

2015

MINUTES OF THE
LEGISLATIVE AUDIT
COMMITTEE



OFFICE OF THE STATE AUDITOR



Legislative Audit Committee January 13, 2015 Minutes

DIANNE E. RAY, CPA
—
STATE AUDITOR

A meeting of the Legislative Audit Committee (LAC) convened on January 13, 2015, at 7:00 a.m., in the Legislative Services Building, Audit Hearing Room. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert, Senator Jahn, Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine

EXCUSED:

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

OSA STAFF Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter,
PRESENT: Deputy State Auditors; Scott Reid, Michelle Colin, Jenny Page

ALSO Arthur Bosworth, Colorado State Fair Board of Authority;
PRESENT: Chris Wiseman, Colorado State Fair Authority; Jennifer Gurr, Jeff Stalter, Department of Agriculture; Karla Willschau, Wall, Smith, Bateman Inc.; Fiona Arnold, Jeff Kraft, Office of Economic Development and International Trade; Steve Anton, Department of Human Services

OFFICE OF THE STATE AUDITOR
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DENVER, COLORADO
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303.869.2800

7:00 a.m. GENERAL BUSINESS

Election of Vice-Chair

On a motion from Representative Saine, Representative Nordberg was nominated as Vice-Chair of the LAC. Senator Holbert moved that nominations for Vice-Chair of the LAC be closed. The motion passed unanimously.

7:02 a.m. – Colorado State Fair Authority
7:45 a.m. Financial and Compliance Audit
Fiscal Years Ended June 30, 2014 and 2013

Colorado State Fair Board of Authority
Arthur Bosworth, Chairman

Colorado State Fair Authority
Chris Wiseman, General Manager

Department of Agriculture
Jennifer Gurr, Interim Commissioner
Jeff Stalter, Director, Budget and Business Operations

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

Wall, Smith, Bateman Inc.
Karla Willschau, Partner

A motion was made by Vice-Chair Nordberg and seconded by Representative Saine to release the *Colorado State Fair Authority, Financial and Compliance Audit, Fiscal Years Ended June 30, 2014 and 2013*. The motion passed unanimously.

Following introductions and opening remarks, Karla Willschau provided an overview of the audit.

Recommendation No. 1 was reviewed, discussed, and agreed to by staff from the Colorado State Fair Authority (Authority).

In response to a question from Representative Ryden, Chris Wiseman stated that the higher-than-average total state contributions for Fiscal Years 2007 through 2009, highlighted on page 5, were used to pay off a \$1.6 million deficit at the Events Center and to pay back a \$2.6 million Colorado State Treasury loan. Further, he stated that after paying back that money, some state contribution monies were left over which resulted in the higher-than-average increase in net position for those fiscal years.

In response to a question from Senator Holbert, Mr. Wiseman stated that the cashless system that was used in 2013 resulted in reductions in gate admissions and revenue streams, and negative customer feedback. Further, he stated that in January 2014, the Colorado State Fair Board of Authority (Board) decided to discontinue use of the cashless system which resulted in an increase in revenue streams for the 2014 State Fair.

In response to a question from Senator Holbert, Mr. Wiseman stated that 2014 saw an increase in paid gate admission and concert attendance.

In response to a question from Representative Primavera, Mr. Wiseman stated that the state fairgrounds host a variety of other events on the days outside of the State Fair such as the National Little Britches Rodeo, high school and college graduations, and camper rallies.

In response to a question from Senator Neville, Mr. Wiseman stated that the \$201,336 increase in personal service and benefit expenses for Fiscal Year 2014 is largely attributable to the minimum wage increase. Further, he stated that there were salary and benefit increases for the 22 full-time-employee (FTE) staff; no new FTE were hired.

In response to a question from Senator Neville, Mr. Wiseman stated that the minimum wage increase did not increase all employee wages, but increased several wages as an issue of fairness between the different wage levels of the different types of occupations.

In response to a question from Senator Neville, Mr. Wiseman stated that the main portion of the \$201,336 personal service and benefit expenses increase for Fiscal Year 2014 was attributable to the 750 part-time employees, not the 22 FTE.

In response to a question from Senator Neville, Jeff Stalter stated that the Authority, despite decreased revenue and increased operating expenses, is making progress.

In response to a question from Representative Ryden, Mr. Wiseman stated that the preliminary numbers show that the 2014 State Fair had a profit of \$700,000, which does not account for money appropriated from the General Assembly to assist the 4H Program. Further, he stated that non-fair events are anticipated to bring in \$250,000 to \$300,000 in a year.

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

In response to a question from Senator Jahn, Mr. Wiseman stated that the Authority has several fundraising initiatives and funding streams outside of ticket sales including, in Fiscal Year 2014, \$1.3 million in in-kind sponsorships, such as television and radio ads, and \$500,000 in sponsorship dollars, and the Authority continues to seek new and better sponsorships. Further, he stated that the Colorado State Fair Foundation raises money from the El Pomar Foundation, the David & Lucile Packard Foundation, and other foundations.

7:45 a.m. Committee recessed briefly.

7:50 a.m. GENERAL BUSINESS

New Member Orientation

Monica Bowers, Jenny Page, and Michelle Colin provided the New Member Orientation.

In response to a question from Representative Primavera, Ms. Bowers stated that she could not comment on how other states verify the implementation of state audit recommendations. Further, she stated that financial audit recommendations are reviewed every year as part of the Statewide Single Audit, while performance audit recommendations rely on self-report because resources are not available to do follow-up audits.

In response to a question from Representative Primavera, State Auditor Dianne E. Ray stated that a team of four OSA FTE would be needed to perform follow-up performance audits, and that the OSA balances follow-up audits with the risks of the State in favor of using staff resources to audit new programs.

In response to a question from Representative Saine, State Auditor Ray stated that when the OSA audits the same program it tests whether or not that program implemented past audit recommendations.

In response to a question from Senator Neville, Ms. Bowers stated that if financial impropriety or fraud is found during the course of an audit, the OSA follows certain standards and legal requirements to report to the appropriate officials, such as district attorneys.

Minutes

Representative Primavera requested that the Minutes from December 8-9, 2014, be amended to reflect her attendance.

A motion was made by Senator Neville and seconded by Representative Ryden to approve the Minutes from December 8-9, 2014, as amended. The motion passed unanimously.

Enterprise Zone Annual Report, Fiscal Year 2014

Fiona Arnold, Executive Director, Office of Economic Development and International Trade (OEDIT), provided an overview of the *Enterprise Zone Annual Report, Fiscal Year 2014*.

In response to a question from Senator Neville, Ms. Arnold stated that OEDIT is required by statute to review enterprise zone (zone) designations and the review will be completed by the start of calendar year 2016. Jeff Kraft, Director, Business Funding and Incentives, OEDIT, stated that there are 16 zones allowed by statute and the total population allowed to reside within a zone is capped at 150,000 for rural zones, and 115,000 for urban zones. Further, he stated that OEDIT is in the process of rezoning all zones and determining if current zones meet the Enterprise Zone Program qualifications.

In response to a question from Senator Neville, Mr. Kraft stated that this is the first time OEDIT is analyzing the zones' data and rezoning, which OEDIT is now required to do every 10 years. Further, he stated that the zones were created in 1986 and have been adjusted several times over the years.

Legislation Discussion

Ms. Page reviewed the revised Bill Draft LLS No. 15-0098.01, concerning clarifications to the Vocational Rehabilitation Program (Program). Further, she reviewed proposed revisions as recommended from the Department of Human Services (DHS) and the Colorado Cross-Disability Coalition (Coalition); including revisions to ensure that the Bill Draft is in compliance with federal law.

In response to a question from Representative Primavera, Ms. Page confirmed that the Program is required to keep cases open for 60 days following participant employment to ensure that the employment was successful. Further, she stated that the Coalition is concerned about the timeliness of closing cases directly after the participant's employment goal was reached, in case the participant needs post-employment counseling.

In response to a question from Representative Ryden, Ms. Page stated that the Coalition was consulted during the bill drafting process and is supportive of the proposed revisions to the Bill Draft.

In response to a comment from Senator Neville, Ms. Page stated that every employment plan is different to meet the needs of each participant. Further, she stated that the Bill Draft requires DHS to establish reasonable timeframes for each participant's employment plan.

In response to a question from Vice-Chair Nordberg, Ms. Page stated that other states specify 5 year timeframes for those seeking higher education but allow for exceptions.

In response to a question from Vice-Chair Nordberg, Steve Anton, Interim Director, Division of Vocational Rehabilitation, DHS, stated that the Program has a waitlist of 2,300 individuals. Further, he stated that 1,000 individuals will be released from the waitlist in January 2015.

The LAC requested that the discussed revisions be incorporated into the Bill Draft and a revised bill draft be presented at the January 27, 2015, LAC hearing. Further, at that hearing, the LAC requested that representatives from DHS and the Coalition be present to provide feedback and answer questions about the Bill Draft.

