hunter, Deputy State Auditors; Cindi Radke, Jonathan Caldwell, Monika Treipl-Harnke, and Lesa Fisher

ALSO PRESENT: Susan E. Birch, Gregory Tanner, Christopher Underwood, Antoinette Taranto, Department of Health Care Policy and Financing; Gretchen Dirks, Chip White, EAGLE-Net Alliance

Senator King arrived at the hearing at 7:01 a.m.

State of Colorado
Statewide Single Audit
Fiscal Year Ended June 30, 2012

Department of Health Care Policy and Financing

Susan E. Birch, Executive Director

Gregory Tanner, Controller

Christopher Underwood, Deputy Director, Finance Office

Antoinette Taranto, Eligibility Division Director, and

Acting Client Services, Eligibility, and Enrollment Office Director

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Cindi Radke, Managing Legislative Auditor

Jonathan Caldwell, Legislative Auditor

Monika Treipl-Harnke, Legislative Auditor

Following introductions, Cindi Radke provided an overview of audit work performed at the Department of Health Care Policy and Financing (the Department).

Recommendation No. 24 was reviewed and agreed to by staff from the Department. In response to a question from Representative Ryden, Jonathan Caldwell stated that there have been improvements made to the Colorado Benefits Management System that will help ensure the accuracy of Medicaid eligibility determinations.

7:09 a.m. Senator Hill arrived at the hearing.

Sue Birch introduced staff from the Department, and provided opening comments. Ms. Birch reviewed examples of programs that experienced significant success in the past year. In particular, Colorado received a \$42.9 million Children's Health Insurance Program Reauthorization Act performance bonus from the Centers for Medicare and Medicaid Services, which was the largest bonus in the Country.

In response to a question from Senator King, Antoinette Taranto stated that she will provide the Committee recent statistics on community partners that have contributed to the success of the Medicaid Eligibility Quality Improvement Plan.

Recommendation No. 25 was reviewed and agreed to by staff from the Department. In response to a question from Senator Tochtrop, Ms. Birch stated that the Department offers individualized technical assistance and trainings to counties to help ensure eligibility accuracy.

In response to a question from Senator King, Ms. Birch stated that the Department issues certificates of appreciation to counties that are peak performers, and that she will provide the Committee a list of the recipients.

Recommendation No. 26 was reviewed and partially agreed to by staff from the Department. Greg Tanner explained that the Department only partially agreed to this

Recommendation because there is currently no clear federal guidance on the issue of reclassifying payments between the Children's Basic Health Plan (CBHP) and Medicaid programs. Mr. Tanner stated that the Department is actively working with their federal partners to resolve this issue.

Recommendation No. 27 was reviewed and agreed to by staff from the Department. In response to a question from Senator Tochtrop, Chris Underwood discussed the changes the Department is implementing to the Medicaid provider enrollment application and provider agreement which will improve its compliance with current federal regulations.

Recommendation No. 30 was reviewed and disagreed to by staff from the Department. Ms. Birch and Mr. Underwood stated that the Department feels it already has sufficient internal controls of all reviews performed over the calculation of the Medicaid rates for inpatient hospital services, and therefore, does not agree that ongoing maintenance of documentation stating that this review has occurred is necessary.

7:47 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Ryden to approve the minutes of February 12, 2013. Motion passed unanimously.

Statutory Reports Required to be Submitted to the Legislative Audit Committee

Deputy Auditor Kerri Hunter provided a brief summary of the *Colorado Education and Cultural Facilities Authority 2012 Annual Report* and the *Office of the State Controller Loans and Advances Report For the Fiscal Year Ended June 30, 2012*. There were no questions from the Committee.

Audit Released Without a Hearing

A motion was made by Senator Tochtrop and seconded by Senator Hill to release the following report without benefit of a formal hearing:

1. *Cash Funds Uncommitted Reserves Report, Fiscal Year Ended June 30, 2012, Statewide Audit, Performance Audit* (February 2013)

Motion passed unanimously. There were no questions from the Committee.

Update on the Amendment 35 Tobacco Tax Letter to the Joint Budget Committee

Deputy Auditor Monica Bowers provided a brief update on the letter sent to the Joint Budget Committee (JBC) requesting them to create line items in the budget for the purpose of tracking grant allocations that the Department of Public Health and Environment (the Department) administers and funds with Amendment 35 tobacco tax revenues. Deputy Auditor Bowers reported that the JBC has asked the Department to submit a report in November 2013 on the types of grants awarded in Fiscal Years 2013-14, to include the purpose of the grant, specific amounts, recipient names, and how the funds were actually used. After the report has been received by the JBC, a copy will be provided to the Legislative Audit Committee.

Presentation by EAGLE-Net Alliance

Gretchen Dirks, Vice President of Public Relations and Communications, and Chip White, Vice President of Business Development, introduced themselves, and reviewed a packet of overview information about EAGLE-Net Alliance (ENA).

Mr. White provided an explanation and status update on the suspension of award received by ENA from the National Telecommunications and Information Administration (NTIA).

In response to questions from Chair Williams, Mr. White stated that ENA is not regulated by the State of Colorado, and that he will consult with legal counsel to determine if the identities of the 3,500 cooperative members can be released to the Committee.

In response to questions from Senator King, Mr. White stated ENA is funded by a federal agency and is registered as a local authority with the Department of Local Affairs. He confirmed that ENA is not registered with the Colorado Secretary of State, not under the authority of the Public Utilities Commission, and not subject to the direct oversight of the Office of the State Auditor.

In response to several questions from Committee members, Mr. White stated that ENA has approximately \$500,000 debt from a bank loan used for start-up capital; approximately 75 percent of the \$100.6 million Broadband Technology Opportunities Program (BTOP) infrastructure grant award has been committed; and, the remaining grant funds will be used to complete the broadband network.

In response to questions from Representative Sonnenberg, a discussion followed regarding concerns that the project was building in areas with existing networks while avoiding hard-to-reach communities, such as those along the Western Slope.

In response to a question from Senator Guzman, Mr. White said entities must first sign ENA's Intergovernmental Agreement (IGA) to become a member of the cost-sharing cooperative, and that there is no cost to join. The IGA states the rules and bylaws of entering into a cooperative and acts as a legal document for membership.

In response to questions from Senator Tochtrop, Mr. White agreed to provide the Committee their annual financial audit report when it is complete, and Ms. Dirks stated that the Board will be re-elected at the end of the grant period.

Auditor Ray confirmed that ENA is considered a local government under the Local Government Audit Law, and is required to file an annual financial audit with the Office of the State Auditor. She added that an extension has been filed to submit the audit for Fiscal Year June 30, 2012, and it is now due on March 31, 2013.

In response to a question from Chair Williams, Mr. White stated that after the grant period, ENA will be sustainable by generating revenue through services provided to members of the cost sharing cooperative.

In response to a question from Senator King, Mr. White stated that it is not ENA's goal to develop a federally-sanctioned communication monopoly in Colorado.



State of Colorado

ANGELA WILLIAMS, CHAIR
Representative

STEVE KING, VICE CHAIR
Senator

LUCIA GUZMAN
Senator

OWEN HILL
Senator

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

DAN NORDBERG
Representative

SU RYDEN
Representative

JERRY SONNENBERG
Representative

LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

March 12, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on March 12, 2013, at 7:00 a.m. in the Audit Hearing Room, Legislative Services Building. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator King, Representative Nordberg, Representative Ryden, Representative Sonnenberg, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill

Senator Hill arrived at the hearing immediately following roll call.

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; Marisa Neff, Ferminia Hebert, Julie Chickillo, Greg Fugate, Eric Johnson, Michelle Colin, and Lesa Fisher

ALSO PRESENT: Reggie Bicha, Clint Woodruff, Nikki Hatch, Julie Kerksick, Department of Human Services; Barbara Brohl, Debbie Van Wyke, Department of Revenue; Jordan Beezley, Division of Real Estate; Chris West, Conservation Easement Oversight Commission; Greg Yankee, Colorado Coalition of Land Trusts; Mike Beery, Board of Assessment Appeals; Bruce Eisenhower, Department of Local Affairs

State of Colorado
Statewide Single Audit
Fiscal Year Ended June 30, 2012

Department of Human Services

Reggie Bicha, Executive Director
Clint Woodruff, Controller
Nikki Hatch, Deputy Executive Director of Operations
Julie Kerksick, Director, Office of Economic Security

Office of the State Auditor

Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Marisa Neff, Managing Legislative Auditor
Ferminia Hebert, Legislative Auditor
Julie Chickillo, Legislative Auditor

Following introductions, Recommendation No. 7 was reviewed and agreed to by staff from the Department of Human Services (the Department). In response to questions from Senator King, Clint Woodruff stated that a task force has been formed to implement the Recommendation, including the reconciliation of the approximately \$500,000 discrepancy between the County Financial Management System (CFMS) and the Colorado Financial Reporting System (COFRS) for amounts owed to the counties as of the end of Fiscal Year 2012, and that current year reconciliation shows a variance of only \$69.

In response to a question from Representative Ryden, Reggie Bicha stated that an on-going analysis is being conducted to identify areas where cross-training of staff is needed.

In response to a question from Senator King, Mr. Woodruff stated that he is not aware of anything that would indicate the \$500,000 discrepancy is a result of waste or fraud, but that it is simply an accounting glitch.

Recommendation Nos. 8, 45, 46, and 47 were reviewed and agreed to by staff from the Department. In response to a question from Senator Tochtrop, Mr. Bicha stated that the Vocational Rehabilitation Program is completely state-administered. A discussion followed regarding large case loads at the counties, high staff turnover rates at the counties, and county statistics on turnover rates.

Recommendation 48 was reviewed and agreed to by staff from the Department. In response to a question from Representative Sonnenberg, Mr. Bicha stated that JP Morgan Chase (JP Morgan) is not the only company qualified to be the fiscal agent for the Colorado Electronic Benefits Transfer (EBT) system. Julie Kerksick stated that JP Morgan is under contract with the State until 2019. Mr. Bicha added that the contract can be amended and/or canceled for non-compliance with performance measurements, and that JP Morgan is aware of the current problems and is taking steps to fix them.

Ms. Kerksick offered to provide the Committee recent correspondence between the Department and JP Morgan relating to JP Morgan's commitment to improve on contract performance measures, and the system put in place to monitor progress.

8:06 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Ryden to approve the minutes of February 26, 2013. Motion passed unanimously.

Conservation Easement Tax Credit Bill Draft

Greg Fugate provided an update on the Conservation Easement Tax Credit bill draft related to the implementation of a new conservation easement tax credit certificate application and review process. Mr. Fugate introduced members of the stakeholder working group who stated their position on the bill draft, and requested that the Committee consider this draft legislation for sponsorship and introduction.

In response to questions from Representative Sonnenberg, Jordan Beezley, Manager of the Conservation Easement Program in the Division of Real Estate (DRE), and Mr. Fugate briefly explained the new review process by which landowners will apply for a tax credit certificate and the authority and responsibilities of DRE and the Conservation Easement Oversight Commission for reviewing the applications for compliance with applicable requirements.

In response to a question from Senator Guzman, Mr. Beezley stated that there will be no fiscal impact to the general fund. Mr. Fugate clarified that a new cash fund would be created from the fees paid by applicants.

In response to a question from Senator King, Greg Yankee, member of the Colorado Coalition of Land Trusts, explained that the legislation will not affect landowners who previously donated land.

In response to a question from Representative Sonnenberg, Debbie Van Wyke, Manager of the Conservation Easement Program in the Department of Revenue, briefly discussed current and projected staffing requirements needed to administer the program.

A motion was made by Senator King and seconded by Senator Guzman to move forward with the legislation. Motion passed unanimously. The Bill will start in the Senate.

Sponsors: Senator King
Representative Ryden

Co-Sponsors: Senator Guzman
Senator Tochtrop
Representative Sonnenberg
Representative Williams

Automobile Inspection and Readjustment (AIR) Program Legislation Discussion

Eric Johnson provided an update on discussions held by the Committee regarding possible legislation relating to the AIR Program and the regulatory changes made by the Air Quality Control Commission to extend the model-year exemption period to 7 years, effective 2015. He stated that legislation previously introduced during the 2013 Session has been Postponed Indefinitely, and therefore, asked if the Committee would like to proceed with subsequent legislation.

A motion was made by Senator Tochtrop and seconded by Chair Williams to proceed with draft legislation. Motion passed unanimously.

Board of Assessment Appeals

Auditor Ray requested distribution of an e-mail received by Representative Ryden from a citizen regarding the procedures governing the Board of Assessment Appeals (BOAA), and possible amendments to Senate Bill 13-146 that modifies the procedures.

Mike Beery, Director of BOAA, discussed changes already put in place in the appeals process that covers the concerns brought forward. In response to a request from Representative Ryden, Mr. Beery agreed to provide the Committee an outline of the referenced changes.

Audit Requests

Auditor Ray presented a request submitted by the Executive Director of the Department of Human Services for a performance audit of the Division of Vocational Rehabilitation. This was for information only and does not require a vote by the Committee. The request will be added to the audit queue.

Auditor Ray presented a request submitted by several members of the General Assembly for an audit of the Division of Children, Youth, and Families in the Colorado Department of Human Services. She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit.

A motion was made by Senator Tochtrop and seconded by Senator King to approve initial research on the audit request. Motion passed unanimously.

Recommendations for possible changes to the State of Colorado Recovery Audit Process

Auditor Ray briefly reviewed 5 recommendations for possible changes and statutory impact to the recovery audit process. A motion was made by Representative Ryden and seconded by Senator Guzman to proceed with draft legislation to amend recovery audit statutes to postpone the next recovery audit until the data issues are resolved by implementation of the Colorado Financial Reporting System Modernization Project. Motion passed unanimously.

Statutory Reports Required to be Submitted to the Legislative Audit Committee

Auditor Ray submitted the following statutorily-required reports to the Committee:

1. Regional Transportation Authority 2012 Annual Report
2. Transportation Revenue Anticipation Notes (TRANS) Annual Report
3. Venture Capital Authority Annual Report



State of Colorado

ANGELA WILLIAMS, CHAIR
Representative

STEVE KING, VICE CHAIR
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Senator

OWEN HILL
Senator

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

DAN NORDBERG
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SU RYDEN
Representative

JERRY SONNENBERG
Representative

LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

March 26-27, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on March 26, 2013, at 7:06 a.m. in the Legislative Services Building, Hearing Room A. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Representative Nordberg, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, Senator King, Representative Sonnenberg

Senator King arrived at the hearing immediately following roll call.

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

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Michelle Colin, Acting Deputy State Auditor; Eric Johnson, Nina Frant, Beverly Mahaso, and Lesa Fisher

ALSO PRESENT: Barbara Brohl, Ron Kammerzell, Laura Harris, Department of Revenue

Medical Marijuana Regulatory System, Part 1
Department of Revenue
Department of Public Health and Environment
Performance Audit, March 2013

Department of Revenue

Barbara Brohl, Executive Director
Ron Kammerzell, Acting Senior Director of Enforcement
Laura Harris, Director, Medical Marijuana Enforcement Division

Office of the State Auditor

Dianne E. Ray, State Auditor
Michelle Colin, Acting Deputy State Auditor
Eric Johnson, Managing Legislative Auditor
Nina Frant, Legislative Auditor
Beverly Mahaso, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Ryden to release the *Medical Marijuana Regulatory System, Part 1, Performance Audit* (March 2013). Motion passed unanimously.

Following opening remarks and introductions, Eric Johnson provided an overview of Colorado's Medical Marijuana Regulatory System. In response to a question from Chair Williams, Mr. Johnson stated that the *Medical Marijuana Regulatory System, Part 2, Performance Audit* will address steps being taken to assure that patients receiving medical marijuana cards meet the requirements established by law.

In response to a question from Senator Guzman, Nina Frant explained the difference in licensing requirements for growers versus dispensaries, and the affiliation between them.

In response to a question from Senator Guzman, Mr. Johnson stated that the audit did not address data relating to actual medical effects on patients using marijuana.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from the Medical Marijuana Enforcement Division (the Division). In response to a question from Senator King, Barbara Brohl discussed the statutory provisions associated with the renewal or reissuance of a license once granted, even if it is later determined that the business is within 1,000 feet of a school.

In response to a question from Senator Tochtrop, Ms. Frant stated that many of the business license applications were withdrawn voluntarily because the applicant knew they were not going to meet the required qualifications.

In response to questions from Senator King, Ms. Frant stated that the business application fee ranges from \$1,250 to \$18,000, and the licensing fee ranges from \$2,750 to \$14,000. Laura Harris clarified that the license fee is refundable, but the application fee is not.

Senator King expressed concern about creating a situation by rule or law that impedes the Division's authority to revoke a business license if it is later determined that the business is not operating within set guidelines. Discussion was held regarding the possible need for statutory change to address this issue.

In response to a question from Senator Tochtrop, Ms. Brohl stated that it will take until March 2014 to develop new processes and procedures to improve the processes by which it administers business licensing. Senator Tochtrop expressed her concern about it taking so long, and requested that the Division provide the Committee quarterly progress updates.

Recommendation No. 2 was reviewed, discussed, and agreed to by staff from the Division. In response to a question from Senator King, Ms. Frant stated that according to Division staff, the advantage of having an applicant voluntarily withdraw their application is that it is less administratively burdensome for the Division. In response to a follow-up question from Senator King, Ms. Harris stated that the Division is in the process of developing policies and procedures related to the manner in which it proposes application denial, and also the manner in which it accepts application withdrawals.

In response to a question from Representative Nordberg, Ms. Harris agreed to provide the Committee with the number of repeat applications that have been submitted.

Recommendation No. 3 was reviewed, discussed, and agreed to by staff from the Division. In response to a question from Senator Tochtrop, Ms. Brohl stated that renewal applications are approved based on information provided in the application and subsequent background checks, but not on-site inspections.

In response to a question from Representative Ryden, Ms. Brohl stated that a bill was introduced in 2012 requesting a transfer of funds from the Department of Public Health and Environment to the Division. The bill did not pass. The Department of Revenue is now requesting the Division be funded with general funds for the first 5 years.

Recommendation No. 4 was reviewed, discussed, and agreed to by staff from the Division. In response to a question from Representative Ryden, Ron Kammerzell stated that other divisions within the Department of Revenue have risk-based compliance programs that they plan on emulating.

In response to questions from Chair Williams, Mr. Kammerzell explained the "seed-to-sale" model concept, and stated that the Division will not require additional appropriations in order to implement this program by the end of 2013.

Recommendation No. 5 was reviewed, discussed, and agreed to by staff from the Division. In response to a question from Senator King, Ms. Harris stated that the amount of marijuana inventory that a licensee is authorized to have on their premises is based on patient counts.

The meeting adjourned at 8:55 a.m.

March 27, 2013

The Legislative Audit Committee reconvened on March 27, 2013, at 7:00 a.m. in the Legislative Services Building, Audit Hearing Room. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator King, Representative Ryden, Representative Sonnenberg, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, Representative Nordberg

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, Beverly Mahaso, and Lesa Fisher

ALSO PRESENT: Barbara Brohl, Ron Kammerzell, Laura Harris, Dorinda Floyd, John Vecchiarelli, Department of Revenue; Ann Hause, Department of Public Health and Environment; Bob Lackner, Jason Gelender, Office of Legislative Legal Services; Kevin Patterson, Scott Morrissey, Colorado Energy Office

**Medical Marijuana Regulatory System, Part 1
Department of Revenue
Department of Public Health and Environment
Performance Audit, March 2013**

Department of Revenue

Barbara Brohl, Executive Director
Dorinda Floyd, Chief Financial Officer
Ron Kammerzell, Acting Senior Director of Enforcement
Laura Harris, Director, Medical Marijuana Enforcement Division
John Vecchiarelli, Tax Division Director

Department of Public Health and Environment

Ann Hause, Director, Office of Legal and Regulatory Affairs

Office of the State Auditor

Dianne E. Ray, State Auditor
Michelle Colin, Acting Deputy State Auditor
Eric Johnson, Managing Legislative Auditor
Nina Frant, Legislative Auditor
Beverly Mahaso, Legislative Auditor

Mr. Johnson continued with the presentation of the *Medical Marijuana Regulatory System, Part 1, Performance Audit* (March 2013).

Recommendation No. 6 was reviewed, discussed, and agreed to by staff from the Division. In response to a question from Chair Williams, John Vecchiarelli stated that sales tax revenue generated by dispensaries had not been correctly identified as medical marijuana businesses in Gentax, Revenue's information system for tracking tax revenues.

In response to a question from Senator Guzman, Mr. Vecchiarelli addressed the concern that dispensaries are not allowed to have bank accounts due to federal laws, and therefore, pay their sales tax with cash.

Representative Nordberg arrived at 7:07 a.m.

In response to a question from Senator Tochtrop, Mr. Vecchiarelli stated that an evaluation is currently being conducted on how the Department of Revenue will handle the sales tax increase that would be generated by recreational marijuana use.

A discussion followed concerning the safety of state employees, as well as dispensary employees, when handling large sums of cash.

Recommendation No. 7 was reviewed, discussed, and agreed to by staff from the Division. In response to a question from Senator Guzman, Ms. Brohl stated that application fees do not get refunded if the application is denied. A discussion was held concerning the reasonableness of the application fees currently being charged.

In response to a question from Representative Nordberg, Ms. Brohl agreed to provide the Committee the number of renewal applications that have been received by the Division. In response to a follow-up question from Representative Nordberg, Mr. Kammerzell stated that a process for determining license renewal fees still has not been established.

Recommendation No. 8 was reviewed, discussed, and agreed to by staff from the Division. Ms. Brohl defended the Division's use of Colorado Correctional Industries to purchase furniture; however, Dorinda Floyd stated that the Division will request waivers to use a competitive bidding process going forward. A discussion followed regarding the weak controls demonstrated by the Division over excessive spending.

Recommendation No. 9 was reviewed, discussed, and agreed to by staff from the Division. Mr. Kammerzell stated that the current administration in no way attempts to defend the purchase of 33 vehicles since the Division did not have the staff to support the purchase. He assured the Committee that this will not continue into the future.

In response to a question from Chair Williams, Ms. Brohl stated that the transition of the executive director position occurred in July 2011.

In response to a question from Senator King, Ms. Brohl stated that she is a peace officer by statute.

In response to a question from Senator Guzman, Ms. Brohl stated that the Division is authorized to seize product if a vendor has more product than allowed, or if a city institutes a ban on medical marijuana businesses.

In response to a question from Senator King, Ms. Brohl agreed that employee commuting arrangements were improperly reported as tax-exempt benefits.

Recommendation No. 10 was reviewed, discussed, and agreed to by staff from the Division. In response to a question from Senator King, Mr. Kammerzell agreed to provide the Committee a copy of the Division's comprehensive strategic plan once completed in July 2013.

In response to a question from Representative Ryden, Ms. Brohl briefly discussed the methodology being used to forecast the number of medical marijuana and adult-use marijuana licenses expected upon implementation of Amendment 64.

Recommendation Nos. 11-12 were reviewed, discussed, and agreed to by staff from the Division.

Recommendation No. 13 was reviewed, discussed, and agreed to by staff from the Department of Revenue and the Department of Public Health and Environment. Ms. Brohl and Ann Hause stated that action has been taken to seek clarity from the U.S. Department of Justice on their position concerning the passage of Amendment 64.

Chair Williams requested a status update from the Division early during the Interim.

8:30 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Senator Guzman to approve the minutes of March 12, 2013. Motion passed unanimously.

Automobile Inspection and Readjustment (AIR) Program Legislation Discussion

Eric Johnson provided an overview of proposed bill drafts LLS Nos. 13-0921.01 and 13-0921.02, relating to the AIR Program. A motion was made by Senator Tochtrop and seconded by Senator King to move forward with LLS No. 13-0921.01.

Motion passed with a vote of 6-0, as follows:

Senator Guzman	Aye
Senator King	Aye
Representative Nordberg	Aye
Representative Ryden	Aye
Representative Sonnenberg	Excused
Senator Tochtrop	Aye
Chair Williams	Aye

The Bill will start in the Senate.

Sponsors: Senator King and Senator Tochtrop
Representative Ryden
Co-Sponsors: Senator Guzman
Representative Nordberg

Representative Williams

State of Colorado Recovery Audit Process Legislation Discussion

State Auditor Ray briefly reviewed bill draft LLS No. 13-0922.01, relating to the timing of the recovery audit process. A motion was made by Senator Tochtrop and seconded by Senator Guzman to move forward with legislation to amend recovery audit statutes to postpone the next recovery audit until the data issues are resolved by implementation of the Colorado Financial Reporting System Modernization Project.

Motion passed with a vote of 6-0, as follows:

Senator Guzman	Aye
Senator King	Aye
Representative Nordberg	Aye
Representative Ryden	Aye
Representative Sonnenberg	Excused
Senator Tochtrop	Aye
Chair Williams	Aye

The Bill will start in the House.

Sponsors: Representative Williams
Senator Tochtrop
Co-Sponsors: Senator Guzman
Senator King
Representative Ryden

Calendar

A motion was made by Senator Guzman and seconded by Representative Williams to adopt the proposed 2013 Interim Committee calendar. Motion passed unanimously.

Status Update

Interim Director Kevin Patterson provided a brief update on the implementation status of Recommendations from the *Colorado Energy Office, Performance Audit* (December 2012), *Office of the Governor*. Mr. Patterson introduced Jeff Ackermann, who has been hired as the new permanent director of the Colorado Energy Office.

Audit Requests

State Auditor Ray presented a request submitted by the Joint Budget Committee for a statewide performance audit regarding indirect cost recoveries and assessments. She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit.

A motion was made by Senator Tochtrop and seconded by Senator Guzman to approve initial research on the audit request. Motion passed unanimously.

State Auditor Ray presented a request submitted by Senator Steve King for a performance audit of the Colorado Energy Office. She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit.

ANGELA WILLIAMS, CHAIR
Representative
STEVE KING, VICE CHAIR
Senator
LUCIA GUZMAN
Senator
OWEN HILL
Senator

State of Colorado
LEGISLATIVE AUDIT COMMITTEE
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Representative
JERRY SONNENBERG
Representative
LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

June 3-4, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on June 3, 2013, at 10:00 a.m. in the Legislative Services Building, Audit Hearing Room. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Hill, Senator King, Representative Nordberg, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Representative Sonnenberg

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, Matt Devlin, Deputy State Auditors; Jenny Page, Trey Standley, Carleen Armstrong, James Taurman, Eric Johnson, Crystal Dorsey, Nina Frant, Julie Chickillo, and Lesa Fisher

ALSO PRESENT: Kathy Nesbitt, Deborah Layton-Root, Department of Personnel & Administration; Dana Shea-Reid, State Personnel Board; William Allison, Garry Kaufman, Department of Public Health and Environment; Jeffrey L. Cummings, John Plotkin, Jeff Tetric, Pinnacol Assurance; Matt Darden, Jason Patrick, Deloitte & Touche LLP; Andrew Rosen, Lindsay Scott, Buck Consultants; Elliot Susseles, The Segal Company; Gerald A. Marroney, Colorado Judicial Department

**Division of Human Resources and State Personnel Board
Department of Personnel & Administration
Performance Audit, May 2013**

Department of Personnel & Administration

Kathy Nesbitt, Executive Director

Deborah Layton-Root, State Chief Human Resources Officer

State Personnel Board

Dana Shea-Reid, Executive Director

Office of the State Auditor

Dianne E. Ray, State Auditor

Monica Bowers, Deputy State Auditor

Jenny Page, Managing Legislative Auditor

Trey Standley, Legislative Auditor

Carleen Armstrong, Legislative Auditor

James Taurman, Legislative Auditor

A motion was made by Senator Hill and seconded by Senator Guzman to release the *Division of Human Resources and State Personnel Board, Performance Audit (May 2013)*. Motion passed unanimously.

Following opening remarks and introductions, Trey Standley provided an overview of the state personnel system.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from the Department of Personnel & Administration (the Department). In response to a question from Senator Tochtrop, Kathy Nesbitt stated that she is uncertain of the exact date the Colorado Personnel Payroll System (CPPS) was first implemented, and the Department plans to fully optimize the modules before evaluating the system for modernization.

In response to a question from Representative Ryden, Ms. Nesbitt stated that CPPS is robust enough to handle performance review compliance information, such as whether or not an employee has received a performance review and their rating; however, it is not capable of processing the entire performance evaluation electronically.

In response to a question from Representative Ryden, Ms. Nesbitt stated that the Department will not request additional staff until an evaluation has been completed of the new organizational structure within the Division of Human Resources which allows for Consulting Services staff to be assigned to specific state agencies.

Recommendation Nos. 2 and 3 were reviewed, discussed, and agreed to by staff from the Department. In response to a question from Representative Ryden, Ms. Nesbitt explained that Consulting Services is a unit within the Division of Human Resources that manages employee appeals.

Recommendation No. 4 was reviewed, discussed, and agreed to by staff from the Department. In a response to questions from Senator Guzman and Representative Ryden, a discussion followed regarding the procedures used to ensure the timely tracking of appeals data.

Recommendation Nos. 5 and 6 were reviewed, discussed, and agreed to by staff from the State Personnel Board (the Board). In response to a question from Senator King, Dana Shea-Reid stated that a new conflict of interest form will be signed annually by Board members and staff, and that a similar disclosure form will be included in each monthly Board packet permitting members to disclose possible conflicts relating to cases before the Board.

11:25 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Guzman and seconded by Senator Hill to approve the minutes of March 26-27, 2013. Motion passed unanimously.

Status Report

Eric Johnson briefly reviewed highlights from the *Automobile Inspection and Readjustment Program, Department of Public Health and Environment, Performance Audit* (November 2012).

In response to a question from Senator Tochtrop, Mr. Johnson explained that the reason the Legislative Audit Committee (the Committee) had introduced Senate Bill 13-257 was to require the Air Quality Control Commission to implement an extension of the exemption from an emissions control inspection for current model year vehicles from 4 to 7 years by January 2014. Mr. Johnson stated that an amendment made in the Senate pushed the implementation date back to January 1, 2016, thus negating the reason for the legislation since the Air Quality Control Commission's original implementation date was January 2015.

In response to a follow-up question from Senator Tochtrop, State Auditor Dianne Ray stated that the Committee could introduce another Bill; however, the exemption rule changes will be implemented by January 2015 regardless of statutory change.

William Allison, Air Pollution Control Division Director, provided an overview regarding the implementation status of the Recommendations made in the audit.

In response to a question from Senator King, Mr. Allison stated that the use of on-board diagnostic testing equipment can increase the emissions failure rates, however, consumers will benefit from the model year exemption being extended to 7 years.

In response to a question from Senator Guzman, Mr. Allison confirmed that the Environmental Protection Agency has to approve the State's air quality implementation plan annually.

In response to a question from Senator Tochtrop, Mr. Allison confirmed that the proposed rule changes will be implemented without further statutory change.

11:45 a.m. The Committee recessed for lunch.

1:30 p.m. The Committee was called back to order by Chair Williams.

**Pinnacol Assurance
Statutory-Basis Financial Statements
As of and for the Years Ended
December 31, 2012 and 2011**

Pinnacol Assurance

Jeffrey L. Cummings, Audit Committee Chair
John Plotkin, Interim Chief Executive Officer
Jeff Tetrick, Chief Financial Officer

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

A motion was made by Senator King and seconded by Representative Nordberg to release the *Pinnacol Assurance, Statutory-Basis Financial Statements*. Motion passed unanimously.