Reports Released Without a Hearing

A motion was made by Representative Ryden and seconded by Vice-Chair Nordberg to release the:

- Colorado Bridge Enterprise, Annual Financial Statements, Fiscal Years 2013 and 2014
- Colorado High Performance Transportation Enterprise, Annual Financial Statements, Fiscal Years 2013 and 2014

- Colorado State University, Independent Accountant's Report on Application of Agreed-Upon Procedures (NCAA Procedures), Year Ended June 30, 2014
- Colorado Veterans Community Living Center – Rifle, Financial Statements with Independent Auditors' Reports, Year Ended June 30, 2014
- Metropolitan State University of Denver, Financial and Compliance Audit, June 30, 2014 and 2013
- University of Colorado at Boulder, Department of Intercollegiate Athletics, Independent Accountant's Report on Applying NCAA Agreed-Upon Procedures, For the Year Ended June 30, 2014
- University of Northern Colorado, Intercollegiate Athletics Department, Independent Accountants' Report on Application of Agreed Upon Procedures, June 30, 2014

The motion passed unanimously.

Ms. Hunter reviewed the reports released without a hearing.

Other Business

In response to a question from Senator Holbert, State Auditor Ray stated that per statute, audit requests from the Governor or the General Assembly are required to be heard by the LAC, but public audit requests are not. Further, she stated that public audit requests are handled internally by the OSA and that she has met with and communicated with the public.

Due to time constraints, the remainder of the agenda was moved to the January 27, 2015, LAC hearing.

8:56 a.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled hearing is on January 27, 2015, 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
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OFFICE OF THE STATE AUDITOR



Legislative Audit Committee

January 27, 2015

Minutes

A meeting of the Legislative Audit Committee (LAC) was convened on January 27, 2015, at 7:00 a.m., in the Legislative Services Building, Audit Hearing Room. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert (arrived at 7:04 a.m.), Senator Jahn, Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine (arrived at 7:13 a.m.)

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; Trey Standley, Christopher Harless, Heidi Wagner, Jenny Page

ALSO PRESENT: Rick Raemisch, Jennifer Bennett, Jack Laughlin, Department of Corrections; Dick Wolfe, Scott Cuthbertson, Department of Natural Resources; Viki Manley, Steve Anton, Joelle Brouner, Department of Human Services; Josh Winkler, David Henninger, Colorado Cross-Disability Coalition; Julie Deden, Colorado Chapter of the National Federation of the Blind

DIANNE E. RAY, CPA
STATE AUDITOR

7:00 a.m. – Colorado Correctional Industries
8:16 a.m. Department of Corrections
Performance Audit, January 2015

Department of Corrections

Rick Raemisch, Executive Director

Jennifer Bennett, Director, Finance and Administration

Jack Laughlin, Service Division Manager, Colorado
Correctional Industries

Office of the State Auditor

Dianne E. Ray, State Auditor

Monica Bowers, Deputy State Auditor

Trey Standley, Managing Legislative Auditor

Christopher Harless, Legislative Auditor

Heidi Wagner, Legislative Auditor

A motion was made by Representative Ryden and seconded by Vice-Chair Nordberg to release the *Colorado Correctional Industries, Department of Corrections, Performance Audit* (January 2015). The motion passed unanimously.

7:04 a.m. Senator Holbert arrived.

Following introductions and opening remarks, Trey Standley provided an overview of the audit.

7:13 a.m. Representative Saine arrived.

In response to a question from Chair Guzman, Mr. Standley stated that at any given time approximately 1,600 inmates out of the 11,800 inmates that meet the conditions for a work assignment are employed by Colorado Correctional Industries (CCI).

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

In response to a question from Senator Neville, Christopher Harless stated that CCI has had an average profit margin of 1 percent over the past several years and that the audit did not stipulate that all CCI shops must be profitable every year. Further, he stated that the audit focused on trends as to whether or not a particular shop was unprofitable for several years.

In response to a question from Representative Primavera, Mr. Standley stated that the audit considered both sides of CCI's statutory requirements, to rehabilitate and train inmates and to operate like a business to partially reimburse the General Fund, and recommends that CCI develop a process to evaluate shops. Further, he stated that the profit margin of 1 percent was not being reimbursed to the General Fund.

In response to a question from Representative Saine, Mr. Harless stated that the Department was not able to provide statistics on the number of inmates formerly employed by CCI who gain employment in the same industry. Rick Raemisch stated that the Department does not have a policy in place to track former inmate's employment.

In response to a question from Representative Ryden, Mr. Raemisch stated that he did not believe legislative action was needed to be able to track the current employment status of inmates formerly employed by CCI, and could possibly use existing resources or ask for self-report.

In response to a question from Senator Holbert, Mr. Raemisch stated that he is concerned with following constitutional requirements for maintaining enterprise status and will work to correct any misunderstandings of rules and responsibilities.

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

In response to a question from Vice-Chair Nordberg, Jack Laughlin stated that CCI reviews monthly, quarterly, and annual financial statements for each shop and makes internal decisions about the viability of each shop during quarterly and annual business planning meetings.

In response to a question from Representative Ryden, Mr. Laughlin stated that CCI employs inmates as clerical and support employees to support the Department staff, but the inmates are not allowed to develop any systems.

In response to a question from Senator Neville, Mr. Laughlin stated that CCI reviews monthly financial statements on each shop overall, but the audit recommended that there be accounting of each shop.

In response to a question from Senator Neville, Mr. Laughlin reviewed how CCI makes changes in each shop's operations to keep them profitable.

In response to a question from Senator Neville, Mr. Laughlin reviewed how CCI senior management holds each shop manager accountable.

In response to a question from Senator Neville, Mr. Laughlin stated that an annual report of overall CCI operations is shared with the CCI Advisory Board, but not shop-level operating statements.

Recommendation Nos. 4, 5, and 6 were reviewed, discussed, and agreed to by staff from the Department.

Recommendation No. 7 was reviewed, discussed, and partially agreed to by staff from the Department.

In response to a question from Representative Ryden, Mr. Laughlin stated that the average cost of an inmate phone call is 16 cents per minute for debit, where the inmate purchases his or her time, and 20 cents per minute for in-state collect calls.

In response to a question from Representative Saine, Mr. Laughlin stated that he expects the Federal Communications Commission (FCC) ruling, which will guide rate structure and determine allowable cost recovery items including offender calling cost, to be handed down shortly.

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

8:17 a.m. GENERAL BUSINESS

Minutes

Representative Ryden requested that the Minutes be amended to show that due to building issues, she and Representative Primavera were on time to the January 13, 2015, LAC hearing.

A motion was made by Senator Holbert and seconded by Vice-Chair Nordberg to approve the Minutes from January 13, 2015, as amended. The motion passed unanimously.

Legislation Discussion

Monica Bowers reviewed the status of legislative recommendations as of January 20, 2015.

Senator Holbert informed the LAC that he and Senator Owen Hill are sponsoring the sunset bill of the medical marijuana program and that outstanding audit recommendations may be able to be addressed within his bill.

Ms. Bowers reviewed the OSA memo regarding legislation recommendations from the evaluation of the Dam Safety Program.

Dick Wolfe, State Engineer & Director, Division of Water Resources, Department of Natural Resources (DNR), and Scott Cuthbertson, Deputy Director, Division of Water Resources, DNR, reviewed the DNR analysis, as required by Recommendation Nos. 4b, 4c, and 6 from the *Performance Evaluation of the Dam Safety Program, Division of Water Resources, Department of Natural Resources* (February 2014), on statutory changes to fees and other options relating to inspections of restricted dams and providing design reviews. Further, Mr. Cuthbertson stated that DNR is not currently seeking legislation to address the Recommendations, but is not opposed to the LAC seeking legislation.

In response to a question from Senator Neville, Mr. Cuthbertson confirmed that DNR is required to do an annual physical inspection of restricted dams.

In response to a question from Senator Neville, Mr. Cuthbertson stated that DNR does not recover the fees for physical inspections of restricted dams.

In response to a question from Senator Holbert, Mr. Cuthbertson stated that it costs approximately \$45,000 to \$50,000 annually, two days of work for a design engineer, and 100 miles round trip for inspections of each restricted dam.

In response to a question from Representative Saine, Mr. Cuthbertson stated that DNR must determine safe storage levels of dams but is constrained by statute and cannot compel dam owners to make improvements to their property.

In response to a question from Representative Saine, Mr. Cuthbertson stated that DNR has no position on potential legislation to recover restricted dam inspection fees and defers to the LAC for potential legislation.

A motion was made by Representative Saine and seconded by Senator Neville to request a Bill Draft concerning DNR inspection fees to cover the costs of additional inspections of restricted dams.

In response to a question from Senator Neville, Mr. Cuthbertson stated that the DNR analysis recommends that if dams remain on the restriction list for a reasonable amount of time, without complying with the restriction order and rehabilitating the dam, that there be an annual fine.

State Auditor Dianne E. Ray reviewed the section of the OSA memo regarding potential statutory changes to DNR's design review fees.

Mr. Cuthbertson reviewed the current structure of design review fees and stated that DNR recovers approximately 10 to 15 percent of the cost of design reviews through the design review fee.

Representative Saine amended her motion to request a Bill Draft to also include addressing the structure of DNR design review fees. The motion passed unanimously.