Following opening remarks and introductions, Matt Darden provided an overview of the 2012 audit, and stated that no material weaknesses in internal control or findings were discovered during the audit. Jason Patrick reviewed the financial statements.

John Plotkin introduced the staff from Pinnacol Assurance (Pinnacol), and Jeff Tetrick provided opening statements.

In response to a question from Representative Ryden, Mr. Tetrick explained that premium rates are increasing now to offset when they were reduced by almost 50 percent in 2005-2006. In response to a follow-up question from Senator Tochtrop, Mr. Tetrick stated that the insurance industry goes through cycles when premiums go down and then back up, and that Pinnacol has to participate in the cycle along with the rest of the industry.

In response to a question from Senator Guzman, Mr. Tetrick stated that of the 40,000 worker's compensation claims, about 31 percent occurred in construction and 40-42 percent occurred in service industries.

In response to a question from Chair Williams, Mr. Plotkin provided an update on the search for a new Chief Executive Officer and projected that the position will be filled within 90 days.

In response to questions from State Auditor Ray, Mr. Plotkin stated that Pinnacol does not plan on declaring a dividend for policy holders this year due to increasing rates. Mr. Plotkin

discussed that Pinnacol is not currently seeking legislative change that would be required in order to expand into other lines of business.

2:05 p.m. The Committee recessed briefly.

**Evaluation of the Department of Personnel &
Administration's Annual Compensation Survey
for Fiscal Year 2014
Performance Evaluation, May 2013**

Department of Personnel & Administration

Kathy Nesbitt, Executive Director

Deborah Layton-Root, State Chief Human Resources Officer

The Segal Company

Elliot Susseles, Sr. Vice President, Public Sector Compensation
and Bargaining Practice Division

Office of the State Auditor

Dianne E. Ray, State Auditor

Monica Bowers, Deputy State Auditor

Eric Johnson, Managing Legislative Auditor

Buck Consultants

Andrew Rosen, Principal

Lindsay Scott, Principal

A motion was made by Senator Guzman and seconded by Representative Ryden to release the *Evaluation of the Department of Personnel & Administration's Annual Compensation Survey for Fiscal Year 2014, Performance Evaluation (May 2013)*. Motion passed unanimously.

Following opening remarks and introductions, Andrew Rosen provided an overview of the Annual Compensation Survey process and philosophy.

Recommendation No. 1 was reviewed, discussed, and partially agreed to by staff from the Department of Personnel & Administration (the Department). In response to a question from Senator Guzman, Ms. Nesbitt defined the term "market" as being what the State's competitors are paying for a particular position. Mr. Johnson further clarified that statute provides guidance on what the market is suppose to be, such as private and public sector jobs.

Ms. Nesbitt and Elliot Susseles discussed why the Department does not agree with using the average state salary and the median market salary as the point of comparison for benchmark job classification. Mr. Susseles stated that the workforce is skewed towards the top of the pay range due to the older age of the employees.

Recommendation No. 2 was reviewed, discussed, and agreed to by staff from the Department. Ms. Nesbitt stated that a total compensation survey that includes all non-salary elements would require a customized survey at an additional cost to the state.

Recommendation Nos. 3 and 4 were reviewed, discussed, and agreed to by staff from the Department. In response to a question from Representative Nordberg, Ms. Nesbitt stated that the Department is working with the Public Employees' Retirement Association (PERA) to ascertain the value of PERA benefits to state employees.

3:05 p.m. Senator Hill returned to the hearing following the recess at 11:45 a.m.

Recommendation Nos. 5, 6, 7, and 8 were reviewed, discussed, and agreed to by staff from the Department. In response to a question from Senator Tochtrop, Ms. Nesbitt stated that assessing the State's competitive position against the private market sector is a sound principle, but budget constraints prohibit immediate increase in pay to those employees that are below the going market rate.

Recommendation Nos. 9, 10, and 11 were reviewed, discussed, and agreed to by staff from the Department. In response to a question from Senator King, Mr. Susseles stated that the average age of Colorado state employees is comparable to many governmental agencies throughout the country. Mr. Susseles stated that it would be difficult to obtain historical information from other states that also use the median state salaries to median market salaries comparison.

3:45 p.m. GENERAL BUSINESS

State Auditor Ray introduced the new IT Deputy State Auditor, Matt Devlin, to the Committee.

Status Report

Julie Chickillo briefly reviewed highlights from the *Colorado Judicial Department's Integrated Colorado Courts E-Filing and Judicial Paper on Demand Systems, Independent Verification and Validation Review* (July 2012).

Gerald Marroney, State Court Administrator, stated that as of June 3, 2013, the Integrated Colorado Courts E-Filing and Judicial Paper on Demand Systems have been implemented statewide. There were no questions from the Committee.

Senator Tochtrop stated, and was acknowledged by the Chair, that she will ask to be excused from Committee on June 4, 2013 at 10:30 a.m.

4:00 p.m. The meeting adjourned.

June 4, 2013

The Legislative Audit Committee reconvened on June 4, 2013, at 9:00 a.m. in the Legislative Services Building, Audit Hearing Room. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator King, Representative Nordberg, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, Representative Sonnenberg

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, Matt Devlin, Deputy State Auditors; Michelle Colin, Derek Johnson, Jeffrey Kahn, Jenny Page, and Lesa Fisher

ALSO PRESENT: Tim Harris, Charles Meyer, Department of Transportation; Becky Takeda-Tinker, Gus Skinner, Richard Schweigert, Colorado State University; Rob MaCoy, Katelynn Stoll, BKD, LLP; Lieutenant Governor Joseph A. Garcia, Department of Higher Education

**Outdoor Advertising Program
Department of Transportation
Performance Audit, May 2013**

Department of Transportation

Tim Harris, Chief Engineer

Charles Meyer, Traffic and Safety Engineering Branch Manager

Office of the State Auditor

Dianne E. Ray, State Auditor

Matt Devlin, Deputy State Auditor

Michelle Colin, Managing Legislative Auditor

Derek Johnson, Legislative Auditor

A motion was made by Representative Ryden and seconded by Senator King to release the *Outdoor Advertising Program, Department of Transportation, Performance Audit* (May 2013). Motion passed unanimously.

Following opening remarks and introductions, Michelle Colin provided an overview of Colorado's Outdoor Advertising Program and the federal Highway Beautification Act.

In response to questions from Chair Williams and Senator Tochtrop, Ms. Colin confirmed that the billboards along I-70 do fall under the jurisdiction of the Outdoor Advertising Program, and that there are very specific spacing requirements on where signs can be placed.

In response to a question from Senator Guzman, Ms. Colin stated that Colorado Logos, Inc. collects revenue for administering the Specific Information and Business Signs (LOGO Signs) and Tourist Oriented Directional Signs (TODS) programs.

In response to a question from Representative Ryden, Ms. Colin stated that there are no financial penalties imposed on sign owners for not complying with the rules.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from the Department of Transportation (the Department). In response to a question from Representative Ryden, Derek Johnson stated the Federal Highway Administration has not reviewed Colorado's Outdoor Advertising Program to ensure compliance of the Highway Beautification Act.

Recommendation No. 2 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Senator Tochtrop, Mr. Johnson and Tim Harris stated that through consultation with the State Attorney General's Office, the Department will not seek to amend statute to include authority to waive late fees. Instead, it will modify rules within the scope of current statutory authority.

In response to a question from Representative Ryden, Mr. Harris and Mr. Johnson clarified the responsibilities of Colorado Logos, Inc.

Recommendation No. 3 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Representative Ryden, Mr. Harris stated that Colorado Logos, Inc. collects an annual fee for advertising space on the TODS and LOGO signs.

In response to a question from Senator King, Mr. Harris stated that the Department does not need a dedicated roadside advertising fund since they already have a system in place to track revenue and expenses.

Recommendation No. 4 was reviewed, discussed, and agreed to by staff from the Department. In response to a question from Representative Ryden, Mr. Harris stated that the Department uses a standard request for proposal (RFP) process every 5 years to contract out operation of the TODS and LOGO Signs programs. Charles Meyer stated that there were 7 bidders, 3 of which were qualified, during the last RFP process.

In response to a question from Senator Tochtrop, Mr. Meyer stated that the brown signs used to advertise historical and recreational areas are regulated by rules from a section in the federal *Manual on Uniform Traffic Control Devices*.

**Colorado State University - Global Campus
Financial Statements and Independent Auditor's Reports
Financial Audit
Years Ended June 30, 2012, 2011 and 2010**

Colorado State University

Becky Takeda-Tinker, President, CSU Global Campus

Gus Skinner, Vice President of Finance, CSU Global Campus

Richard Schweigert, Chief Financial Officer, CSU System

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Jeffrey Kahn, Managing Legislative Auditor

BKD, LLP

Rob MaCoy, Partner

Katelynn Stoll, Supervisor

A motion was made by Representative Ryden and seconded by Representative Nordberg to release the *Colorado State University – Global Campus, Financial Statements and Independent Auditor's Reports, Financial Audit* (Years Ended June 30, 2012, 2011 and 2010). Motion passed unanimously.

10:10 a.m. Senator Hill arrived at the hearing.

Following opening remarks and introductions, Rob MaCoy provided an overview of the audit. In response to a question from Senator Hill, Mr. MaCoy and Gus Skinner explained the line item from the statements of cash flows relating to payments to governing boards or other institutions.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from Colorado State University Global Campus. In response to a question from Senator Hill, Mr. Skinner stated that the adjustment related to accrued payroll was a result of insufficient training for staff on accounting entries related to the State's pay date shift.

10:30 a.m. GENERAL BUSINESS

Audit Requests

State Auditor Ray presented a request submitted by the Joint Budget Committee for a performance audit of Colorado Correctional Industries. She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit. A motion was made by Representative Ryden and seconded by Representative Nordberg to authorize the OSA to proceed with preliminary research. Motion passed unanimously on a roll-call vote. Senator Tochtrop was excused.



State of Colorado

ANGELA WILLIAMS, CHAIR
Representative

STEVE KING, VICE CHAIR
Senator

LUCIA GUZMAN
Senator

OWEN HILL
Senator

LEGISLATIVE AUDIT COMMITTEE

Legislative Services Building - Second Floor

200 East 14th Avenue
Denver, Colorado 80203

DAN NORDBERG
Representative

SU RYDEN
Representative

JERRY SONNENBERG
Representative

LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

July 15-16, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on July 15, 2013, at 10:00 a.m. in the Legislative Services Building, Audit Hearing Room. Vice-Chair Steve King called the meeting to order. The roll was called with the following result:

PRESENT: Senator King, Representative Nordberg, Representative Ryden, Senator Tochtrop

EXCUSED: Senator Guzman, Senator Hill, Representative Sonnenberg, 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; Crystal Dorsey, Jenny Page, Michelle Colin, Jenny Atchley, Nina Frant, Reed Larsen

ALSO PRESENT: Leanne Emm, Colorado Department of Education; Dr. Cynthia Stevenson, Kathleen Askelson, Lorie Gillis, Jefferson County R-1 School District; Dr. Manuel Rodriguez, Kristee Coberly, Charlene Bertolino, Trinidad 1 School District; Karin McGowan, Joni Reynolds, Ann Hause, Department of Public Health and Environment; Matt Azer, Kathy Nesbitt, Department of Personnel & Administration; Barbara Brohl, Ron Kammerzell, John Vecchiarelli, Department of Revenue

10:05 a.m.

**Fiscal Health Analysis of Colorado School Districts
July 2013**

Colorado Department of Education

Leanne Emm, Assistant Commissioner, Public School Finance

Jefferson County R-1 School District

Dr. Cynthia Stevenson, Superintendent

Kathleen Askelson, Executive Director of Finance

Lorie Gillis, Chief Financial Officer

Trinidad 1 School District

Dr. Manuel Rodriguez, Superintendent

Kristee Coberly, Chief Financial Officer

Charlene Bertolino, Board President

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Crystal Dorsey, Managing Legislative Auditor

Following opening remarks and introductions, Crystal Dorsey provided an overview of the *Fiscal Health Analysis of Colorado School Districts Financial Evaluation* (July 2013).

Leanne Emm stated the fiscal health analysis report is used by the Department as a tool in the financial accreditation process during the review of school finances. She added that the indicators are used to help the schools project what will be needed in the future.

In response to a question from Senator Tochtrop, Ms. Emm stated that increases in school financing since the recession has not provided adequate funding for both inflation and growth.

Dr. Manuel Rodriguez stated that Trinidad School District has identified several challenges that have contributed to the warning indicators. He stated that school districts cannot control reduction in State funding, reduction in property tax funding, and loss of student enrollment, but do have control on overstaffing, transfer from the general fund to support curriculums, and food programs.

In response to a question from State Auditor Ray, Ms. Emm reviewed processes used by the Department of Education (the Department) to help school districts monitor their fund balances. Ms. Emm stated that the Department keeps the districts up-to-date on the School Finance Act and the resources available to them. She further stated that the Department does not have authority to dictate how the district's budget their resources once allocated.

Dr. Cynthia Stevenson stated that Jefferson County R-1 School District is fiscally conservative and has reduced expenditures. She stated that they have been deliberately spending down the fund balance in their general funds, and are currently in the process of rebuilding the reserves.

10:40 a.m. The Committee recessed briefly.

10:42 a.m. **GENERAL BUSINESS**

Status Reports

Jenny Page briefly reviewed highlights from the *Amendment 35 Tobacco Tax Funded Grant Programs, Department of Public Health and Environment Performance Audit* (July 2012).

In response to a question from Representative Ryden, Joni Reynolds, Director of Public Health Programs, stated that as of January 2013, a process has been developed to provide past performance and financial risk data to the Review Committees during the grantee's application review.

In response to a question from Senator Tochtrop, Ms. Page explained that the Department of Public Health and Environment disagreed with Recommendation No. 1 because they feel that seeking a legal opinion 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.

Michelle Colin briefly reviewed highlights from the *Performance Audit of the Office of Administrative Courts* (September 2012).

Matt Azer, Director, Office of Administrative Courts, provided an update on Recommendation Nos. 1-3. A brief discussion followed regarding where to find actors for the video tutorials aimed toward educating individuals who are not represented by legal counsel. There were no questions from the Committee.

11:15 a.m. The Committee recessed for lunch.

1:30 p.m. The Committee reconvened. Chair Angela Williams requested a roll call to verify a quorum. The roll was called with the following result:

PRESENT: Senator Guzman, Senator King, Representative Nordberg, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, Representative Sonnenberg

Minutes

A motion was made by Senator Tochtrop and seconded by Senator Guzman to approve the minutes of June 3-4, 2013.

1:35 p.m. **Medical Marijuana Regulatory System, Part II**
Department of Public Health and Environment
Department of Revenue
Performance Audit, June 2013

Department of Public Health and Environment

Karin McGowan, Interim Executive Director
Joni Reynolds, Director of Public Health Programs

Department of Revenue

Barbara Brohl, Executive Director
Ron Kammerzell, Acting Senior Director of Enforcement

Office of the State Auditor

Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Jenny Atchley, Legislative Auditor
Nina Frant, Legislative Auditor
Reed Larsen, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Nordberg to release the *Medical Marijuana Regulatory System Part II Performance Audit* (June 2013). The motion passed unanimously.

Following introductions and opening remarks, Nina Frant provided an overview of the *Medical Marijuana Regulatory System Part II* audit.

Recommendation No. 1 was reviewed, and agreed or partially agreed to by staff from the Department of Public Health and Environment (Public Health).

In response to a question from Senator King regarding the enforcement authority of Public Health versus the Colorado Medical Board related to physicians, Ms. Frant stated that Public Health is the only entity that has access to physician data. State Auditor Ray stated that the unique language in the Colorado Constitution and the confidentiality of physician data requires enforcement authority to start with Public Health.