Jenny Page reviewed the revised Bill Draft LLS No. 15-0098.01, concerning clarifications to the Vocational Rehabilitation Program (Program). Further, she reviewed revisions as recommended by the Department of Human Services (DHS) and the Colorado Cross-Disability Coalition (Coalition).

In response to a question from Chair Guzman, Ms. Page stated that feedback and revisions from the Coalition were included in the Bill Draft.

In response to a question from Representative Primavera, Joelle Brouner, Director, Community Access, Division of Vocational Rehabilitation, Department of Human Services (DHS), stated that as seen on page 5, line 14, the word "timely" for Program case closures means, unless it is supported employment, 90 days from the date the closure is achieved, and stabilized.

In response to a question from Vice-Chair Nordberg, Viki Manley, Director, Office of Community Access and Independence, DHS, stated that in the past there were lax practices within the Program for establishing reasonable timeframes to achieve employment goals and for closing cases, but since the *Vocational Rehabilitation Program, Department of Human Services, Performance Audit* (November 2013), was released, the Program has instituted monthly contact with individual clients to determine their engagement and if the goal is appropriate for each individual client.

In response to a request from Representative Ryden, Josh Winkler, Vice-President, Coalition Board, stated that the Coalition believes that the Bill Draft is premature, and suggested allowing DHS time to correct the problems identified by the audit before moving forward with legislation. Further, he reviewed areas of the Bill Draft that the Coalition believed were unnecessary because the requirements are in federal regulations.

In response to a question from Representative Primavera, Mr. Winkler stated that there might be a need for legislation but the most benefit would come from strengthening the role of the advisory State Rehabilitation Council (Council), which oversees the Program.

In response to a question from Representative Ryden, Julie Deden, First Vice-President, Colorado Chapter of the National Federation of the Blind (Federation), stated that the Federation does not support the Bill Draft, that federal law is sufficient, and that DHS has addressed the problems identified in the audit. Further, she suggested that the Bill Draft be tabled until next month after the audit is reviewed.

In response to a question from Vice-Chair Nordberg, State Auditor Ray stated that she is not familiar with the additional audit referenced by the Federation. Kerri Hunter stated that the referenced audit may refer to the *Statewide Single Audit* which conducts follow-up audit work on federal noncompliance issues. Further, she stated that because of the implementation dates provided by DHS, the status of most of the recommendations will not be reviewed until the next *Statewide Single Audit*, scheduled for release in February 2016.

In response to a suggestion from Representative Ryden, Senator Neville stated that he would not support amending the Bill Draft to simply state that federal regulations should be followed and not outline them in the bill, because the Program was supposed to do that in the past and was not in compliance.

In response to a question from Representative Primavera, Ms. Page stated that the Council's duties and responsibilities were outside the scope of the audit. Further, she stated that DHS provided feedback to the OSA on the role of the Council that should the Bill Draft be moved to Bill Paper, DHS could work with the sponsors through an amendment to strengthen the Council's role.

A motion was made by Vice-Chair Nordberg and seconded by Senator Neville to approve Bill Draft LLS NO. 15-0098.01 to be put on Bill Paper. Further, the LAC requested a Safety Clause be added to the Bill Draft. The motion passed unanimously.

The Bill will start in the House.

Sponsors: Representatives Ryden and Primavera
Senator Neville

Co-Sponsors: Representative Nordberg
Senators Guzman and Jahn

Report Released Without a Hearing

A motion was made by Vice-Chair Nordberg and seconded by Senator Holbert to release the:

- School Capital Construction Report, Financial Report, January 2015

The motion passed unanimously.

Ms. Hunter reviewed the report released without a hearing.

Other Business

Due to time constraints, the remainder of the agenda was moved to the February 10, 2015, LAC hearing.

9:10 a.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled hearing is on February 10, 2015, 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



OFFICE OF THE STATE AUDITOR



DIANNE E. RAY, CPA
—
STATE AUDITOR

Legislative Audit Committee

February 10, 2015

Minutes

A meeting of the Legislative Audit Committee (LAC) was convened on February 10, 2015, at 7:00 a.m., in the Legislative Services Building, Audit Hearing Room. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert (arrived at 7:15 a.m.), Senator Jahn, Senator Neville, Representative Nordberg, Representative Primavera (arrived at 7:02 a.m.), Representative Ryden, Representative Saine

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; Cynthia Hochmiller, Pooja Tulsian, Cindi Radke, Jeffrey Kahn, Nina Frant

ALSO PRESENT: Bob Jaros, Tammy Nelson, Office of the State Controller; Scott Cuthbertson, Department of Natural Resources; Ann Alexander Pritzlaff, Joe Halpern, History Colorado Board of Directors; Ed Nichols, History Colorado; Julie Krow, Ann Rosales, Department of Human Services; Bob Lackner, Office of Legislative Legal Services

OFFICE OF THE STATE AUDITOR
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7:00 a.m. – State of Colorado
7:18 a.m. Statewide Single Audit
Fiscal Year Ended June 30, 2014

Office of the State Auditor

Dianne E. Ray, State Auditor
Cynthia Hochmiller, Managing Legislative Auditor
Pooja Tulsian, Managing Legislative Auditor
Cindi Radke, Managing Legislative Auditor

Office of the State Controller

Bob Jaros, State Controller
Tammy Nelson, Director, Financial Analysis and Reporting

A motion was made by Representative Ryden and seconded by Senator Neville to release the *State of Colorado, Statewide Single Audit, Fiscal Year Ended June 30, 2014*. The motion passed unanimously.

7:02 a.m. Representative Primavera arrived.

Following introductions and opening remarks, Cynthia Hochmiller and Pooja Tulsian provided an overview of the audit. Ms. Hochmiller provided an overview of the OSA's Independent Auditor's Report on the *State of Colorado, Comprehensive Annual Financial Report, For the Fiscal Year Ended June 30, 2014*.

In response to a question from Chair Guzman, Ms. Tulsian stated that material respects, as referenced on page V-7, refer to material noncompliance with federal requirements, which in these cases were material weaknesses. Cindi Radke stated that material noncompliance and material weaknesses are two separate factors.

7:15 a.m. Senator Holbert arrived.

7:18 a.m. – State of Colorado
7:36 a.m. Comprehensive Annual Financial Report
For the Fiscal Year Ended June 30, 2014

Tammy Nelson reviewed the *State of Colorado, Comprehensive Annual Financial Report, For the Fiscal Year Ended June 30, 2014*.

In response to a question from Representative Ryden, Ms. Nelson stated that the Colorado Public Employees' Retirement Association (PERA) unfunded liability reporting requirement in the report is a new Generally Accepted Accounting Principles (GAAP) requirement. Further, she stated that the condition has not changed but the reporting has changed.

In response to a question from Representative Ryden, Ms. Nelson stated that the Governmental Accounting Standards Board is responsible for changes to GAAP principles. Further, she stated that the Office of the State Controller (OSC) is required to present financial statements in accordance with GAAP principles in order to receive clean audit opinions.

In response to a request from Representative Saine, Ms. Nelson stated that the OSC would provide a larger copy of the *General Fund - Fund Balance* graph at the bottom of page 32.

7:36 a.m. – State of Colorado
7:46 a.m. Statewide Single Audit
Fiscal Year Ended June 30, 2014

Recommendation No. 2014-016 was reviewed, discussed, and agreed to by staff from the OSC.

7:46 a.m. The Committee recessed briefly.

7:50 a.m. GENERAL BUSINESS

Minutes

A motion was made by Vice-Chair Nordberg and seconded by Senator Neville to approve the Minutes from January 27, 2015. The motion passed unanimously.

Legislation Discussion

Monica Bowers reviewed Bill Draft LLS No. 15-0831.01, concerning fees collected by the State Engineer for review of dam safety. State Auditor Dianne E. Ray stated that the design review fees have not been changed for 25 years.

In response to a question from Representative Ryden, Mr. Cuthbertson Deputy Director, Division of Water Resources, Department of Natural Resources (DNR), reviewed the three options to change the design review fee amounts and maximum charges, highlighted in the Bill Draft, lines 9–18, and explained how DNR arrived at those figures.

In response to a question from Senator Holbert, Mr. Cuthbertson stated that the proposed changes to design review fees were calculated by evaluating how many full-time-equivalent (FTE) staff were used on average over the course of several years.

A motion was made by Representative Saine and seconded by Representative Ryden to move Bill Draft LLS No. 15-0831.01 to be put on Bill Paper, and to use Option No. 1, reflected on lines 9–13, to increase the fee from \$3 per \$1,000 of proposed project costs to \$6 per \$1,000 of proposed project costs, and increase the maximum charge from \$3,000 to \$30,000 per project. The motion passed unanimously. The LAC did not request a Safety Clause.

The Bill will start in the House.

Sponsors: Representative Saine
Senator Neville

Co-Sponsors: Representatives Nordberg, Primavera, and Ryden
Senators Guzman, Holbert, and Jahn

8:02 a.m. Senator Jahn left the room.

Jeffrey Kahn reviewed potential legislation concerning the *History Colorado, Department of Higher Education, Performance Audit (June 2014)*, for Recommendation No. 6b. History Colorado requested changes to History Colorado Board governance.

Ann Alexander Pritzlaff, Chair, History Colorado Board of Directors (Board), Ed Nichols, President & CEO, History Colorado, and Joe Halpern, Vice Chair, Board, reviewed History Colorado’s memo regarding their *Proposed Reorganization of the Governance Structure of the State Historical Society of Colorado* (“History Colorado”).

In response to a question from Senator Holbert, Mr. Halpern stated that he expects the Governor and the Board to take geographic and other forms of diversity into account when appointing Board members. Further, he stated that the Board believes geographic diversity is an important part of the Board's mission.

In response to a question from Representative Ryden, Mr. Halpern stated that the new Director's Council, if approved, will help keep the current 28 Board members engaged once the Board is cut to nine members, and maintain statewide representation.

A motion was made by Senator Holbert and seconded by Representative Saine to request draft legislation for the *History Colorado, Department of Higher Education, Performance Audit (June 2014)*, Recommendation No. 6b. The motion passed unanimously.

8:12 a.m. The Committee recessed briefly.

8:15 a.m. Senator Jahn returned.

Nina Frant reviewed potential legislation concerning the *Child Welfare Performance Audit, Department of Human Services, October 2014*, for Recommendation Nos. 7 and 8a. Department of Human Services (DHS) requested statutory changes to eliminate the Child Protection Teams (CPTs) requirement but allow county departments of human & social services (Counties) discretion in using CPTs.

Julie Krow, Director, Office of Children, Youth and Families, DHS, provided and reviewed a handout concerning the *Colorado Department of Human Services 2015 Legislative Agenda Proposal*.

In response to a question from Representative Primavera, Ms. Krow stated that if legislation were passed, the State's role for CPTs would be to require Counties to submit CPT plans, the State would ensure the plans meet new statutes and guidelines, and then the State would review annual reports from the participating Counties.

In response to a question from Representative Primavera, Ms. Krow stated that DHS will propose rules to accompany the proposed legislation, if passed.

In response to a question from Senator Neville, Ms. Krow reviewed the types of individuals involved in CPTs, who vary by county.

In response to a question from Senator Neville, Ms. Krow stated that CPT members are unpaid volunteers and include some members who are involved in the child welfare system and members of the general public. Ms. Frant stated that statute specifies what types of individuals are suggested to be part of CPTs.

In response to a question from Senator Neville, Ms. Frant stated that parental rights organizations are not specified in statute as suggested CPT members.

In response to a question from Vice-Chair Nordberg, Ms. Krow stated that Colorado is a local-control state and that while some Counties wish to keep CPTs as tools for community engagement, for other Counties, eliminating the CPT requirement offers relief or the ability to narrow the scope of referrals, thus decreasing the large volume of referrals to review.

8:35 a.m. Senator Holbert left the room.

The LAC requested feedback from Counties, a presentation from the OSA on the audit, and postponed the discussion until the February 24, 2015, LAC hearing.

**Authority of the State Department of Human Services to Waive Rules
Promulgated by the State Board of Human Services**

Bob Lackner, Senior Attorney, Office of Legislative Legal Services (OLLS), reviewed the OLLS memo regarding *Authority of the State Department of Human Services to Waive Rules Promulgated by the State Board of Human Services*.

In response to a question from Chair Guzman, State Auditor Ray stated that one option for responding to the findings from the OLLS memo is to draft a letter to send to the DHS Executive Director Reggie Bicha to ask for corrective action, and to ask that the Executive Director come before the LAC.

8:45 a.m. Senator Holbert returned.

In response to a question from Representative Primavera, State Auditor Ray stated that one fiscal impact from Executive Director Bicha's improper waiving of State Board of Human Services (Board) rules, was allowing Counties to provide \$800 to families for economic assistance, instead of the \$400 that was authorized by the Board at the time of the audit.

In response to a question from Representative Primavera, State Auditor Ray stated that the *Child Welfare Performance Audit, Department of Human Services* (October 2014), is done; the OSA would need to engage a new audit in order to audit DHS processes related to the child welfare program.

A motion was made by Senator Neville and seconded by Senator Holbert to request a letter be drafted to send to Executive Director Bicha regarding the authority of DHS to waive rules promulgated by the Board.

In response to a question from Representative Ryden, State Auditor Ray stated that after the audit work had been completed, the Board voted to increase economic assistance to families to \$800. Further, she stated that the Board rules cannot be waived by the DHS Executive Director and that Board rules must be changed in order to make program changes. Mr. Lackner concurred with State Auditor Ray.

In response to a question from Vice-Chair Nordberg, State Auditor Ray stated that she did not know if Executive Director Bicha was aware of the OLLS memo or if he continues to improperly waive Board rules but, that she would notify him of the OLLS memo.

In response to a question from Chair Guzman, State Auditor Ray stated that the OSA will draft a letter to Executive Director Bicha regarding the findings from the OLLS memo in conjunction with OLLS. Further, she stated that she will try to provide a draft letter to the LAC at the February 24, 2015, LAC hearing for LAC approval, and once approved, the OSA will send it to Executive Director Bicha and ask him to respond to the LAC.

The motion passed unanimously.

Ms. Frant reviewed Recommendation No. 9 from the audit and what DHS indicated in their response for proposed changes to Board rules.

In response to a question from Senator Neville, Ms. Frant stated that she did not know if the DHS proposed changes to Board rules had been implemented.

Audit Request

State Auditor Ray stated that the audit request is specific to a specific event; however, the OSA does not investigate specific events but rather the audit, if approved, will look at overall processes at DHS in connection with the specific event.

Ms. Bowers reviewed the evaluation for a request for an audit related to the DHS RFP & Procurement Process.

A motion was made by Representative Saine and seconded by Representative Primavera to approve the request for an audit of the DHS RFP & Procurement Process.

In response to a question from Representative Ryden, State Auditor Ray stated that DHS does a lot of procurement, enough for a large audit and thus it would be unadvisable to include other departments in the audit.

The motion passed unanimously.

Fiscal Year 2016 Office of the State Auditor Proposed Budget

State Auditor Ray reviewed the Fiscal Year 2016 OSA proposed budget.

A motion was made by Senator Holbert and seconded by Representative Saine to approve the proposed budget. The motion passed unanimously.

Report Released Without a Hearing

A motion was made by Vice-Chair Nordberg and seconded by Senator Holbert to release the:

- Schedule of Computations Required Under Article X, Section 20, of the State Constitution (Tabor), Financial Audit, February 2015

The motion passed unanimously.

State Auditor Ray reviewed the report released without a hearing.

8:59 a.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled hearing is on February 24, 2015, 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



OFFICE OF THE STATE AUDITOR



Legislative Audit Committee

February 24, 2015

Minutes

A meeting of the Legislative Audit Committee (LAC) was convened on February 24, 2015, at 7:00 a.m., in the Legislative Services Building, Audit Hearing Room. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert, Senator Jahn, Senator Neville (arrived at 7:09 a.m.), Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine (arrived at 7:30 a.m.)

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, Jeffrey Kahn, Ferminia Hebert, Michelle Colin, Nina Frant, Lynne Steketee

ALSO PRESENT: Reggie Bicha, Melissa Wavelet, Levetta Love, Viki Manley, Clint Woodruff, Ann Rosales, Department of Human Services; Chris Kline, Herb Covey, Adams County Human Services Department

DIANNE E. RAY, CPA
STATE AUDITOR

7:00 a.m. – State of Colorado
7:42 a.m. Statewide Single Audit
Fiscal Year Ended June 30, 2014

Office of the State Auditor

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

Department of Human Services

Reggie Bicha, Executive Director
Melissa Wavelet, Director, Office of Performance and
Strategic Outcomes
Levetta Love, Director, Office of Economic Security
Viki Manley, Director, Office of Community Access and
Independence
Clint Woodruff, Controller, Division of Financial Services

Following introductions and opening remarks, Marisa Neff reviewed the *State of Colorado, Statewide Single Audit, Fiscal Year Ended June 30, 2014*, as it relates to the Department of Human Services (Department).

7:09 a.m. Senator Neville arrived.

Recommendation No. 2014-012 was reviewed, discussed, and partially agreed to by staff from the Department.

In response to a question from Chair Guzman, Reggie Bicha reviewed why the Department partially agreed with Recommendation No. 2014-12A.

In response to a question from Chair Guzman, Ms. Neff stated that material weakness classifications are based on auditor judgment. Further, she provided an overview of how material weakness classifications are determined.

In response to a question from Representative Ryden, Ms. Neff stated that the OSA contracts annually to audit the four Veterans Community Living Centers (Living Centers) that are administered by the Department, on a rotating basis; the latest audit was of the Rifle Living Center. Further, she stated that internal OSA audit teams conduct annual reviews on a sample basis of transactions of the four Living Centers as part of the *Statewide Single Audit*. Mr. Bicha stated that each Living Center has an independent audit.

In response to a question from Representative Ryden, Mr. Bicha stated that issues involving patient revenue and allowance for doubtful accounts at Living Centers, as identified in Recommendation No. 2014-012, were brought to the Department's attention for the first time this year. Further, he stated that the *Colorado Veterans Community Living Center-Rifle, Financial Statements with Independent Auditors' Reports, Year Ended June 30, 2014*, had no findings. Ms. Neff corrected that statement that the Rifle audit had one finding.