Karin McGowan discussed Public Health's responses to Recommendation No. 1. In response to a question from Representative Ryden, Ms. McGowan stated that physicians providing patient referrals for red cards must be licensed in Colorado and with the Drug Enforcement Administration.

In response to questions from Representative Nordberg, Ms. McGowan stated that the last time a physician was referred to the Colorado Medical Board for investigation was in 2011, and that it is difficult to determine whether physicians who have high patient counts simply specialize in this area or if they are conducting business inappropriately; however, Public Health has referred the physicians with suspicious activity to the Colorado Medical Board.

In response to a question from Chair Williams, Ms. Frant stated that the audit scope did not include research into consumer law regarding advertisements made by physicians on their websites, but that a basic internet search was conducted to see if physicians are making it "easy" to get a red card.

In response to a question from Senator King, Joni Reynolds stated that Public Health intends to meet with the Colorado Medical Board to discuss authority needed for obtaining physicians' records, and possibly seeking statutory change.

In response to a comment from Senator Guzman questioning the necessity for all the rules pertaining to medical marijuana since recreational marijuana has been legalized, Ms. Frant stated that medical marijuana has no age limit whereas recreational marijuana use requires a person to be 21 or older. Ms. McGowan added that the Medical Marijuana Registry (the Registry) will not be discontinued.

In response to a follow-up question from Representative Nordberg regarding referring physicians to the Colorado Medical Board, Ms. McGowan stated that Public Health has a good working relationship with the Board, and has established criteria to determine when a physician should be referred for possible investigation.

In response to a question from Senator Guzman, Ms. McGowan confirmed that medical marijuana and recreational marijuana will not be taxed the same. Ms. Frant added that medical marijuana is not considered a prescription and is subject to regular state sales tax, and that recreational marijuana will be subject to regular state sales tax and an excise tax, if passed by the people.

In response to a question from Representative Nordberg, Ms. McGowan explained that if a physician is suspended from practicing, their patients would have to find a new physician once their current red card expires.

Recommendation No. 2 was reviewed, discussed, and agreed to by staff from Public Health.

In response to a question from Chair Williams, Ron Hyman, Medical Marijuana Registry Manager, stated that the most common issue resulting in delays in application processing is incomplete information on the application, (e.g., an illegible copy of driver's license).

In response to a question from Senator Tochtrop, Ms. McGowan stated that there are no sanctions imposed on Public Health when it takes longer than 35 days to process an application for a red card. Ms. McGowan added that a patient can use their application paperwork to obtain medical marijuana while the application is being processed.

Recommendation No. 3 was reviewed, discussed, and agreed to by staff from the Public Health and the Department of Revenue. Ms. McGowan and Barbara Brohl stated that the Department of Revenue will work with Public Health to determine if Public Health should discontinue maintaining information about which dispensary an individual has designated as their provider, and seek statutory change if necessary.

Recommendation Nos. 4 and 5 were reviewed, discussed, and agreed or partially agreed to by staff from Public Health and the Department of Revenue.

In response to a question from Senator King, Jenny Atchley explained the lack of information available to law enforcement on caregivers. Ms. McGowan added that the Colorado Constitution [art. XVIII, sec. 14(3)(a)] establishes that the Registry is a confidential database and has restrictions on who can access the information Public Health maintains about patients, caregivers, and physicians who recommend medical marijuana.

In response to a question from Chair Williams, Ms. Atchley stated that the Department of Revenue has a statutory requirement to collect caregiver grow location information which could be provided to law enforcement, and Public Health has statutory authority to revoke a caregiver's placement on the Registry.

In response to a question from Senator Tochtrop, Ms. McGowan stated that the Colorado Constitution requires a caregiver to be involved in the well-being of a patient.

In response to a question from Senator King, Ms. Brohl stated that the Department of Revenue is currently collecting information on how often law enforcement has inquired and been given information on caregiver information. In response to a follow-up question from Senator King, Ron Kammerzell stated that there are weaknesses in the current law regarding information available to law enforcement that need to be addressed.

Recommendation Nos. 6 and 7 were reviewed, discussed, and agreed or partially agreed to by staff from Public Health.

In response to a question from Representative Ryden, Reed Larsen stated that the State has backup capabilities for critical components associated with database controls, and that putting these measures in place is an easy process.

In response to a question from Chair Williams, Ms. McGowan stated that the Registry computer system database has been in place since 2001.

Recommendation No. 8 was reviewed, discussed, and agreed to by staff from Public Health.

In response to questions from Senator King and Chair Williams, Ms. Frant stated that Public Health could request excess reserves from the Medical Marijuana Cash Fund to be used to upgrade the computer system used for the Registry, but the funds must first be appropriated.

Recommendation No. 9 was reviewed, discussed, and agreed to by staff from Public Health.

In response to a question from Chair Williams, Ms. Brohl discussed the measures the Department of Revenue has taken on reducing excessive automobile fleet expenses that were revealed in the *Medical Marijuana Regulatory System Part I Performance Audit* (March 2013).

In response to a question from Senator Guzman, Ms. Brohl stated that during the first three quarters of Fiscal Year 2013, the State has collected sales tax resulting from the sale of medical marijuana in the amount of \$6 million.

3:30 p.m. The Committee recessed briefly.

3:38 p.m. GENERAL BUSINESS

Status Report

Ms. Frant briefly reviewed highlights from the *Medical Marijuana Regulatory System Part I Performance Audit* (March 2013).

Ann Hause, Director, Office of Legal and Regulatory Affairs of Public Health, and Ms. Brohl provided an update on Recommendation No. 13 concerning clarification from the federal government about potential risks to state employees involved with administering and regulating Colorado's medical marijuana system. A letter was sent to United States Attorney General Holder in November 2012. The Governor's office remains in contact with the United States Department of Justice on this matter with no clear guidance or response received to-date.

Staff from the Department of Revenue reviewed the status of the remaining Recommendations. There were no questions from the Committee.

Information Only

State Auditor Ray requested distribution of unaudited, information only items provided to the Committee at their request.

4:10 p.m. The Committee adjourned.

July 16, 2013

The meeting of the Legislative Audit Committee reconvened on July 16, 2013, at 9:00 a.m. in the Legislative Services Building, Audit Hearing Room. Chair Angela Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator King, Representative Nordberg, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, Representative Sonnenberg

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

ALSO PRESENT: Greg Smith, Jennifer Paquette, Maryann Motza, Colorado Public Employees' Retirement Association; Tom Cavanaugh, Eric Gary, Cavanaugh Macdonald Consulting, LLC; Dave Eberly, KPMG LLP; Esther van Mourik, Office of Legislative Legal Services

**Colorado Public Employees' Retirement Association (PERA)
Comprehensive Annual Financial Report
For the Year Ended December 31, 2012**

PERA

Greg Smith, Executive Director
Jennifer Paquette, Chief Investment Officer
Maryann Motza, Board of Trustees Vice Chair

Cavanaugh Macdonald Consulting, LLC

Tom Cavanaugh, Chief Executive Officer
Eric Gary, Chief Health Care Actuary

Office of the State Auditor

Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor

KPMG LLP

Dave Eberly, Partner

A motion was made by Senator Tochtrop and seconded by Representative Nordberg to release the *Colorado Public Employees' Retirement Association (PERA) Financial Audit (Year Ended December 31, 2012)*. The motion passed unanimously.

Following introductions and opening remarks, David Eberly provided an overview of the *Colorado Public Employees' Retirement Association Comprehensive Annual Financial Report (CAFR)* (For the Year Ended December 31, 2012).

In response to a question from Senator King, Mr. Eberly stated that 8 percent is the most common rate of return used by the majority of states for their retirement programs.

In response to a question from Representative Ryden, Mr. Eberly explained the 2.5 percent change in employer and member contribution rates due to Senate Bill 11-046.

Mr. Eberly discussed the financial audit related to PERA prepared by KPMG. 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 2012 audit.

Following introductions, Tom Cavanaugh discussed PERA's Actuarial Valuation Results as of December 31, 2012, and 30-year projections.

In response to a question from Representative Ryden, Greg Smith discussed the cost of living adjustment provision in Senate Bill 10-001.

In response to questions from Senator Tochtrop, Mr. Smith stated that there are 281 school districts, plus Denver Public School District, and 143 local governments that belong to PERA. Mr. Smith explained that Colorado Springs is selling the community hospital system which eliminated the employer which subsequently withdrew from PERA.

In response to a question from Representative Ryden, Mr. Smith stated that only classified personnel in the Department of Higher Education are a part of PERA.

Mr. Smith and Jennifer Paquette reviewed handouts provided to the Committee related to PERA's economic and fiscal impacts, and various program summaries. There were no questions from the Committee.

10:15 a.m. GENERAL BUSINESS

EAGLE-Net Alliance Brief

Chair Williams provided a recap of recent National Telecommunications and Information Administration (NTIA) and EAGLE-Net Alliance (ENA) activity. She discussed the time line of communication with ENA in an attempt to bring them before the Committee for further discussion.

Chair Williams requested the Committee to consider approval of the letter drafted to Michael Ryan, ENA President, inviting ENA to meet with the Committee and respond to a records request.

A motion was made by Senator Tochtrop and seconded by Representative Nordberg for the Committee to approve the letter draft. The motion passed unanimously on a roll call vote.

Overview of Legislative Process

Esther van Mourik from the Office of Legislative Legal Services provided an overview of the drafting process for Legislative Audit Committee legislation during the 2014 Legislative Session.

A motion was made by Senator Tochtrop and seconded by Representative Williams 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 OSA and authorizing OSA staff to share those Bill drafts with state agencies as the OSA deems necessary. The motion passed unanimously on a roll call vote.

2014 Potential Legislation

Deputy State Auditor Monica Bowers reviewed Recommendations from previous audits which resulted in legislative change in Fiscal Year 2013, or could lead to legislative change in the future.

State Auditor Ray asked the Committee to consider sponsoring a Bill to change the audit cycle of the Automobile Inspection and Readjustment (AIR) Program from a 3-year cycle to a 5-year cycle.

A motion was made by Senator Tochtrop and seconded by Senator King to request Legislative Legal Services to proceed with a Bill draft to change the audit cycle of the AIR Program from a 3-year cycle to a 5-year cycle. The motion passed unanimously on a roll call vote.

Deputy State Auditor Bowers reviewed Recommendations from the *Medical Marijuana Regulatory System Part II Performance Audit* (June 2013). The Committee agreed to continue discussions regarding possible sponsorship of legislation related to medical marijuana.

Audit Requests

State Auditor Ray presented a request submitted by Senator Gail Schwartz for research to provide information on the State's liability for hazardous fuels, the siting of pipelines, and clarification of state and local oversight. She requested the Committee's approval to begin conducting initial research to determine the potential scope of an audit. A motion was made by Senator Guzman and seconded by Representative Ryden to authorize the OSA to proceed with preliminary research. The motion passed unanimously on a roll-call vote.

Deputy State Auditor Bowers reviewed the evaluation of an audit request from Senator Pat Steadman for a performance audit of indirect cost recoveries and assessments. Given the information obtained during research, staff from the Joint Budget Committee is primarily interested in achieving more transparency and consistency in how different agencies recover indirect costs and record indirect costs in the Colorado Financial Reporting System, and identifying what, if any, changes will be made by agencies in their indirect cost recovery methodologies after the passage of Senate Bill 13-109. To achieve these objectives, OSA proposes performing this work during the Fiscal Year 2013 Statewide Financial Audit. State Auditor Ray added that Senator Steadman is in full agreement with this approach.



State of Colorado

ANGELA WILLIAMS, CHAIR
Representative

STEVE KING, VICE CHAIR
Senator

LUCIA GUZMAN
Senator

OWEN HILL
Senator

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

DAN NORDBERG
Representative

SU RYDEN
Representative

JERRY SONNENBERG
Representative

LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

August 26, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on August 26, 2013, at 10:00 a.m. in the Legislative Services Building, Audit Hearing Room. Chair Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator King, Representative Nordberg, Representative Ryden, Representative Sonnenberg, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill

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, Matt Devlin, Kerri Hunter, Deputy State Auditors; Trey Standley, James Taurman, Michelle Colin, Vickie Heller, Cynthia Hochmiller, Greg Fugate, Andrew Knauer, Anne Jordan

ALSO PRESENT: Barbara Brohl, John Vecchiarelli, Eric Myers, Department of Revenue; Julie Kerksick, Todd Jorgensen, Department of Human Services; Kevin Patterson, Paul Scharfenberger, Governor's Office; Mike King, Steve Cassin, John Singletary, Department of Natural Resources; Erick Scheminske, Office of State Planning and Budgeting; Kathy Nesbitt, Kara Veitch, Larry Friedberg, Mike Karbach, Department of Personnel & Administration; Gerald Marroney, State Court Administrator; Karin McGowan, Joni Reynolds, Department of Public Health and Environment; Brenda Berlin, Jonathan Trull, Monica Coughlin, Office of Information Technology; Terri Leshner, Andrew McCallin, Attorney General's Office

10:05 a.m.

Property Tax, Rent, and Heat Rebate Program
Department of Revenue
Performance Audit, August 2013

Department of Revenue

Barbara Brohl, Executive Director
John Vecchiarelli, Taxation Director
Eric Myers, Taxpayer Services Director

Department of Human Services, Office of Economic Security

Julie Kerksick, Director
Todd Jorgensen, Deputy Director

Office of the State Auditor

Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Trey Standley, Managing Legislative Auditor
James Taurman, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Sonnenberg to release the *Property Tax, Rent, and Heat Rebate Program, Department of Revenue, Performance Audit* (August 2013). Motion passed unanimously.

Following introductions and opening remarks, Trey Standley provided an overview of the Property Tax, Rent, and Heat Rebate (PTC) Program (the Program).

In response to a question from Representative Ryden, John Vecchiarelli clarified that the eligibility determination for applicants is based on gross income.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from the Department of Revenue (DOR).

In response to a question from Representative Sonnenberg, James Taurman stated that there were no other overpayments to applicants other than erroneous payments made to applicants who should not have been approved for the rebate.

In response to a question from Senator Guzman, Mr. Vecchiarelli explained the process that will be used to recover payments to applicants that should not have been approved.

In response to questions from Senator King and Representative Sonnenberg, Mr. Vecchiarelli stated that there will not be a penalty assessed to those applicants who need to return money to the State, but that there will be interest charged at prime plus three percent if the applicant needs to set up a payment plan, which can be up to 36 months. Mr. Vecchiarelli stated that interest will begin to accrue from the date of the erroneous payment.

In response to a question from Senator King, Mr. Vecchiarelli stated that the process established for collecting erroneous payments made to applicants is specified in regulation and

not in statute. In response to a follow-up question from Representative Ryden, Mr. Vecchiarelli stated that DOR has not conducted an analysis on what it will cost to collect the erroneous payments.

In response to questions from Chair Williams and Senator King, Barbara Brohl stated that she has the authority to waive all interest charges to applicants who were paid erroneously and will definitely consider that course of action.

Eric Myers provided DOR's response to Recommendation No. 1. In response to a question from Representative Sonnenberg, Mr. Vecchiarelli stated that the maximum amount an applicant might have to repay the State is \$792, and Ms. Brohl stated that she will research collection options and the cost associated with each option.

Recommendation Nos. 2 and 3 were reviewed, discussed, and agreed to by staff from DOR. A brief discussion was held regarding different heating sources, such as wood, and how the rebate will be processed.

In response to a question from Representative Sonnenberg, Mr. Vecchiarelli stated that DOR reviewed the statutory requirements governing the PTC Program and determined that the only requirement is that the applicant's identification is valid, not that the identification's address match the application.

Recommendation No. 4 was reviewed, discussed, and agreed to by staff from DOR and the Department of Human Services (DHS).

In response to a question from Senator Guzman, Mr. Vecchiarelli stated that the State's general fund is adequately funded to absorb any increase in qualified applications to the PTC Program.