Recommendation No. 2014-054 was reviewed, discussed, and agreed to by staff from the Department.

7:30 a.m. Representative Saine arrived.

In response to a question from Senator Neville, Levetta Love stated that for invalid Temporary Assistance for Needy Families (TANF) benefit payments, the Department establishes a claim against the household and the customer is allowed to make minimal monthly payments back to the State, which are typically deducted from their TANF benefits.

In response to a question from Senator Neville, Ms. Love stated that the monthly payments made back to the State are calculated based on how much the customer is able to pay, and that the customer continues to pay back the State whether or not they are eligible for TANF benefits.

Recommendation No. 2014-055 was reviewed, discussed, and agreed to by staff from the Department.

7:42 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Holbert and seconded by Vice-Chair Nordberg to approve the Minutes from February 10, 2015. The motion passed unanimously.

Status Report

Michelle Colin provided an overview of the *Colorado Child Welfare County Workload Study*, Colorado Department of Human Services (August 2014).

Following introductions and opening remarks, Mr. Bicha provided information on steps the Department has taken to seek additional resources, change processes to improve the efficiency of the child welfare system, and other additional steps the Department has taken to address the study.

In response to a question from Representative Saine, Mr. Bicha stated that practice coach programs were piloted in two county departments of human & social services (Counties), and that the Department intends to expand the pilot program in the future.

In response to a question from Representative Saine, Ann Rosales stated that positive feedback had been received from the participating pilot program Counties, and that having practice coaches in the field provided valuable immediate feedback to caseworkers.

In response to a question from Representative Saine, Ms. Rosales stated that both pilot programs have been completed and each lasted approximately 3 months.

In response to a question from Representative Saine, Ms. Rosales stated that there has been a decrease across the State in congregative care since the study was released. Further, she stated that she would provide the LAC with data on the results from the two practice coach pilot programs.

In response to a question from Senator Neville, Mr. Bicha confirmed that the study found that caseworker supervisors work an average of 48 hours per week.

In response to a question from Senator Neville, Mr. Bicha stated that he could not say on average how many hours per week supervisors spend in the field because it varies by county and the county's standards.

In response to a question from Senator Neville, Mr. Bicha concurred with Senator Neville that the amount of time supervisors spend in the field is vital for the success of the child welfare system. Further, he stated that the study showed that the State has a shortage of supervisors, which is why the Department's budget proposal requested an increase in supervisor full-time-equivalent (FTE) staff, thus decreasing the workload burden on supervisors.

In response to a question from Senator Neville, Mr. Bicha stated that the Department has rewritten Volume 7 of the Colorado Revised Statutes to find greater efficiencies for caseworkers and supervisors, but could not say if any specific requirements were removed for supervisors. Further, he stated that the new State Child Welfare Hotline provides new resources and clarity to supervisors about how they should conduct their work at the front-end of cases. Chris Kline, Director, Adams County Department of Human Services, and President, Colorado Human Services Directors Association, stated that per the Child Welfare Workload Study Group's Recommendation No. 4, a workgroup of experts will be convened to identify system efficiencies and administrative tasks that can be eliminated.

In response to a question from Senator Neville, Mr. Kline confirmed that new tools and technology, such as iPads, can be utilized by supervisors in the field.

In response to a question from Representative Saine, Mr. Kline reviewed how utilizing C-Stat data can help improve processes across the State. Mr. Bicha stated that the Department, per the recommendations from the *Child Welfare, Department of Human Services, Performance Audit* (October 2014), is requesting statutory changes to eliminate the Child Protection Teams (CPTs) requirement, but allow Counties discretion in using CPTs. Further, he stated that while the intent of the original statute was good and some Counties like CPTs, it adds more bureaucracy to the child welfare system without good results.

In response to a question from Representative Primavera, Mr. Bicha stated that money for stipend programs to attract additional candidates into the child welfare workforce comes from the federal government through Title IV-E of the Social Security Act. Further, he reviewed the current Colorado institutions of higher learning that offer stipends and stated that the Department intends to expand the stipend program in the future.

In response to a question from Representative Primavera, Mr. Bicha stated that the timeline for modernizing Trails, the State's official electronic case record for all child welfare documentation, will take at least 2 years.

In response to a question from Vice-Chair Nordberg, Mr. Kline stated that he believes the decision to keep CPTs should be left to the discretion of the Counties. Further, he stated that complying with the CPT statute may at times come at the expense of other aspects of the child welfare system.

In response to a question from Representative Saine, Mr. Kline stated that he could not state which Counties perform the best; each County has their own strengths and weaknesses. Further, he stated that he could not state if there is a correlation between CPTs and positive County outcomes. Mr. Bicha stated that statute requires any County with 50 or more referrals annually to have a CPT. Further, he stated that based on C-Stat data for the top ten largest counties, Boulder, Larimer, and Arapahoe Counties are the best performers on C-Stat measures, and some of their practices are held as national models for child welfare services.

Legislation Discussion

Nina Frant reviewed Recommendation Nos. 7 and 8a from the *Child Welfare, Department of Human Services, Performance Audit* (October 2014), and potential legislation related to those recommendations. The Department requested statutory changes to eliminate the CPT requirement but allow Counties discretion in using CPTs.

In response to a question from Representative Ryden, Ms. Frant stated that the audit found that Counties involved CPTs at different stages of the process; some Counties involved CPTs at the beginning, some later in the process, and some after the cases were closed.

In response to a question from Representative Primavera, Ms. Frant stated that she did not know if other states use CPTs. Mr. Bicha stated that Colorado is the only state he knows of that requires something akin to CPTs.

In response to a question from Representative Primavera, Mr. Bicha concurred that there has been a lack of direction over the decades from the Department to Counties regarding CPTs. Further, he recommended that either the CPT requirement is removed or state and local infrastructure needs to be built up, including more resources to monitor the CPTs in the 52 counties required to have CPTs.

In response to a question from Senator Neville, Ms. Frant concurred with the lay characterization that the audit found that CPT membership was unknown, CPT work was unavailable in a public format, and in many cases, that CPTs served as “rubber stamps” for the Counties. Further, he stated that the CPTs did not catch issues regarding timely reporting and engagement.

In response to a comment from Representative Saine, Mr. Bicha stated that the audit found that the CPTs did not identify noncompliance with rule or statute. Further, he stated that one draw-back in using CPTs is that the CPTs are not always well-versed and up-to-date with current rule or statute, and may give advice to Counties that is inconsistent with rule, policy, or law.

In response to a question from Senator Jahn, Mr. Bicha stated that every case must be reviewed if the County receives 50 or more referrals annually.

In response to a question from Senator Neville, Mr. Bicha stated that depending on the circumstances of each case, members of the community who are directly linked to the case, such as nurses and teachers, are involved. Further, he stated that CPTs involve community members that are not directly linked to the case and review the work of the caseworker; CPTs do not directly interact with the children.

In response to a question from Senator Jahn, Mr. Bicha stated that 80 percent of referrals are due to child neglect; the other referrals include physical, sexual, and emotional abuse.

In response to a question from Senator Jahn, Ms. Rosales stated that four CPT stakeholders meetings were convened: January 8, 2015; January 29, 2015; February 6, 2015; and February 20, 2015. Further she stated that stakeholders included representatives from the Counties, the Child Protection Ombudsman’s Office, the Rocky Mountain Children’s Law Center, various community members, and a parent advocate; a majority of Counties supported easing the CPT requirement while other stakeholders advocated keeping CPTs but with more guardrails.

A motion was made by Senator Neville and seconded by Representative Saine to request a Bill Draft to eliminate the CPT requirement but allow Counties discretion in using CPTs. The motion failed.

Senator Holbert:	Aye
Senator Jahn:	No
Senator Neville:	Aye
Representative Primavera:	No
Representative Ryden:	No
Representative Saine:	Aye
Vice-Chair Nordberg:	Aye
Chair Guzman:	No

The LAC postponed further discussion on potential CPT legislation until the 2015 Interim.

Herb Covey, Ph.D., Deputy Director, Adams County Human Services Department, reviewed his experience in Adams County with CPTs and the impact CPTs have on caseworkers. Further, he stated that CPTs are out-of-step with modern child welfare system practices.

Other Business

State Auditor Dianne E. Ray informed the LAC that the OSA received third place in the small company division for the Denver Business Journal's Healthiest Employers award. Lynne Steketee reviewed OSA's Wellness Program initiatives.

Due to time constraints, the remainder of the agenda was moved to the March 10, 2015, LAC hearing.