Recommendation No. 5 was reviewed, discussed, and agreed to by staff from DOR, and partially agreed to by staff from DHS.

During closing remarks, Senator King expressed an interest in leveraging the experience of DOR and DHS staff to suggest possible statutory changes to the PTC Program. Both Departments agreed to report their recommendations for statutory change to the Committee in December 2013.

11:20 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Sonnenberg to approve the minutes of July 15-16, 2013.

Status Reports

Colorado Energy Office

Following introductions, Vickie Heller briefly reviewed highlights from the *Colorado Energy Office Performance Audit* (December 2012).

Kevin Patterson, Deputy Chief of Staff of the Governor's Office, provided a brief explanation of the actions taken by the Department to implement each Recommendation.

In response to a question from Representative Nordberg, Mr. Patterson stated that there has not been enough time to evaluate whether there should be any layoffs at CEO based on the new staff evaluation processes.

Wildlife Cash Fund

Following introductions, Cynthia Hochmiller briefly reviewed highlights from the *Wildlife Cash Fund Performance Audit* (May 2012).

In response to a question from Senator Tochtrop, Steve Cassin, Chief Financial Officer of the Division of Parks and Wildlife, stated that the decrease in boat registrations is a long-term trend.

A brief discussion was held regarding the annual unobligated reserve balance calculation.

SMART Act

Following introductions, Trey Standley briefly reviewed highlights from the *Implementation of the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act Performance Audit* (August 2012).

Erick Scheminske, Deputy Director of the Office of State Planning and Budgeting (OSPB), provided an update on the implementation status of Recommendations addressed to OSPB. He stated that OSPB used the audit to assist them in planning purposes.

In response to a question from Senator Tochtrop, Mr. Scheminske stated that OSPB will be presenting a scaled-back strategic plan to the General Assembly in November 2013.

State Auditor Dianne Ray explained that the SMART Act originally required OSA to conduct a performance audit around SMART measurements in at least two departments annually. However, revised statute requirements can be met by including components of SMART performance benchmarks in individual performance audits.

In response to a question from Representative Sonnenberg, Mr. Scheminske stated that if the SMART Act didn't require state agencies to present a strategic plan, some agencies would possibly not prepare one and the plans that were prepared would be inconsistent.

State Capital Asset Management and Lease Administration

Michelle Colin briefly reviewed highlights from the *Performance Evaluation of State Capital Asset Management and Lease Administration Practices* (November 2012).

Kathy Nesbitt, Executive Director of the Department of Personnel & Administration (DPA), provided opening remarks and introductions.

Representatives from OSPB, DPA, Department of Labor and Employment, and the State Court Administrator provided a brief explanation of the actions taken by each Department to implement each Recommendation. There were no questions from the Committee.

12:10 p.m. The Committee recessed for lunch.

1:30 p.m. The Committee reconvened.

**Colorado HIV and AIDS Prevention Grant Program
Department of Public Health and Environment
Performance Audit, July 2013**

Department of Public Health and Environment

Karin McGowan, Interim Executive Director

Joni Reynolds, Director of Public Health Programs

Office of the State Auditor

Dianne E. Ray, State Auditor

Monica Bowers, Deputy State Auditor

Greg Fugate, Managing Legislative Auditor

Andrew Knauer, Legislative Auditor

Anne Jordan, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Senator King to release the *Colorado HIV and AIDS Prevention Grant Program Performance Audit (July 2013)*. The motion passed unanimously.

Following introductions and opening remarks, Andrew Knauer provided an overview of the Colorado HIV and AIDS Prevention Grant Program (the Program).

1:36 p.m. Representative Nordberg arrived at the hearing.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from the Department of Public Health and Environment (the Department).

In response to a question from Representative Ryden, Joni Reynolds agreed to provide the Committee information on how many grant applications are received from rural areas.

In response to a question from Senator Guzman, Ms. Reynolds clarified the three-year application process.

State Auditor Ray referred to the Appendix in the report that provides information on grant applications by county.

Recommendation Nos. 2, 3, and 4 were reviewed, discussed, and agreed to by staff from the Department. In response to questions from Senator King, Greg Fugate discussed the rules and bylaws of the Advisory Committee, and the joint responsibility of the Advisory Committee and the Department.

Recommendation Nos. 5 and 6 were reviewed, discussed, and agreed to by staff from the Department. In response to a question from Representative Ryden, Mr. Fugate stated that the current membership of the Advisory Committee is set at seven and would require statutory change to modify the number of members. Ms. Reynolds added that having such a small Committee can present certain challenges, such as quorum issues.

Recommendation No. 7 was reviewed, discussed, and agreed to by staff from the Department. In response to questions from Senator King, Mr. Knauer discussed the composition and membership rules of the Advisory Committee.

2:35 p.m. The Committee recessed briefly.

2:40 p.m. **Information Technology in Colorado State Government
August 2013**

Office of the State Auditor
Dianne E. Ray, State Auditor
Matt Devlin, Deputy State Auditor

Office of Information Technology
Brenda Berlin, Chief Financial Officer
Jonathan Trull, Chief Information Security Officer
Monica Coughlin, IT Economic Development and
Broadband Strategy Director

A motion was made by Senator Guzman and seconded by Senator King to release the *Information Technology in Colorado State Government Report* (August 2013). The motion passed unanimously.

Following introductions, Deputy State Auditor Matt Devlin provided an overview of the report.

In response to a question from Senator Tochtrop, Monica Coughlin stated that rural broadband availability by households is at approximately 92 percent, based on provider data.

In response to a question from Senator Tochtrop, Jonathan Trull discussed the improvements made to the Colorado Benefits Management System and the need for continued funding for the modernization of the system.

In a response to a follow-up question from Representative Ryden, Ms. Coughlin provided some clarification to the rural broadband availability of 92 percent. She agreed to provide the Committee the average download and upload speed of broadband in urban areas.

In response to a question from Chair Williams, Ms. Coughlin agreed to provide the Committee the URL address to access mapping of areas in Colorado not served with broadband.

3:20 p.m. The Committee recessed briefly.

3:22 p.m. GENERAL BUSINESS

Mortgage Settlement Funds – Attorney General’s Office

Chair Williams welcomed Andrew McCallin and Terri Leshar from the Attorney General’s Office. Mr. McCallin presented a detailed report on the National Mortgage Settlement, a joint state-federal foreclosure settlement.

In response to a question from Chair Williams, Mr. McCallin stated that there were approximately 1,100 foreclosures in Colorado in May 2013, and 4,600 through the first quarter of 2013.

In response to a question from Representative Ryden, Mr. McCallin stated that the current Servicing Standards will sunset in about two years, but that banks tend to continue meeting these standards once they are implemented.

In response to a question from Chair Williams, Mr. McCallin further discussed the process for single point of contact for modification requests and the customer service continuity provided by lenders.

Required Communications with 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 2013 financial statements of the State of Colorado.

In response to questions from Representative Sonnenberg, Deputy Auditor Hunter stated that 1) the areas identified as significant risks of material misstatement remain consistent from year-to-year; 2) depending on materiality, testing will be conducted on funds moved from one line item to another based on dollar amount or potential of fraud; and, 3) routine analytical testing is done to determine if an agency spends a significantly higher amount in the last month of a fiscal year as compared to other periods in the fiscal year.

Legislation

Deputy State Auditor Monica Bowers reviewed Recommendations from previous audits which could lead to legislative change in the 2014 Session.

State Auditor Ray asked the Committee to approve sponsoring Bill draft LLS. No. 14-0060.01, which changes the audit cycle of the Automobile Inspection and Readjustment (AIR) Program from a 3-year cycle to a 5-year cycle.

A motion was made by Representative Ryden and seconded by Senator Tochtrop to put Bill draft LLS No. 14-0060.01 onto bill paper. The motion passed on a vote of 5-1, as follows:

Senator Guzman:	Aye
Senator King:	Aye
Representative Nordberg:	Excused
Representative Ryden:	Aye
Representative Sonnenberg:	No
Senator Tochtrop:	Aye
Representative Williams:	Aye

The Bill will start in the House.

Sponsors: Representative Ryden
Senator Tochtrop

Co-sponsors, if any, will be determined at a later date.

Audit Requests

State Auditor Ray presented a request submitted by Senator Steve King for a performance audit of the Colorado Lottery. She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit. A motion was made by Senator Tochtrop and seconded by Senator Guzman to authorize OSA to proceed with preliminary research. Motion passed unanimously on a roll-call vote.

State Auditor Ray presented a request submitted by Senator Lois Tochtrop for a performance audit of the Denver Metropolitan Baseball Stadium District and Metropolitan Football Stadium District. She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit. A motion was made by Senator Tochtrop and seconded by Senator Guzman to authorize OSA to proceed with preliminary research. Motion passed unanimously on a roll-call vote.

Deputy State Auditor Bowers reviewed the evaluation of an audit request from Representative Jerry Sonnenberg for a performance audit of the Waste Tire Processor and End User Reimbursement Program within the Department of Public Health and Environment. A motion was made by Representative Sonnenberg and seconded by Senator Tochtrop to proceed with the audit. Motion passed unanimously on a roll-call vote.

Deputy State Auditor Bowers reviewed the evaluation of an audit request from Senator Pat Steadman, on behalf of the Joint Budget Committee pursuant to the Committee's unanimous vote, for an audit of Colorado Correctional Industries. State Auditor Ray added that Senator Steadman is in full agreement with the evaluation and the audit approach proposed by OSA. A motion was made by Senator Tochtrop and seconded by Chair Williams to proceed with the audit. Motion passed unanimously on a roll-call vote.

Statutory Reports Required to be Submitted to the LAC

State Auditor Ray submitted statutorily required reports in accordance with C.R.S. 31-31-402(3) and C.R.S. 31-31-811(2)(a), of 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, 2013.



ANGELA WILLIAMS, CHAIR
Representative

STEVE KING, VICE CHAIR
Senator

LUCIA GUZMAN
Senator

OWEN HILL
Senator

State of Colorado

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

DAN NORDBERG
Representative

SU RYDEN
Representative

JERRY SONNENBERG
Representative

LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

October 7-8, 2013

MINUTES

A meeting of the Legislative Audit Committee convened on October 7, 2013, at 10:03 a.m. in the Legislative Services Building, Audit Hearing Room. Chair Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator King, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Senator Hill, Representative Nordberg, Representative Sonnenberg

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; Matt Devlin, Kerri Hunter, Monica Bowers, Deputy State Auditors; Michelle Colin, Ferminia Hebert, Reed Larsen, Jeffrey Kahn, Greg Fugate, Andrew Knauer, Derek Johnson, Vickie Heller, Dana Berry, Cynthia Hochmiller, Crystal Dorsey, Sarah Aurich

ALSO PRESENT: Barbara Brohl, Debbie Van Wyke, Abel Tapia, Jane Biglin, John Caligaris, Department of Revenue; Marcia Waters, Hollis Glenn, Aaron Welch, Department of Regulatory Affairs, Division of Real Estate; Kim Higgins, Eide Bailly LLP; Jim Smith, Jim Spaanstra, State Board of Great Outdoors Colorado Trust Fund; Lise Aangeenbrug, Julie Coutant, Great Outdoors Colorado; Ryan Sells, Ehrhardt Keefe Steiner & Hottman, LLP; John Conley, Jack Arrowsmith, Bill Hobbs, Statewide Internet Portal Authority

10:03 a.m. **Annual Report of Audit Recommendations
Not Fully Implemented
As of June 30, 2013**

Office of the State Auditor
Dianne E. Ray, State Auditor
Matt Devlin, Deputy State Auditor
Michelle Colin, Managing Legislative Auditor
Ferminia Hebert, Legislative Auditor
Reed Larsen, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Ryden to release the *Annual Report of Audit Recommendations Not Fully Implemented* (As of June 30, 2013). The motion passed unanimously.

Following introductions and opening remarks, Michelle Colin provided an overview of the Annual Report of Audit Recommendations Not Fully Implemented (the Report).

In response to a question from Senator King, Ms. Colin stated that a copy of the Report is provided to the entire General Assembly and formally presented to the Joint Budget Committee (JBC) and all Committees of Reference for each of the Departments. State Auditor Dianne Ray added that a copy of the Report is sent to all Executive Branch Department Directors.

In response to a question from Senator Tochtrop, State Auditor Ray clarified the Office of the State Auditor's (OSA) role when a Department does not implement an audit Recommendation. In response to a follow-up comment from Senator Tochtrop, State Auditor Ray explained that in order to hold Departments with outstanding audit Recommendations accountable, OSA presents the Report to the JBC.

In response to a question from Senator Guzman, State Auditor Ray expressed that she believes presenting the Report to the JBC has helped hold Departments accountable as shown in the decreased number of outstanding audit Recommendations from previous years.

10:40 a.m. **Schedule of TABOR Revenue
September 2013**

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 Ryden to release the *Schedule of TABOR Revenue* (September 2013). The motion passed unanimously.

Following introductions and opening remarks, Jeffrey Kahn provided an overview of the Schedule of TABOR Revenue (the Report).

In response to a question from Senator Tochtrop, Mr. Kahn stated that the State Controller's Office would make the determination if a recreational marijuana sales tax would be tracked separately from the other sales taxes.

State Auditor Ray stated that state revenue increased in Fiscal Year 2013 by \$836 million. Thus, Colorado is only under the TABOR cap by \$350 million: a 3.1 percent increase on Fiscal Year 2013 state revenue. Further, State Auditor Ray stated that at the rate that the Colorado economy is currently growing, Colorado is very close to hitting the TABOR cap.

In response to comments from Senator Tochtrop concerning the TABOR cap, State Auditor Ray stated she was not sure if the 2013 proposed recreational marijuana sales tax would be TABOR exempt.

10:58 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Representative Ryden to approve the Minutes from August 26, 2013. The motion passed unanimously.

Status Report

Conservation Easement Tax Credit

Following introductions, Andrew Knauer reviewed highlights from the *Conservation Easement Tax Credit Performance Audit* (September 2012).

Barbara Brohl, Executive Director of the Department of Revenue (DOR), and Marcia Waters, Director of the Department of Regulatory Affairs, Division of Real Estate (DRE), provided an overview of the implementation status of Recommendations addressed to the Conservation Easement Tax Credit Program.

Ms. Waters provided an overview on actions taken to implement Recommendations which led to Senate Bill 13-221.

In response to a question from Chair Williams, Ms. Brohl handed out and discussed a report dated September 30, 2013, mandated by Section 39-22-522.5(12), C.R.S., which requires DOR to submit a quarterly report to the JBC and the Finance Committees of the General Assembly, on the number of tax credits and cases which may be difficult to reconcile with data from the State Court Administrator of the Judicial Department or from the Office of the Attorney General.

In response to a question from Chair Williams, Debbie Van Wyke, Tax Conferee for DRE, stated that penalties and interest were assessed per statute; however, DRE has waived 95.7 percent of the penalties and 92.6 percent of the interest.

Ms. Waters reviewed the implementation status of Recommendation No. 10, as was outlined in the status report provided to the Committee.

11:20 a.m. The Committee recessed for lunch.

1:00 p.m. The Committee reconvened.

**The Colorado Lottery
Department of Revenue
Performance Audit, August 2013**

Department of Revenue

Barbara Brohl, Executive Director
Abel Tapia, Lottery Director
Jane Biglin, Lottery Deputy Director
John Caligaris, Lottery Controller

Office of the State Auditor

Dianne E. Ray, State Auditor
Matt Devlin, Deputy State Auditor
Michelle Colin, Managing Legislative Auditor
Derek Johnson, Legislative Auditor
Vickie Heller, Legislative Auditor
Dana Berry, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Representative Ryden to release *The Colorado Lottery Performance Audit* (August 2013). The motion passed unanimously.

Following introductions and opening remarks, Vickie Heller provided an overview of the Colorado Lottery (the Lottery).

In response to a question from Senator King, Ms. Heller referred to the table on page 9 and stated that OSA is not able to account for why the Lottery had a \$10 million increase in operating and other expenses from 2012 to 2013 and why it doesn't fit the pattern of previous years. Ms. Brohl discussed the various items that impacted the increased operating and other expenses from 2012 to 2013.

In response to a question from Senator King, John Caligaris furthered explained the \$10 million increase in operating and other expenses from 2012 and 2013.

Recommendation No. 1 was reviewed, discussed and agreed to by staff from the Lottery.

In response to a question from Senator King, Derek Johnson addressed why one sales representative generated 43 percent of his/her orders manually.

In response to a question from Senator King, Ms. Brohl agreed to find the information on what percentage of the 441 of the 3,058 retailers in the Audit sample who weren't using the auto-reorder that the one sales representative who generated 43 percent of his/her orders manually represents. Additionally, she agreed to find what amount of incentive pay that the one sales representative who generated 43 percent of his/her orders manually received for scratch tickets.

In response to a question from Representative Ryden, Ms. Brohl stated that the Lottery is working to retrain their retailers to use the auto-reorder system.

Recommendation No. 2 was reviewed, discussed, and agreed to by staff from the Lottery. Ms. Brohl stated that many aspects of Recommendation No. 2 have already been implemented.

In response to a question from Senator King, Ms. Brohl stated that the most one sales representative can receive of the \$400,000 sales incentive pot from Fiscal Year 2012 was between \$12,000 and \$13,000.

In response to a question from Senator King, Abel Tapia agreed that the current bonus structure needs to be improved. Ms. Brohl stated that the bonus structure issue is already being addressed and that this year's sales incentive pot was reduced in half to \$200,000. Additionally, sales staff will now be expected to meet an individual sales goal based on their individual route.

In response to a question from Senator Guzman, Ms. Brohl and Mr. Tapia explained that bonuses were determined based upon a certain percentage over the previous years' sales and evaluated on a quarter by quarter basis. The Lottery has now adjusted this to be based on a yearly review.

In response to a question from Representative Ryden, Mr. Tapia explained that criteria are different for different areas of the state to accommodate an increased difficulty for sales in rural areas as opposed to urban areas.

In response to a question from Senator King, Ms. Brohl agreed to provide a list of bonuses paid out during Fiscal Year 2012.

Recommendation No. 3 was reviewed, discussed, and agreed to by staff from the Lottery.

In response to a question from Senator King, Ms. Brohl stated that anytime a new game or different prize payout percentages is brought forth outside of the yearly plan, it is presented to the Lottery Commission [for approval].

In response to a question from Senator King, Mr. Tapia explained how new games and prize payout percentages are developed outside of the yearly plan.

In response to a question from Senator King, Mr. Tapia explained the ways in which the Lottery Commission has become increasingly engaged on the issue of prize payout percentages.

Recommendation No. 4 was reviewed, discussed, and agreed to by staff from the Lottery and the Lottery Commission.

In response to a question from Chair Williams, Mr. Tapia discussed other types of state Lottery models in regard to retailer compensation levels and sales staff performance awards.

In response to a question from Chair Williams, Jane Biglin stated that retailers are compensated on a flat percentage of gross sales, regardless of the retailer's traffic levels in the store. Further, she stated that the Lottery is looking to revamp their retailer compensation system.

Recommendation No. 5 was reviewed, discussed, and agreed to by the Lottery and the Lottery Commission.

Recommendation No. 6 was reviewed, discussed, and agreed to by the Lottery.

Senator King expressed a need for more accountability for the Lottery and is investigating the concept of turning the Lottery back into a Type 1 Agency.

2:30 p.m.

**Colorado Lottery
Financial and Compliance Audit
June 30, 2013 and 2012**

Department of Revenue

Barbara Brohl, Executive Director

Abel Tapia, Lottery Director

Jane Biglin, Lottery Deputy Director

John Caligaris, Lottery Controller

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Cynthia Hochmiller, Managing Legislative Auditor

Eide Bailly LLP

Kim Higgins, Partner

A motion was made by Senator Tochtrop and seconded by Representative Ryden to release the *Colorado Lottery Financial and Compliance Audit* (June 30, 2013 and 2012). The motion passed unanimously.

Following introductions and opening remarks, Kim Higgins provided an overview of the Colorado Lottery Financial and Compliance Audit.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from the Lottery. There were no questions from the Committee.

2:55 p.m. The Committee recessed briefly.

3:03 p.m.

**Great Outdoors Colorado
State Board of the Great Outdoors Colorado Trust Fund
Financial and Compliance Audit
For the Years June 30, 2013 and 2012**

State Board of Great Outdoors Colorado Trust Fund

Jim Smith, Vice-Chair

Jim Spaanstra, Treasurer

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

A motion was made by Senator Tochtrop and seconded by Senator Guzman to release the *Great Outdoors Colorado Financial and Compliance Audit* (For the Years June 30, 2013 and 2012). The motion passed unanimously.

Following introductions and opening remarks, Ryan Sells provided an overview of Great Outdoors Colorado (GOCO).

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from GOCO.

In response to a question from Senator King, Jim Smith and Julie Coutant stated that the lowest balance GOCO has ever had was \$7 million which has happened within the last 18 months. There is also a \$5 million minimum balance.

In response to a question from Senator King, Mr. Smith and Jim Spaanstra explained that GOCO keeps a significant amount of cash on hand in order to be fiscally responsible. There are more than \$20 million in obligated funds at any given time which is why GOCO frequently keeps a high cash balance.

In response to a question from Senator Tochtrop, Lise Aangeenbrug and Mr. Smith stated that while Colorado Department of State Parks and the Colorado Division of Wildlife have been merged, the State Constitution requires that the GOCO grant funds be separate for each division. If a project involves both, the money can be combined but it would need to be accounted for separately.

3:26 p.m. GENERAL BUSINESS

Status Report

Statewide Internet Portal Authority

Following introductions, Sarah Aurich briefly reviewed highlights from the *Statewide Internet Portal Authority Performance Audit* (November 2012).

John Conley, Executive Director of the Statewide Internet Portal Authority (SIPA), Jack Arrowsmith, Chair of the SIPA Board of Directors, and Bill Hobbs, Director of Special Projects for SIPA, provided an update on the implementation status of Recommendations from the Audit. There were no questions from the Committee.

Other Business

Chair Williams announced that as advised by legal counsel that the Legislative Audit Committee should conduct an executive session in accordance with Section 24-6-402 (3) (a) (II), C.R.S., for the purpose of conducting an attorney-client discussion of issues involving the EAGLE-Net Alliance. The executive session will be held during the October 8, 2013 Legislative Audit Committee meeting. No time was specified.

4:02 p.m. The Committee adjourned.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from CDE and the Assistance Board.

In response to a question from Senator King, Ms. Gates stated that interviews were conducted with Department staff which is where statements on critical repairs and health and safety deficiencies, as seen on page 24, were collected.

In response to a question from Senator King, State Auditor Ray stated that because of OSA's confidentiality of work papers, questions about who precisely stated on page 24, "Department staff stated that they are not confident that all deficiencies flagged as critical repairs were indeed health and safety deficiencies, or that all actual health and safety deficiencies were identified," were better addressed to the Department.

In response to a question from Senator King, Ted Hughes explained why Department staff were not confident that all deficiencies flagged as critical repairs were indeed health and safety deficiencies.

In response to a question from Senator King, Leanne Emm stated that the two memoranda referenced on page 17 from the Attorney General's Office to the Assistance Board regarding conflict of interest were addressed.

In response to a question from Senator King, Ms. Emm stated that the Attorney General's Office memoranda were factored in the Assistance Board's decisions.

In response to a question from Senator Tochtrop, Ms. Emm agreed that the Department and the Assistance Board need to provide more outreach to poor and rural schools to get them to apply to the BEST program.

Recommendation No. 2 was reviewed, discussed, and agreed to by staff from the Assistance Board.

In response to a question from Chair Williams, Ms. Emm and Lyndon Burnett reviewed the Assistance Board's grant decision-making process.

In response to a question from Senator King, Mr. Burnett stated that 86 percent of BEST funds have gone to poor and rural school districts. Further, there is a statutory waiver available to those school districts that are not able to raise matching funds.

In response to a question from Senator King, Mr. Burnett reiterated that there is a statutory waiver available to school districts that are not able to raise matching funds and that the BEST program is targeted to poor and rural school districts.

In response to a question from Senator Tochtrop, Mr. Burnett stated that the Department works with poor and rural school districts to educate them on how to fill out the BEST grant application and educate the schools districts on the varying importance rankings.

In response to a question from Senator Tochtrop, Mr. Hughes explained how the Department staff helps school districts with their BEST grant applications and how they help school districts determine which needs are higher priorities than others.

In response to a question from Senator Tochtrop, Mr. Hughes explained how the Assistance Board sets its prioritization levels.

In response to a question from Representative Ryden, Ms. Emm stated that the Department and the Assistance Board fully intend to implement a standardized prioritization tool that may need more flexibility down the road.

In response to a question from Senator Guzman, Mr. Burnett stated that schools with a high facility condition index (FCI) can combine projects, such as new fire alarm system and a boiler, into one grant application; other times those schools may choose to apply for only one project. There are other factors why a school would or would not include both projects in the grant application. Mr. Hughes stated that the higher the FCI the higher the likelihood that the school applied for an entire new building instead of just one or two projects.

In response to a question from Senator Guzman, Mr. Burnett agreed that the Assistance Board needs to better document its procedures and decision-making process.

In response to a request from Chair Williams, Ms. Emm agreed to send the standardized prioritization evaluation tool to the Committee for review once it is finalized.

Recommendation No. 3 was reviewed, discussed, and agreed to by staff from the Assistance Board. Additionally, Ms. Emm stated that legislation will be sought to address matching funds requirements for BEST grants. Further, she agreed to provide the Committee a copy of the standardized tool and documentation process for the matching funds requirement for BEST grants.

In response to a question from Senator King, Ms. Emm assured the Committee that CDE will work with the Committee on said legislation.

Recommendation No. 4 was reviewed, discussed, and agreed to by staff from the Assistance Board.

In response to a question from Senator King, Mr. Burnett stated he was not sure if the Assistance Board has weakened the rules in regard to conflicts of interest.

In response to a question from Senator King, Ms. Emm stated that the State Board of Education and the Assistance Board falls under Amendment 41 of the Colorado State Constitution.

In response to a request from Chair Williams, Ms. Emm agreed that the Assistance Board will update the Committee about the efforts to maximize the safeguards in place to prevent actual and apparent conflicts of interest prior to the May 2014 implementation date.

Recommendation Nos. 5, 6, and 7 were reviewed, discussed, and agreed to by staff from CDE. There were no questions from the Committee.

In response to a request from Chair Williams, Ms. Emm agreed to have CDE give a status update to the Committee during the 2014 legislative session.

10:53 a.m. The Committee recessed briefly.

**11:06 a.m. Fiscal Health Analysis for Colorado
Counties and Municipalities
October 2013**

Department of Local Affairs
Reeves Brown, Executive Director
Chantal Unfug, Local Government Division, Director

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

A motion was made by Senator Tochtrop and seconded by Representative Ryden to release the *Fiscal Health Analysis for Colorado Counties and Municipalities* (October 2013). The motion passed unanimously.

Following introductions and opening remarks, Crystal Dorsey provided an overview of the Fiscal Health Analysis for Colorado Counties and Municipalities (the Report).

Reeves Brown and Chantal Unfug reviewed the role the Department of Local Affairs plays in the Report and how best to utilize the information in the Report to help local governments. There were no questions from the Committee.

11:38 a.m. GENERAL BUSINESS

Audit Requests

State Auditor Ray reviewed the progress of the request submitted by Senator Steve King for a performance audit of the Colorado Lottery. She stated that both the Office of Legislative Legal Services and the Legislative Council would be able to answer Senator Steve King's concerns without an audit: Senator King agreed to this resolution. In response to a request from Senator King, State Auditor Ray agreed to coordinate with the Office of Legislative Legal Services and the Legislative Council to do a formal presentation to the Committee on their findings.

State Auditor Ray stated that the Office of the State Auditor will be able to report initial research findings on the request submitted by Senator Lois Tochtrop for an audit of the Baseball and Football Stadium Districts during the December 9-10, 2013 Legislative Audit Committee meetings.

Proposed 2014 Session Calendar

State Auditor Ray presented the proposed 2014 Session Calendar. The Committee will vote on the calendar during the December 9-10, 2103 Legislative Audit Committee meetings.

Statutory Reports Required to be Submitted to the LAC

State Auditor Ray submitted the statutorily required report in accordance with C.R.S. 25-25-127(2), of the Colorado Health Facilities Authority report for Fiscal Year 2012, which encompasses the time period from October 1, 2011 through September 30, 2012.

Other Business

11:42 a.m. A motion was made by Senator Tochtrop and seconded by Senator Guzman to go in to executive session as advised by legal counsel in accordance with Section 24-6-402 (3) (a) (II), C.R.S., for the purpose of conducting an attorney-client discussion of issues involving the EAGLE-Net Alliance. The motion passed unanimously.

12:00 p.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled meeting is on December 9, 2013, at 10:00 a.m in the Legislative Services Building, Audit Hearing Room.

Minutes submitted by:

Brittany Wirth
Executive Assistant to the State Auditor
Office of the State Auditor



ANGELA WILLIAMS, CHAIR
Representative
STEVE KING, VICE CHAIR
Senator
DAVID BALMER
Senator
LUCIA GUZMAN
Senator

State of Colorado
LEGISLATIVE AUDIT COMMITTEE
State Services Building - Seventh Floor
1525 Sherman Street
Denver, Colorado 80203

DAN NORDBERG
Representative
SU RYDEN
Representative
JERRY SONNENBERG
Representative
LOIS TOCHTROP
Senator

LEGISLATIVE AUDIT COMMITTEE

December 9-10, 2013
MINUTES

A meeting of the Legislative Audit Committee convened on December 9, 2013 at 10:00 a.m. in the Legislative Services Building, Audit Hearing Room. Chair Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Balmer, Senator Guzman, Senator King, Senator Tochtrop, Representative Williams

EXCUSED: Representative Nordberg, Representative Ryden, Representative Sonnenberg

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, Matt Devlin, Deputy State Auditors; Jenny Page, Heidi Wagner, Chris Harless, Mindy Gates, Greg Fugate, Jeffrey Kahn, Trey Standley, Michelle Colin

ALSO PRESENT: Reggie Bicha, Nikki Hatch, Viki Manley, Richard Ratliff, Department of Human Services; John Bartholomew, Jed Ziegenhagen, Greg Tanner, Nancy Dolson, Department of Health Care Policy and Financing; Mike Ryan, EAGLE-Net Alliance; Kenneth S. Fellman, Kissinger & Fellman, P.C.; Jason Gelender, Bob Lackner, Office of Legislative Legal Services; Cathy Eslinger, Legislative Council; Barbara Brohl, Abel Tapia, Jane Biglin, Department of Revenue; Marcia Waters, Department of Regulatory Affairs, Division of Real Estate; Leanne Emm, Jennifer Mellow, Department of Education; Lyndon Burnett, Public School Capital Construction Assistance Board; Karin McGowan, Department of Public Health and Environment; Kurtis T. Morrison, Department of Transportation

**10:00 a.m. Regional Centers for People with Developmental Disabilities
Department of Human Services
Performance Audit, November 2013**

Department of Human Services

Reggie Bicha, Executive Director
Nikki Hatch, Deputy Executive Director of Operations
Viki Manley, Director, Office of Long Term Care
Richard Ratliff, Director, Division for Regional Center Operations

Department of Health Care Policy and Financing

John Bartholomew, Deputy Executive Director
Jed Ziegenhagen, Director, Long Term Services and Supports Division
and Deputy Director, Health Programs Office
Greg Tanner, Controller

Office of the State Auditor

Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Jenny Page, Managing Legislative Auditor
Heidi Schaefer, Legislative Auditor
Chris Harless, Legislative Auditor

A motion was made by Senator Tochtrop and seconded by Senator King to release the *Regional Centers for People with Developmental Disabilities, Department of Human Services, Performance Audit* (November 2013).