9:00 a.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled hearing is on March 10, 2015, 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



OFFICE OF THE STATE AUDITOR



Legislative Audit Committee

March 10, 2015

Minutes

A meeting of the Legislative Audit Committee (LAC) was convened on March 10, 2015, at 7:01 a.m., in the Legislative Services Building, Audit Hearing Room. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert, Senator Jahn, Senator Neville (arrived at 7:12 a.m.), Representative Nordberg (arrived at 7:12 a.m.), Representative Primavera, Representative Ryden, Representative Saine

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, Kyle Weaver, Crystal Dorsey, Jeffrey Kahn

ALSO PRESENT: Susan Birch, Chris Underwood, Department of Health Care Policy and Financing; Mike King, Department of Natural Resources; Kara Vietch, Department of Personnel & Administration; Dr. Larry Wolk, Department of Public Health & Environment; Michelle Pedersen, Justin Lippard, Department of Regulatory Agencies; Ron Kammerzell, Department of Revenue; Ann Pritzlaff, Joseph Halpern, History Colorado Board of Directors; Ed Nichols, Joseph Bell, History Colorado; Jack Arrowsmith, Gregg Rippy, Michael Steingrebe, Statewide Internet Portal Authority

DIANNE E. RAY, CPA
STATE AUDITOR

OFFICE OF THE STATE AUDITOR
1525 SHERMAN STREET
7TH FLOOR
DENVER, COLORADO
80203

303.869.2800

7:01 a.m. – State of Colorado
7:29 a.m. Statewide Single Audit
Fiscal Year Ended June 30, 2014

Department of Health Care Policy & Financing
Susan Birch, Executive Director
Chris Underwood, Health Information Office Director

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

Following introductions and opening remarks, Cindi Radke reviewed the *State of Colorado, Statewide Single Audit, Fiscal Year Ended June 30, 2014*, as it relates to the Department of Health Care Policy and Financing (Department).

Recommendation No. 2014-007 was reviewed, discussed, and agreed to by staff from the Department.

7:07 a.m. Senator Larry Crowder arrived.

In response to a question from Representative Ryden, Chris Underwood reviewed how the Department currently transmits Children's Basic Health Plan (CBHP) program capitation rates to third-party service providers, and the Department's intent to implement quality checks on the front end of rate calculations.

7:12 a.m. Vice-Chair Nordberg and Senator Neville arrived.

Recommendation Nos. 2014-031 and 2014-032 were reviewed, discussed, and agreed to by staff from the Department.

In response to a question from Representative Primavera, Kyle Weaver stated that prior year audit recommendations for the Department can be found starting on page IV-6. Ms. Radke provided an overview of prior year audit recommendations.

In response to a question from Senator Neville, Mr. Weaver stated that the two Medicaid case files that were missing required case file documentation, such as proof of citizenship or proof of identity, and the five instances where the Department did not provide documentation of the individual's required annual redetermination of medical service needs for the Home and Community Based Service (HCBS) waiver programs, the Department did not provide documentation to the OSA after the audit was complete.

In response to a question from Senator Neville, Mr. Underwood stated that the OSA has deadlines for finishing audits and that if the Department cannot provide documentation by that deadline, then the audit will reflect that documentation was not available. Further, he stated that the Department has corrective action plans out to the county departments of human/social services to address Recommendation Nos. 2014-031 and 2014-032.

In response to a question from Representative Saine, Mr. Underwood stated that the Department does not have the missing documentation for the aforementioned cases.

In response to a question from Representative Saine, Mr. Underwood stated that the Department is exploring the possibility of creating an electronic document management system for the Colorado Benefits Management System (CBMS). Further, he reviewed how the current document management system operates, and the obstacles in the way of creating an electronic system.

In response to a question from Senator Neville, Ms. Radke stated that the sample sizes for the \$419,409 in questioned costs from the Medicaid program were 66 cases, and 40 cases for the \$9,124 in questioned costs from the CBHP program. Further, she stated that sample size is predetermined by federal auditing standards and show that the OSA tested internal controls.

In response to a question from Senator Neville, Ms. Radke stated that because audit samples are related to internal controls, it is inappropriate for the OSA to use statistical sampling methods to extrapolate.

7:29 a.m. The Committee recessed briefly.

7:31 a.m. – Cash Funds Uncommitted Reserves
8:05 a.m. Fiscal Year Ended June 30, 2014
Performance Audit, February 2015

Department of Natural Resources
Mike King, Executive Director

Department of Personnel & Administration
Kara Vietch, Interim Executive Director

Department of Public Health & Environment
Larry Wolk, MD, Executive Director &
Chief Medical Officer

Department of Regulatory Agencies
Michelle Pedersen, Deputy Director
Justin Lippard, Budget Director

Department of Revenue
Ron Kammerzell, Senior Director, Enforcement Group

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 Representative Ryden and seconded by Representative Primavera to release the *Cash Funds Uncommitted Reserves Fiscal Year Ended June 30, 2014, Performance Audit* (February 2015). The motion passed unanimously.

Following introductions and opening remarks, Crystal Dorsey provided an overview of the audit.

Mike King reviewed the purpose of the Department of Natural Resources' (DNR) Oil and Gas Conservation Fund and how DNR intends to bring the Fund into compliance; the Fund is expected to be in compliance over the next two years.

In response to a question from Representative Ryden, Mr. King stated that there is a bonding requirement for every oil and gas operator, which is accomplished by bonding each individual well or “blanket-bonding” multiple wells. Further, he stated that the Fund serves as a collective bond in the event of abandoned wells and is supported by the oil and gas industry.

In response to a question from Senator Neville, Mr. King stated that in the last 5 years, there have been three abandoned wells in Colorado. Further, he stated that most wells produce at a large volume for the first 2 or 3 years and then continue to produce at a low volume for the next 30 years.

In response to a question from Representative Saine, Mr. King stated that DNR closely monitors all wells and that abandoned wells are rare; if a higher trend of abandoning wells manifests then the Oil and Gas Conservation Commission will re-assess and take appropriate measures, such as higher bonding requirements or raising the Fund excess alternative reserve amount.

Kara Vietch reviewed the purpose of the Department of Personnel & Administration’s (DPA) State Archives & Public Records Cash Fund and the Supplier Database Cash Fund, and how DPA intends to bring the Cash Funds into compliance; both Cash Funds are expected to be in compliance by June 2016.

In response to a question from Senator Neville, Ms. Vietch confirmed that DPA has a supplemental budget request that includes the use of Cash Fund monies for the Colorado Operations Resource Engine (CORE) operating and personal services.

Dr. Larry Wolk reviewed the purpose of five Colorado Department of Public Health and Environment’s (CDPHE) cash funds and how/when CDPHE intends to bring them into compliance: the Assisted Living Residence Cash Fund by June 2015; the Fixed & Rotary-wing Ambulances Cash Fund by June 2016; the Health Facilities General Licensure Fund by the end of Fiscal Year 2015; the Laboratory Fund by the end of Fiscal Year 2015; and the Newborn Genetics Cash Fund by the end of Fiscal Year 2016. Further, he stated that the Medical Marijuana (MMJ) Cash Fund has already been fixed and will be in compliance by June 30, 2015.

In response to a question from Senator Holbert, Dr. Wolk stated that \$10 million from the current \$12.9 million in the MMJ Cash Fund excess uncommitted reserve will be used for MMJ efficacy research, as approved by the General Assembly in 2014.

In response to a question from Senator Holbert, Dr. Wolk stated that the General Assembly decided to use the MMJ Cash Fund excess uncommitted reserve for MMJ efficacy research and upgrading the MMJ registration system, instead of refunding monies to MMJ card holders.

In response to a question from Senator Holbert, Dr. Wolk stated that the final cost to upgrade the MMJ registration system is approximately \$1.1 million, but is not yet finalized, thus the remaining MMJ Cash Fund excess uncommitted reserve balance is not yet known; CDPHE will keep the potential development of a program to test MMJ in mind when considering how to eliminate the remaining excess uncommitted reserve.

In response to a question from Representative Ryden, Dr. Wolk reviewed what Pompe disease is and why it is being incorporated into the Newborn Screening Panel.

In response to a question from Representative Primavera, Dr. Wolk stated that he believes that health insurance covers the screening and reimbursement for the treatment of Pompe disease.

Michelle Pedersen reviewed the purpose of the Department of Regulatory Affairs (DORA) Mortgage CO & Loan Originator Cash Fund and how DORA intends to bring the fund into compliance; the Cash Fund is expected to be in compliance by the end of Fiscal Year 2015.

Ron Kammerzell reviewed the purpose of the Department of Revenue's (DOR) Liquor Law Enforcement Cash Fund and the Colorado Dealer License Board Fund and how DOR intends to bring the Funds into compliance; both Funds are expected to be in compliance by the end of Fiscal Year 2016.

Ms. Dorsey provided and discussed House Bill 15-1261, sponsored by the Joint Budget Committee, *Concerning the maximum reserve for a cash fund with fee revenue.*

In response to a question from Representative Ryden, Ms. Dorsey stated that all cash funds that are out-of-compliance, including those that have been out-of-compliance for less than 3 years, can be found on page 15 of the audit.

In response to a question from Senator Crowder, Ms. Dorsey stated that the grand total of all cash funds with excess uncommitted reserves is \$22.5 million and can be found on page 15 of the audit; the cash funds with the top 10 largest excess uncommitted reserves can be found on page 10.

In response to a question from Senator Crowder, Ms. Dorsey stated that House Bill 15-1261 will increase the threshold for reporting cash funds with excess uncommitted reserves. State Auditor Dianne E. Ray stated that House Bill 15-1261, along with one other forthcoming bill, is the result of conversations between the Joint Budget Committee and the LAC to encourage departments to bring out-of-compliance cash funds into compliance.

8:05 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Holbert and seconded by Vice-Chair Nordberg to approve the Minutes from February 24, 2015. The motion passed unanimously.

Legislation Discussion

Jeffrey Kahn reviewed Bill Draft LLS No. 15-0888.01 *Concerning the governance structure of the State Historical Society, and, in connection therewith, changing the method of appointment of the Board of Directors and creating a Directors Council.*

In response to a question from Senator Holbert, Ed Nichols, President and Chief Executive Officer, History Colorado, stated that concerns from the *History Colorado, Department of Higher Education, Performance Audit* (June 2014), regarding improper procurement card practices and split purchases, are now addressed by History Colorado's finance office; future problems, if they arise, will be addressed by the Finance Committee of the History Colorado Board of Directors.

In response to a question from Senator Holbert, Mr. Nichols stated that because of the audit, new policies, procedural manuals, and trainings were implemented to address concerns regarding improper procurement card practices and split purchases; no employees were fired, one employee resigned.

In response to a question from Senator Holbert, State Auditor Ray stated that prime sponsors are not finalized until after the Bill Draft has been approved to be put on Bill Paper.

A motion was made by Representative Ryden and seconded by Vice-Chair Nordberg to approve Bill Draft LLS No. 15-0888.01 to be put on Bill Paper. The motion passed unanimously.

The Bill will start in the Senate:

Sponsors: Senator Holbert
 Representatives Ryden and Saine

Co-Sponsors: Senators Guzman, Neville, and Jahn
 Representatives Primavera and Nordberg

A Safety Clause was not requested.

**Statewide Internet Portal Authority, Financial Statements,
June 30, 2014 and 2013**

Following introductions and opening remarks, Ms. Dorsey provided an overview of the *Statewide Internet Portal Authority, Financial Statements, June 30, 2014 and 2013*.

In response to a question from Senator Neville, Michael Steingrebe, Chief Financial Officer (CFO), Statewide Internet Portal Authority (SIPA), stated that he was hired by SIPA in December 2014 for the newly created CFO position to bring accounting in-house. Further, he reviewed his background and efforts to implement the recommendations from the Financial Statements.

In response to a question from Senator Neville, Mr. Steingrebe reviewed the process for creating monthly financial statements and creating internal accounting processes that will make future monthly and annual financial statements easier to compile internally, instead of relying on external auditors to compile the bulk of the financial statements.

In response to a question from Senator Neville, Mr. Steingrebe stated that SIPA has re-evaluated the process to prepare quarterly and annual financial statements.

Jack Arrowsmith, Executive Director, SIPA, provided and discussed SIPA's Status Report on the implementation of recommendations from the *Statewide Internet Portal Authority, Performance Audit* (November 2012).

Audit Requests

State Auditor Ray presented a request submitted by Senator Lucia Guzman for an audit of the Regional Tourism Act (RTA). She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit.

In response to a question from Representative Primavera, State Auditor Ray stated that the initial research is to discover the potential scope of an audit of the RTA, as administered by the Office of Economic Development & International Trade (OEDIT), and does not involve audit work.

In response to a question from Senator Holbert, State Auditor Ray stated that the potential audit would be of the entire RTA and its policies and procedures, including but not limited to individual grants.

In response to a question from Representative Ryden, Chair Guzman stated that the purpose of her audit request was to investigate the processes and policies of how the RTA is administered by the OEDIT, and not to single out individual RTA grants.

In response to a question from Representative Primavera, State Auditor Ray stated that the initial research would look at the RTA accounting system and provide financial information at a high level.

In response to questions from the LAC, State Auditor Ray stated that the current request is only for the initial research; per LAC Rule, the LAC must first authorize 40 hours of initial research to determine the potential scope of the audit, which is then presented to the LAC before the LAC approves or denies an audit request, and that typically the LAC requests the initial research before requesting department staff to respond to questions, but that it is the prerogative of the LAC to first invite OEDIT representatives to speak toward the audit request before approving or denying the initial research.

A motion was made by Representative Saine and seconded by Representative Primavera to authorize the OSA to conduct initial research on the RTA. The motion passed on a vote of 7-1, as follows:

Senator Holbert:	Aye
Senator Jahn:	Aye
Senator Neville:	Aye
Representative Primavera:	Aye
Representative Ryden:	No
Representative Saine:	Aye
Vice-Chair Nordberg:	Aye
Chair Guzman:	Aye

Monica Bowers reviewed the evaluation for a request for an audit related to the Independent Ethics Commission (IEC).

A motion was made by Representative Saine and seconded by Representative Primavera to approve the request for an audit of the IEC. The motion passed unanimously.

Census Data Attestation for Colorado Public Employees' Retirement Association (PERA) 2014 Annual Financial Audit

A motion was made by Senator Holbert and seconded by Representative Saine to release the *Census Data Attestation for Colorado Public Employees' Retirement Association (PERA) 2014 Annual Financial Audit*. The motion passed unanimously.

Kerri Hunter provided an overview of the attestation.

Discussion of Out-of-Cycle Rule Review

Chair Guzman provided background and reviewed the related findings in the *Child Welfare, Department of Human Services, Performance Audit* (October 2014), the Office of Legislative Legal Services (OLLS) legal memorandum regarding the improper waiving of rules promulgated by the State Board of Human Services (Board) by the Department of Human Services (DHS), and the new Board Rule 7.000.3, *Exceptions*, to allow exceptions to Board Rules if it does not impact the safety of the child.

State Auditor Ray reviewed the process for an out-of-cycle rule review request and asked the Committee if they would like to request an out-of-cycle rule review for Board Rule 7.000.3.

In response to a question from Representative Ryden, State Auditor Ray stated that the audit found issue with two Board Rules that DHS waived; one concerning increasing the cap for special economic assistance to families per year, and the other concerning waiving the requirement for a needs assessments for each child welfare case.

A motion was made by Senator Holbert and seconded by Senator Neville to request an out-of-cycle rule review of Board Rule 7.000.3 from the Chair of the Committee on Legal Services. The motion passed unanimously.

2015 SMART Government Act Audit Plan

Ms. Bowers reviewed the 2015 SMART Government Act Audit Plan (Plan).

A motion was made by Representative Ryden and seconded by Representative Primavera to adopt the Plan. The motion passed unanimously.

Proposed 2015 Interim Legislative Audit Committee Calendar

State Auditor Ray presented the proposed 2015 Interim LAC calendar to the Committee. The Committee will vote to adopt the calendar at the March 30, 2015, LAC hearing.

9:01 a.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled hearing is on March 30, 2015, 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



OFFICE OF THE STATE AUDITOR



Legislative Audit Committee

March 30, 2015

Minutes

A meeting of the Legislative Audit Committee (LAC) was convened on March 30, 2015, at 7:04 a.m., in the Legislative Services Building, Audit Hearing Room. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert, Senator Jahn, Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine (arrived at 7:14 a.m.)

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

OSA STAFF Dianne E. Ray, State Auditor; Matt Devlin, Monica Bowers,
PRESENT: Deputy State Auditors; Cindi Stetson

ALSO Shailen Bhatt, Colorado Department of Transportation;
PRESENT: Michael Cheroutes, High Performance Transportation Enterprise; Lowell Clary, Clary Consulting, LLC; Scott Cuthbertson, Department of Natural Resources

DIANNE E. RAY, CPA
STATE AUDITOR

7:04 a.m. – US-36 Public-Private Partnership (P3) Project
9:24 a.m. High Performance Transportation Enterprise
Colorado Department of Transportation
Performance Audit, March 2015

Colorado Department of Transportation
Shailen Bhatt, Executive Director

High Performance Transportation Enterprise
Michael Cheroutes, Director

Office of the State Auditor
Dianne E. Ray, State Auditor
Matt Devlin, Deputy State Auditor
Cindi Stetson, Managing Legislative Auditor

Clary Consulting, LLC
Lowell Clary, President

7:04 a.m. Senator Matt Jones and Representatives Mike Foote and Tracy Kraft-Tharp arrived.

A motion was made by Senator Holbert and seconded by Representative Primavera to release the *US-36 Public-Private Partnership (P3) Project, High Performance Transportation Enterprise, Colorado Department of Transportation, Performance Audit (March 2015)*. The motion passed unanimously.

Following introductions and opening remarks, Lowell Clary provided an overview of the audit.

7:14 a.m. Representative Saine arrived.

In response to a question from Senator Jones, Mr. Clary stated that the toll rates for the United States Route 36 (US-36) managed toll lanes are not yet set and that the table on page 21 references current toll rates for Interstate 25 (I-25). Further, he described how toll rates for the US-36 managed toll lanes will be set; including calculating for inflation and consumer demand, and a maximum toll rate cap.

In response to a question from Representative Ryden, Mr. Clary stated that managed toll lanes on the I-25 stretch from Downtown Denver up to the I-25 junction with US-36, and have a direction switch between the morning and afternoon. Further, he stated that US-36 will have designated South- and North-bound managed toll lanes at all times.

In response to a question from Representative Primavera, Mr. Clary stated that the concession agreement for the US-36 Public-Private Partnership (P3) Project specifies when Plenary Roads Denver and its consortium (concessionaire) can or cannot perform maintenance.