10:05 a.m. Representative Ryden arrived at the hearing.

Following introductions and opening remarks, Jenny Page provided an overview of the Regional Centers for People with Developmental Disabilities Performance Audit.

In response to a question from Senator Guzman, Ms. Page stated that regional centers for people with developmental disabilities (regional centers) accept clients from the Department of Corrections (DOC) or from mental health institutes based on referrals.

In response to a question from Senator Guzman, Ms. Page stated that when clients are at the DOC or mental health institutes and are in need of greater medical or behavioral care, they are transitioned to regional centers while they are still a part of the correctional system.

In response to a question from Senator Guzman, Ms. Page stated that the audit did not look at DOC funding for regional centers. Additionally, she stated that the Wheat Ridge and Grand Junction regional centers do have the necessary security and secure settings to treat their clients.

In response to a question from Senator Balmer, Ms. Page stated that the audit did compare Colorado's regional centers to other states but that some other states' regional centers are not structured in the same manner as Colorado's regional centers. The audit did not compare full time employees to client ratios but instead looked at how other states staff their regional centers.

In response to a question from Senator Balmer, Ms. Page and Ms. Bowers stated that it is normal practice to compare Colorado programs to other states' programs during the course of an audit.

In response to a question from Senator Tochtrop, Ms. Page stated that the Department of Human Services (DHS) indicated there is a lack of capacity to serve all clients. Mr. Bicha stated that the private providers are exclusive to the Community Center Boards (CCBs) of the State of Colorado which are administered by Division of Developmental Disabilities (DDD) under DHS. Recent State budgets have helped to reduce the length of the waitlist.

In response to a question from Senator Tochtrop, Mr. Bicha stated that DHS, DDD and the Colorado Department of Public Health and Environment (CDPHE) all have oversight responsibility for the quality of care provided by the CCBs.

In response to a question from Representative Ryden, Mr. Bicha stated that for those individuals with intensive services, if they meet the level of care for an Intermediate Care Facility (ICF), regional centers are not allowed to have a waitlist and are required to provide services. Additionally, he stated further criteria for individuals with intensive services to bypass the waitlist and receive immediate services.

In response to a question from Representative Ryden, Mr. Bicha stated that the waiver group homes mentioned in the audit are owned and operated by DHS and are separate from the private homes owned by the CCBs and other private providers across the state.

Recommendation No. 1 was reviewed, discussed and agreed to by staff from DHS.

In response to a question from Senator Balmer, Heidi Wagner stated that all the buildings at the Grand Junction regional center are owned by the State of Colorado.

In response to a question from Senator Balmer, Ms. Wagner stated that the audit investigated a variety of factors that go into the cost of the Grand Junction regional center's buildings. Mr. Bicha stated that the Grand Junction regional center poses a difficulty because as the State begins to vacate the facility the cost does not go away. DHS is looking for leadership from the State on what to do with this facility.

In response to a question from Senator King, Mr. Bicha stated that, from a financial standpoint, the Grand Junction regional center will become unsustainable very soon. However, DHS has a person-centered approach which takes in to consideration that closing the Grand Junction regional center will disrupt many clients' home and community. DHS does not have an answer on what to do with this facility.

In response to a question from Senator King, Mr. Bicha stated that it is his responsibility to make the recommendation as to whether or not to keep the Grand Junction regional center open. It is his current recommendation to keep this facility open, continue to make person-centered decisions and transition individuals in to the communities.

Recommendation Nos. 2 and 3 were reviewed, discussed and agreed to by staff from DHS and Recommendation No. 4 was reviewed, discussed and agreed to by staff from the Department of Health Care Policy and Financing (HCPF).

In response to a question from Senator King, Chris Harless stated that there is no mechanism to adjust for a prior year reimbursement to Medicaid.

Recommendation No. 5 was reviewed, discussed, and agreed to by staff from DHS and HCPF.

In response to a question from Senator King, Mr. Bicha stated he was not sure whether the State has always cost-averaged the regional centers and balanced the waiver rates but the State has done so for at least the last seven years.

Recommendation No. 6 was reviewed, discussed, and agreed to by staff from DHS and HCPF.

Recommendation No. 7 was reviewed, discussed, and agreed to by staff from DHS.

Recommendation No. 8 was reviewed, discussed, and agreed to by staff from HCPF.

Recommendation Nos. 9, 10 and 11 were reviewed, discussed, and agreed to by staff from DHS.

11:50 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Tochtrop and seconded by Senator King to approve the Minutes from October 7-8, 2013. The motion passed unanimously.

Status Report

Following introductions, Mindy Gates reviewed highlights from the *Medicaid Hospital Provider Fee Program, Department of Health Care Policy and Financing, Performance Audit* (September 2012).

Nancy Dolson, Safety Net Programs Section Manager (HCPF), provided an overview of the implementation status of Recommendations addressed to the Medicaid Hospital Provider Fee Program. There were no questions from the Committee.

11:57 a.m. The Committee recessed for lunch.

1:33 p.m. The Committee reconvened.

EAGLE-Net Alliance

Mike Ryan, President of EAGLE-Net Alliance and Kenneth S. Fellman, Partner at Kissinger & Fellman, P.C., provided a status update on the EAGLE-Net Alliance (ENA) network and its private management company, Affiniti Colorado, LLC.

Mr. Ryan provided a handout with information on the percent complete of the broadband network in various school districts that ENA is working with.

In response to a question from Senator Tochtrop, Mr. Ryan stated that Dinosaur, Colorado, is not on the current broadband network completion plan.

In response to a question from Chair Williams, Mr. Ryan stated that ENA will continue to bid for school districts that are applying for E-Rate Program. ("E-Rate" is a national program with Federal subsidies for schools and libraries.)

In response to a question from Chair Williams, Mr. Ryan stated that ENA's plan for E-Rate networks is not to offer other services besides Internet access.

In response to a question from Chair Williams, Mr. Ryan stated that ENA is now only bidding on school districts that ENA is 100 percent certain that they can complete a broadband network.

In response to a question from State Auditor Ray, Mr. Ryan stated that the Office of the Inspector General has not discussed any findings in their ENA audit report with ENA.

In response to a question from Senator King, Mr. Ryan stated that the National Technology & Information Administration (NTIA), has had total access to the agreement with Affiniti Colorado, LLC, to be the network operator.

In response to a question from Senator King, Mr. Ryan stated that he cannot speak for the NTIA but he knows that the NTIA is in the process of answering the inquiries made by Congressman Cory Gardner in regard to ENA and the Affiniti Colorado, LLC, network operator agreement.

In response to a question from Chair Williams, Mr. Ryan stated that the ENA broadband network will not be transferred to Affiniti Colorado, LLC. Current ENA employees responsible for network operations will transfer to Affiniti Colorado, LLC, employees.

In response to a question from Chair Williams, Mr. Fellman stated that the \$15 million Affiniti Colorado, LLC, needs to operate the ENA broadband network will be put in to operations over a five year period and they can use whatever means necessary to secure those monies.

In response to a question from Representative Ryden, Mr. Ryan confirmed that a copy of the Affiniti Colorado, LLC, network operator agreement is posted on ENA's website.

In response to a question from Representative Ryden, Mr. Ryan stated that one of the possible ways to terminate a network contract is that after the useful life of the asset, which is 25 years, then Affiniti Colorado, LLC, has the ability to purchase all the assets at that time.

In response to a question from State Auditor Ray, Mr. Fellman stated that the agreement with Affiniti Colorado, LLC, is a network operator agreement, not a partnership agreement.

In response to a question from State Auditor Ray, Mr. Ryan stated that for financial transparency, ENA will show monthly payments from Affiniti Colorado, LLC, and all assets will be on the books.

In response to a question from State Auditor Ray, Mr. Ryan stated that once there is a positive cash flow then there will be one line item on ENA's budget showing payment from Affiniti Colorado, LLC, Mr. Fellman further clarified that since Affiniti Colorado, LLC, is a sub-receipt of the Federal

BTOP grant (Broadband Technology Opportunities Program) that both ENA and Affiniti Colorado, LLC, are required to have financial transparency.

In response to a question from State Auditor Ray, Mr. Ryan stated that he believes there is about \$5 million left on the BTOP grant.

In response to a question from State Auditor Ray, Mr. Fellman stated that he was not sure if Affiniti Colorado, LLC, ENA or both will have a single audit done in order to comply with Federal oversight.

In response to a question from Representative Ryden, Mr. Ryan clarified that the \$15 million in capital that Affiniti Colorado, LLC, will bring to the network operator agreement will be used to build more of the system and to cover operating costs.

In response to a question from Senator Tochtrop, Mr. Ryan stated that the NTIA did not impose any conditions for the approval of the network operator agreement with Affiniti Colorado, LLC.

In response to a question from Senator Tochtrop, Mr. Ryan stated that ENA has met with and plans to work with the Colorado Office of Information Technology on updating the telecom and broadband network maps for the State.

In response to a question from Representative Ryden, Mr. Ryan stated that ENA continues to try to improve relationships with rural telephone/telecom providers and create a positive business relationship.

In response to a question from State Auditor Ray, Mr. Ryan stated that ENA and Affiniti Colorado, LLC, will continue to strive to bring the lowest costs rates for school districts. Additionally, he stated that Affiniti Colorado, LLC, has a proven record of reasonable rate settings and thus ENA does not anticipate a substantial rate hike in the next few months.

In response to a question from State Auditor Ray, Mr. Fellman stated that ENA sells high-speed internet which is a deregulated service. Going forward in the future ENA will communicate with Affiniti Colorado, LLC, to set price rates. However, the final rate setting process has not yet been finalized.

In response to a question from Representative Ryden, Mr. Ryan stated he believes that Affiniti Colorado, LLC, is a privately held entity.

Chair Williams stated that the Committee would like ENA to give an update to the LAC after the first quarter of the next year (2014).

2:24 p.m. The Committee recessed briefly.

Audit Requests

Colorado Lottery

Ms. Bowers, Deputy State Auditor, reviewed the evaluation of a request for information related to the Colorado Lottery.

Ms. Gates reviewed the answers to Question Nos. 1 and 2.

Cathy Eslinger, Legislative Council, reviewed the answer to Question No. 3.

Jason Gelender, Office of Legislative Legal Services, reviewed the answer to Question No. 4.

In response to a question from Senator King, Mr. Gelender stated that at this time he was not aware of any litigation surrounding the State Lottery Division's background checks of vendors, background checks of officers of licensed sales agents and sales agent licensing.

Mr. Gelender reviewed the answer to Question No. 5.

Ms. Eslinger reviewed the answer to Question No. 6A.

In response to a question from Senator King, Ms. Eslinger confirmed that the Department of Law (DOL) provides regular general counsel and litigation legal services to the Colorado Lottery.

In response to a question from Senator King, Ms. Eslinger stated in her conversations with DOL that they confirmed they have provided services to the Colorado Lottery.

Mr. Gelender reviewed the answer to Question No. 6B.

Ms. Gates reviewed the answer to Question No. 7.

Mr. Gelender reviewed the answer to Question No. 8.

In response to a question from Senator King, Mr. Gelender stated he had not had the chance to speak with Kristin D. Russell, Secretary of Technology and State Chief Information Officer, in reference to technology related to the financial returns of the Colorado Lottery.

Ms. Gates reviewed the answer to Question No. 9.

2:49 p.m. Representative Williams was excused from the hearing.

2:49 p.m. Senator King assumed the Chair.

Barbara Brohl, Director (DOR), reviewed DOR's response to the evaluation of a request for information related to the Colorado Lottery for all questions.

Ms. Brohl provided the Committee a fact-sheet with an overview of financial information from Fiscal Year 1994 through Fiscal Year 2013 and a comparative analysis of the Colorado Lottery as a Type 1 Agency or a Type 2 Agency.

In response to a question from Senator King, Ms. Brohl clarified that she has personally seen a sample of technology procurements over \$10,000 that the Office of Information Technology is required to approve.

Ms. Brohl reviewed DOR's response to Question Nos. 8 and 9.

In response to a question from Representative Ryden, Ms. Brohl and Ms. Biglin stated that gross sales revenue for the Colorado Lottery for Fiscal Year 2013 was \$566,285,598 and net revenue available for distribution for all prize payouts and operating costs for Fiscal Year 2013 was \$135,631,761. Additionally, they stated that one of the goals of the Colorado Lottery is to strive to keep increasing the percentage of net revenue available to beneficiaries.

In response to a Senator King, Ms. Brohl stated that she believes the “Pick 3” Lottery game is successful but that the game has only been out for six to eight months and thus its success is still inconclusive.

3:08 p.m. The Committee recessed briefly.

Metropolitan Stadium District Revenue Sharing

Ms. Bowers reviewed the evaluation of an audit request from Senator Tochtrop for a performance audit of the Baseball and Football Stadium Districts.

Senator Tochtrop expressed her concern about the disparity of the percentage of revenue sharing going to the City and County of Denver and not to other counties such as Adams, Boulder, Arapahoe, Douglas, and Jefferson. She stated that she will be bringing another audit request to address this disparity.

In response to a question from Senator Balmer, Ms. Gates stated that the DOR revenue returned was based on the cities and towns that existed from 2002 through 2008.

No action was taken on this item.

Automobile Industry Enforcement Group

State Auditor Ray presented a request submitted by Senator Tochtrop for a performance audit of Department of Revenue Automobile Industry Enforcement Group. She requested the Committee’s approval to begin conducting initial research to determine the potential scope of this audit. A motion was made by Senator Tochtrop and seconded by Representative Ryden to authorize the OSA to proceed with preliminary research. The motion passed unanimously.

Authorization to Share Confidential Report

State Auditor Ray presented the request from the Joint Budget Committee (JBC) and the Joint Technology Committee (JTC) to discuss the *Confidential Office of Cyber Security, Governor’s Office of Information Technology, Performance Audit* (November 2010) (the Report). As advised by legal counsel the Legislative Audit Committee must authorize sharing the Report, pursuant to 2-3-103(2), C.R.S. She requested that the Report only be allowed to be discussed in executive session on a date to be determined. A motion was made by Senator Tochtrop and seconded by Senator Guzman to share the Report with the JBC and the JTC in executive sessions on dates to be determined. The motion passed unanimously.

Colorado Office of the State Auditor Annual Report, Fiscal Year 2013

State Auditor Ray and Greg Fugate reviewed highlights from the Colorado Office of the State Auditor Annual Report. There were no questions from the Committee.

Higher Education Enterprise Status

State Auditor Ray and Jeffrey Kahn reviewed highlights from the Higher Education Enterprise Status Report.

In response to a question from Representative Ryden, Mr. Kahn reviewed consequences that exist when an institution goes over the Taxpayer's Bill of Rights (TABOR) limit.

In response to a question from Representative Ryden, State Auditor Ray explained the TABOR-designated auxiliary enterprise system and TABOR exempt enterprise designation.

In response to a question from Senator Balmer, State Auditor Ray stated that the 3 percent reserve level is dealt with at a state level so the OSA does not worry about each individual institution of higher education.

Update on the Use of Amendment 35 Tobacco Tax Funds for Policy Grants

State Auditor Ray and Ms. Page reviewed the Use of Amendment 35 Tobacco Tax Funds for Policy Grants and the resolution of the policy recommendation from the *Amendment 35 Tobacco Tax Funded Grant Programs, Performance Audit, July 2012*. There were no questions from the Committee.

3:41 p.m. Representative Williams resumed the Chair.

Annual Executive Summary on Performance Audits of Tobacco Settlement Programs

Ms. Bowers reviewed highlights from the Annual Executive Summary on Performance Audits of Tobacco Settlement Programs. There were no questions from the Committee.

Reports Released Without a Hearing

With no objection and at the discretion of the Chair, the Reports Released Without a Hearing were moved to the December 10, 2013 LAC hearing.

Memo on Election of LAC Chair and Vice Chair

State Auditor Ray presented the Memo on the Election of LAC Chair and Vice Chair. According to the rotation schedule, the next Vice-Chair will be a Senate Democrat.

A motion was made by Senator Tochtrop and seconded by Representative Ryden to amend the LAC rules, *Rule II. Election of Officers – Duties*, from "Election of officers shall be held the third Tuesday of January each year" to "Election of officers shall be held the second Tuesday of January each year". In accordance with LAC *Rule XVII. Amendment of Rules*, the rules were amended by the affirmative vote of six members.

Adoption of 2014 LAC Session Calendar

A motion was made by Senator Tochtrop and seconded by Senator Guzman to adopt the proposed 2014 LAC session calendar. The motion passed unanimously.

2014 Proposed Legislation

Trey Standley reviewed the DHS' and DOR's response to potential legislation concerning the *Property Tax, Rent, and Heat Rebate Program, Department of Revenue, Performance Audit* (August 2013) for Recommendations Nos. 4a, 5a and 5b. There were no questions from the Committee. No action was taken by the Committee.

Greg Fugate and Ms. Waters reviewed Division of Real Estate's (DRE) response to potential legislation concerning the *Conservation Easement Tax Credit, Division of Real Estate and Department of Revenue, Performance Audit* (September 2012) for Recommendation No. 10.

DRE provided a handout with the response to Recommendation No. 10, including draft legislation language.

Senator Guzman asked if Senate Bill 13-221 addressed the concerns in Recommendation No. 10 and thus additional legislation may not be necessary. Mr. Fugate stated that the Senate Bill 13-221 might impact Recommendation No. 10.

The discussion was tabled until the January 14, 2014 LAC hearing.

Ms. Bowers, Leanne Emm, Public School Finance, Associate Commissioner, Colorado Department of Education (CDE) and Lyndon Burnett, Chair, Public School Capital Construction Assistance (BEST) Board reviewed the CDE's response to potential legislation concerning the *Public School Capital Construction Assistance Program, Department of Education, Performance Audit* (September 2013) for Recommendation No. 3a.

In response to a question from Chair Williams, Ms. Bowers and Mr. Burnett stated that the CDE will present written procedures and tools for BEST grants to the Committee during the January 14, 2014 LAC hearing.

In response to a question from Senator King, Mr. Burnett stated that he did not believe anyone would be opposed to the new written procedures and tools for BEST grants.

In response to a question from Senator Guzman, Ms. Emm stated the CDE ranked school districts bonding capacities one through 178 and now use this as part of the formula when calculating the match requirements. Thus, having a smaller bonding capacity would lower the school district's match requirement.

In response to a question from Senator King, Mr. Burnett explained the disparity in raising bonds between rural and small school districts and larger school districts.

In response to a comment from Senator Guzman, Mr. Burnett stated that CDE is trying to better their outreach program to school districts to help them come forward and apply for BEST grants. Jennifer Mellow, legislative liaison (CDE), stated that in her initial conversation with stakeholders in the education community there has not been opposition.

A motion was made by Senator Tochtrop and seconded by Senator King to request draft legislation for the *Public School Capital Construction Assistance Program, Department of Education, Performance Audit* (September 2013), Recommendation No. 3a. The motion passed unanimously.

Ms. Bowers and Karin McGowan reviewed CDPHE's response to potential legislation concerning the *Medical Marijuana Regulatory System, Part II, Department of Public Health and Environment & Department of Revenue Performance Audit* (June 2013), for Recommendation No. 4c.

In response to a question from Senator Tochtrop, Ms. McGowan stated the definition of a caregiver is spelled out in the Colorado State Constitution and the Board of Health put together a list of things to help define the caregiver definition. She does not know what will happen to the medical marijuana patient registry after recreational marijuana stores become legal on January 1, 2014.

In response to a question from Senator Tochtrop, Ms. McGowan stated that DOR is also concerned about how to set the number of patients a caregiver may have before he or she is classified as a business/dispensary.

In response to a question from Chair Williams, Ms. Bowers stated that the OSA can have further conversations with DOR to further discuss the number of patients a caregiver may have before he or she is classified as a business/dispensary and that the OSA will work with DOR to bring back more information on what a caregiver is and does before making a final decision.

In response to a question from Senator Tochtrop, Ms. McGowan stated that the DOR will bring back the definition of a caregiver in the Colorado State Constitution and the Board of Health definition list.

The discussion was tabled until the January 14, 2014 LAC hearing.

Michelle Colin and Kurt T. Morrison reviewed CDOT's response to potential legislation concerning the *Outdoor Advertising Program, Department of Transportation, Performance Audit* (May 2013), (The Report) for Recommendation No. 3a.

In response to a question from Representative Ryden, Mr. Morrison reviewed why legislation is necessary to create a cost recovery center within the State Highway Fund where all fees collected from the Outdoor Advertising Program shall be deposited.

A motion was made by Senator Tochtrop and seconded by Representative Ryden to request draft legislation for the *Outdoor Advertising Program, Department of Transportation, Performance Audit* (May 2013), Recommendation No. 3a. The motion passed unanimously.

Senator King discussed a bill title he pulled to turn the Colorado Lottery in to a Type 1 Commission.

In response to a question from Senator Tochtrop, State Auditor Ray stated that the LAC is able to takeover Senator King's bill title and the Committee could sponsor it since it is related to a recent performance audit.

In response to a question from Representative Ryden, Senator King stated that he does believe that turning the Colorado Lottery back in to a Type 1 Commission will be a solution to better performance and for providing better payouts to beneficiaries.

A motion was made by Senator King and seconded by Senator Tochtrop to request draft legislation to turn the Colorado Lottery in to a Type 1 Agency. The motion passed unanimously.

Statutory Reports Required to be Submitted to the LAC

State Auditor Ray submitted the statutorily required report to the LAC in accordance with C.R.S. 23-60-306(3)(m), of the Colorado Customized Training Program Report: Fiscal Year 2013, which encompasses the time period from July 1, 2012 to June 30, 2013.

State Auditor Ray submitted the statutorily required report to the LAC in accordance with C.R.S. 23-20-129.5(2)(f), of the University of Colorado Annual Report on Current and Forecasted Debt Ratios, (Fiscal Year 2014 through Fiscal Year 2020).

4:50 p.m. The Committee Recessed.

The meeting of the Legislative Audit Committee reconvened on December 10, 2013 at 9:00 a.m. in the Legislative Services Building, Audit Hearing Room. Chair Williams called the meeting to order. The roll was called with the following result:

PRESENT: Senator Balmer, Senator Guzman, Senator King, Representative Nordberg, Representative Ryden, Senator Tochtrop, Representative Williams

EXCUSED: Representative Sonnenberg

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, Jenny Page, Carleen Armstrong

ALSO PRESENT: Reggie Bicha, Nikki Hatch, Viki Manley, Joelle Brouner, Department of Human Services

**9:00 a.m. Vocational Rehabilitation Program
Department of Human Services
Performance Audit, November 2013**

Department of Human Services
Reggie Bicha, Executive Director
Nikki Hatch, Deputy Executive Director of Operations
Viki Manley, Director, Office of Long Term Care
Joelle Brouner, Director, Division of Vocational Rehabilitation

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Marisa Neff, Managing Legislative Auditor
Jenny Page, Managing Legislative Auditor
Carleen Armstrong, Legislative Auditor

A motion was made by Representative Nordberg and seconded by Senator King to release the *Vocational Rehabilitation Program, Department of Human Services, Performance Audit, November 2013*. The motion passed unanimously.

Following introductions and opening remarks, Ms. Page provided an overview of the Vocational Rehabilitation Program (the Program) Performance Audit

Recommendation No. 1 was reviewed, discussed and agreed to by staff from DHS.

In response to a question from Senator Guzman, Ms. Page stated that that the audit did not identify any participants on the waitlist who should not be on the waitlist. The audit did identify individuals who, according to DHS policy, should have been on the waitlist and are not. Additionally, the waitlist continues to grow until the problem is corrected.

In response to a question from Senator Balmer, Viki Manley stated that DHS is in the process of revising all of the Department's policies and procedures to make sure that DHS is appropriately bidding out services. DHS is working hard to make sure all expenses are tracked through the AWARE System (Accessible Web-Based Activity and Reporting Environment, the Program's electronic case management system).

In response to a question from Senator Balmer, Mr. Bicha and Ms. Manley stated that there are 29 offices statewide. Thus if one particular piece of adaptive equipment or service is needed in one part of the state, then a single source procurement might be used instead of using a statewide vendor or going through a formal request for proposal (RFP) procurement process. Additionally, job placement services are being evaluated to make sure that the services getting results are the ones DHS continues to use.

In response to a question from Representative Ryden, Mr. Bicha stated that for the Program, DHS works with workforce development centers around the State and the Colorado Department of Labor and Employment (CDLE). He stated that the Program fits within the DHS mission but it is unclear why the Program is located within DHS instead of CDLE.

In response to a question from Senator King, Ms. Manley stated that DHS has created a new internal process to rectify cases of fraud.

In response to a question from Senator King, Ms. Manley stated that for past cases of accusation or reporting of fraud, DHS is investigating those internally and making sure they come to an appropriate resolution.

Recommendation No. 2 was reviewed, discussed and agreed to by staff from DHS.

In response to a question from Senator Balmer, Ms. Page stated there was no evidence that staff encouraged recipients to take advantage of the Program.

In response to a question from Senator Balmer, Ms. Page stated that there was a disparity among staff in their understanding on how to run the Program and the audit has recommended training on how to properly run the Program and what Federal regulations require.

In response to a question from Representative Nordberg, Mr. Bicha stated that Program staff will try to keep in close contact with recipients to make sure that recipients are meeting their goals so that staff can determine whether or not a case can be closed.

In response to a question from Representative Nordberg, Mr. Bicha stated that there is a process through which Program staff can close a case and DHS is making sure there are the right controls in place to make sure fraud cases don't happen again in the future.

In response to a question from Representative Nordberg, Mr. Bicha stated that he agreed with the concept of putting time restrictions on certain aspects of the Program, but with a degree of flexibility to accommodate the recipient's individual needs.

In response to a question from Representative Ryden, Mr. Bicha stated that he did not currently have information on the number of Program clients who receive workers' compensation benefits and would provide this information at a future LAC hearing.

In response to a question from Senator King, Ms. Page and Mr. Bicha stated that the Director of the Division of Vocational Rehabilitation has been replaced but most Program staff have remained employed within the Program.

Recommendation No. 3 was reviewed, discussed and agreed to by staff from DHS.

In response to a question from Senator Balmer, Ms. Page stated that the Report did not identify any instances of Program staff criminal wrongdoing or financial kickbacks.

Recommendation No. 4 was reviewed, discussed and agreed to by staff from DHS.

In response to a question from Senator Balmer, Ms. Page stated that the Report did not identify any instances of fraud by Program vendors.

Recommendation Nos. 5 and 6 were reviewed, discussed and agreed to by staff from DHS.

Recommendation No. 7 was reviewed, discussed and agreed to by staff from DHS.

In response to a question from Senator Guzman, Mr. Bicha stated that all Program counselors are Master's Degree level counselors and he believes they are all keeping up with any continuing education requirements. The problems in the Program come from lack of clarity in the rules, no common tool across the State for assessment and decisions, and improper administrative oversight.

Recommendation No. 8 was reviewed, discussed and agreed to by staff from DHS.

Recommendation No. 9 was reviewed, discussed and agreed to by staff from DHS.

In response to a question from Senator Guzman, Carleen Armstrong stated that the Report only looked at the waitlist for 2013. Additionally, Mr. Bicha stated that the waitlist did not exist prior to April 2013 and it is DHS' intention to dissolve the waitlist soon.

Recommendation No. 10 was reviewed, discussed and agreed to by staff from DHS.

Recommendation No. 11 was reviewed, discussed and agreed to by staff from DHS.

In response to a question from Senator King, Marisa Neff explained how the Program corporate account and credit cards are used to purchase from sellers such as Amazon, Walmart and Kohl's.

In response to a question from Senator King, Ms. Neff explained how the Program corporate account is used to pay for medical items at the King Soopers pharmacy.

In response to a question from Representative Nordberg, Mr. Bicha stated that DHS' internal audit division is currently investigating whether items such as phone cards, laptops and gift cards given out

to clients are appropriate in meeting clients' employment goals. If any items are determined to be inappropriate or illegal, then appropriate action will be taken.

In response to a question from Senator King, Mr. Bicha stated that some Program vendors have recognized their culpability in inappropriate charges and have written off their claims to the State. In addition, DHS is striving to increase transparency in reimbursing Program vendors and putting appropriate controls in place.

In response to a question from Senator King, Ms. Manley confirmed that DHS is working with their internal audit division and procurement division to recover items inappropriately purchased with the Program credit cards and make sure it is done in an appropriate manner.

Recommendation Nos. 12, 13, 14, 15, 16, 17, 18, 19 and 20 were reviewed, discussed and agreed to by staff from DHS.

11:50 a.m. The Committee recessed briefly.

11:56 a.m. GENERAL BUSINESS

Executive Session pursuant to Section 24-6-402(3)(a)(II), C.R.S.

A motion was made by Representative Nordberg and seconded by Senator King to go in to executive session as advised by legal counsel in accordance with Section 24-6-402(3)(a)(II), C.R.S., concerning the confidential emergency report of the potential misuse of public funds that is the subject of Section 2-3-109(2), C.R.S. The motion passed unanimously.

Reports Released without a Hearing

State Auditor Ray and Ms. Hunter, Deputy State Auditor, reviewed the reports to be released without a hearing. A motion was made by Senator Tochtrop and seconded by Senator King to release the

- Adams State University, Financial and Compliance Audit, Fiscal Years Ended June 30, 2013 and 2012
- Auraria Higher Education Center, Financial and Compliance Audit, June 30, 2013 and 2012
- CollegeInvest College Savings Program Funds, Financial Statements and Independent Auditor's Reports, Financial Audit, Years Ended June 30, 2013 and 2012, Compliance Audit, Year Ended June 30, 2013
- CollegeInvest Prepaid Tuition Fund, Financial Statements and Independent Auditor's Reports, Financial Audit, Years Ended June 30, 2013 and 2012, Compliance Audit, Year Ended June 30, 2013
- Colorado Community College System, Financial Statements and Compliance Audit, June 30, 2013 and 2012
- Colorado Mesa University, Financial and Compliance Audit, Fiscal Years Ended June 30, 2013 and 2012
- Colorado School of Mines, Financial Statements and Independent Auditor's Reports, Financial Audit, Years Ended June 30, 2013 and 2012, Compliance Audit, Year Ended June 30, 2013

- Colorado State Veterans Center at Homelake, Financial Statements with Independent Auditors' Report, Year Ended June 30, 2013
- 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, 2013 and 2012
- Division of Gaming, Department of Revenue, State of Colorado, Financial Statements and Independent Auditor's Report, June 30, 2013 and 2012
- Fort Lewis College, Financial and Compliance Audit, Fiscal Years Ended June 30, 2013 and 2012
- State of Colorado, University of Northern Colorado, Financial and Compliance Audits, Years Ended June 30, 2013 and 2012
- University of Colorado, Financial and Compliance Audit, June 30, 2013 and 2012
- Western State Colorado University, Financial and Compliance Audit, Fiscal Years Ended June 30, 2013 and 2012

The motion passed unanimously.

12:17 p.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled meeting is on January 14, 2014 at 7:00 a.m in the Legislative Services Building, Audit Hearing Room.

Minutes submitted by:

Brittany Wirth
Executive Assistant to the State Auditor
Office of the State Auditor