In response to a question from Representative Foote, Mr. Clary stated that the High Performance Transportation Enterprise (HPTE) Board reviewed an extensive amount of analysis in addition to the 2011 Project Value Analysis to determine whether or not to take a public or private approach to the US-36 project. The HPTE Board concluded that either the US-36 project would not be completed for an extended period of time if it relied on public monies, or it would be completed sooner using an alternative private approach. Further, he stated that the audit examined the 2011 Project Value Analysis and all other reports associated with this decision.

In response to a question from Representative Foote, Mr. Clary stated that the concessionaire contributed \$20 million in equity to the US-36 P3 Project and assumed all of the obligations highlighted in the table on page 19 for 50 years. Further, he stated that without the concessionaire, completion of the US-36 project would have taken much longer.

In response to a question from Representative Foote, Mr. Clary reviewed the risks the concessionaire assumed for the US-36 P3 Project. Further, he stated that the managed toll lanes need to convert from free passage for high occupancy vehicles (HOV) with two people or more, to three people or more so that the lanes avoid over-congestion and can operate effectively.

In response to a question from Representative Foote, Mr. Clary confirmed that the concessionaire will collect toll revenue from Phase 1 (I-25/Pecos Street to 88th Street) and Phase 2 (88th Street to Foothills Parkway/Table Mesa Drive) of the US-36 project.

In response to a question from Representative Foote, Mr. Clary stated that some of the overlooked risk factors for the concessionaire include the Regional Transportation District's (RTD) aggressive expansion of Bus Rapid Transit, which may decrease the number of vehicles using managed toll lanes, and the cost of major maintenance for the next 50 years on the I-25 managed toll lanes from Phase 1, which the concessionaire did not build.

In response to a question from Senator Jones, Mr. Clary reviewed the monetary restraints and other factors that led HPTE to pursue a public-private plan rather than the traditional public approach to complete Phase 2 of the US-36 project.

Recommendation Nos. 1 and 2 were reviewed, discussed, and agreed to by staff from HPTE.

In response to a question from Representative Primavera, Michael Cheroutes stated that if the public experiences delays because of construction on the I-25 managed toll lanes, that they can call the concessionaire and ask for the tolls to be waived. Further, he stated that HPTE can ensure that the concessionaire waives tolls for the general public during these times.

Recommendation Nos. 3 and 4 were reviewed, discussed, and agreed to by staff from HPTE.

In response to a question from Chair Guzman, Mr. Clary stated that when the US-36 project started, cost data was not readily available, but HPTE worked with the Colorado Department of Transportation (CDOT) and expert advisors so that by the time the bid stage was reached, HPTE had reliable data. Further, he stated that for future P3 projects, HPTE will have the tools and techniques necessary to produce reliable and detailed data.

In response to a question from Senator Jones, Mr. Clary confirmed that operations and maintenance costs under the P3 approach in the 2011 Project Value Analysis were about \$23,500 per lane mile, compared to about \$8,600 per lane mile for the traditional public approach. Further, he stated that the large discrepancy between the two figures was because of the lack of detailed information available to CDOT for the traditional public approach at the time of the 2011 Project Value Analysis.

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

In response to a question from Representative Ryden, Mr. Clary stated that the first time a state does a P3 project it is like “drinking from a firehose,” as that state learns how to navigate the process. Cindi Stetson stated that all OSA audits consider whether or not the cause of the problem being audited is because of legislation. Further, she stated that it was not clear if the issues identified in the audit needed to be addressed by legislation, thus no legislative recommendations were made.

Recommendation Nos. 6 and 7 were reviewed, discussed, and agreed to by staff from HPTE.

In response to a question from Representative Foote, Mr. Clary stated that the audit concurs with the Representative’s sentiment that HPTE should have informed and engaged stakeholders during the project development stage (PDS). Mr. Cheroutes stated that HPTE is working on program and project-specific communication plans to engage stakeholders during the PDS of major transportation projects. Further, he reviewed HPTE’s efforts to inform and engage stakeholders on the I-70 East project, from I-25 to I-225 that is currently in the PDS. Representative Kraft-Tharp agreed with Mr. Cheroutes that HPTE has done a better job of engaging stakeholders for the I-70 East project than they did for the US-36 project.

In response to a question from Senator Jones, Mr. Clary stated that the interactive process refers to the time period when CDOT and the stakeholders put together the Request for Proposal (RFP). Shailen Bhatt stated that HPTE followed state law for “sunshine” requirements for the US-36 project, but will do better in the future to engage stakeholders.

In response to a question from Representative Saine, State Auditor Dianne E. Ray stated that the OSA brings departments/agencies/offices in for a Status Report approximately 6 months after an audit is released.

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

In response to a question from Senator Holbert, Mr. Cheroutes stated that documents associated with the procurement process after the RFP is issued are confidential during the process, but can be released to the public after the process is complete.

In response to a question from Senator Holbert, Mr. Cheroutes stated that HPTE will provide a list in conjunction with their 6-month Status Report that details which types of documents can be made public and which types of documents must remain confidential.

Recommendation Nos. 9, 10, 11, and 12 were reviewed, discussed, and agreed to by staff from HPTE.

In response to a question from Representative Ryden, Mr. Cheroutes stated that if approved, the HPTE request for additional resources and staffing needs will be appropriated from the Office of Major Project Development under CDOT. Mr. Bhatt stated that the HPTE request was recently presented to the HPTE Board and that CDOT, in conjunction with the Transportation Commission, will evaluate the request in the upcoming months.

Recommendation No. 13 was reviewed, discussed, and agreed to by staff from HPTE.

In response to a question from Representative Ryden, Mr. Cheroutes stated that HPTE has already implemented many of the audit recommendations in advance of the I-70 East project and has engaged stakeholders early in the PDS.

In response to a question from Representative Foote, Mr. Clary stated that the General Assembly currently has legislative oversight but HPTE is charged with implementing the project. Further, he stated that if P3 projects are delayed for lengthy time periods, it would negatively impact the State's ability to attract private investment.

9:20 a.m. Representative Saine left the room.

In response to a question from Representative Foote, Mr. Clary stated that penalties to the State are not built in to the US-36 P3 Project contract with the concessionaire. Further, he explained that the contract outlines timeframes and that if the State does not move forward with the US-36 P3 project in a timely manner, then the concessionaire can determine that the State is acting in "bad faith" and sue the State for the amount of the contract, which could be \$20 million or more.

In response to a question from Senator Jones, Mr. Clary stated that the Senator's failed 2014 bill to allow alternative-energy vehicles free passage on managed toll lanes would have decreased toll revenue and negatively impacted CDOT, regardless of if the US-36 project was public or private.

9:23 a.m. Senator Jones and Representatives Foote and Kraft-Tharp left the room.

9:24 a.m. GENERAL BUSINESS

Minutes

A motion was made by Senator Holbert and seconded by Representative Primavera to approve the Minutes from March 10, 2015. The motion passed unanimously.

Audit Requests

State Auditor Ray presented a request submitted by Representative Polly Lawrence and Senator Kevin Grantham for an audit of Historic Preservation Funds. She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit.

In response to a question from Representative Primavera, State Auditor Ray stated that the Colorado Limited Gaming Impact Fund audit is already underway, and thus the current audit request cannot be incorporated.

In response to a question from Senator Neville, State Auditor Ray stated that the initial research would determine if records are available to be audited going back 20 years.

A motion was made by Senator Holbert and seconded by Vice-Chair Nordberg to authorize the OSA to conduct initial research on Historic Preservation Funds. The motion passed unanimously.

State Auditor Ray presented a request submitted by the members of the Joint Budget Committees for an audit of the Department of Human Services' (DHS) Division of Youth Corrections (DYC). 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 Primavera and seconded by Vice-Chair Nordberg to authorize the OSA to conduct initial research on DHS' DYC. The motion passed unanimously.

Monica Bowers reviewed the evaluation for a request for an audit related to the Colorado Regional Tourism Act (RTA).

In response to a question from Vice-Chair Nordberg, Ms. Bowers stated that the initial research did not cover if controls exist for monitoring projects after RTA awards have been given out; the initial research discusses high-level information on the potential scope of the audit.

In response to a question from Representative Primavera, State Auditor Ray stated that it is the LAC members' prerogative to decide if the potential audit has value, as the audit will be completed after the final round of awards have been given out.

In response to a question from Representative Primavera, State Auditor Ray stated that the potential audit would be forward-looking; there are no enforcement mechanisms to collect award monies already given out.

In response to a question from Representative Primavera, State Auditor Ray stated that she did not know if additional monies would be granted for the RTA in the future.

9:32 a.m. Representative Saine returned.

In response to a question from Vice-Chair Nordberg, State Auditor Ray stated that there are no short, emergency audits; if the LAC votes to audit the RTA a limited scope for the audit could be developed that would take approximately 6 months to complete, but it would represent incomplete information.

In response to a question from Representative Saine, State Auditor Ray stated that the OSA cannot conduct a limited research project on RTA; the OSA is required to engage a department/agency/office in a formal audit to review records and question staff.

In response to questions from Senator Jahn and Chair Guzman, State Auditor Ray stated that the LAC can request to meet with the Office of Economic Development & International Trade (OEDIT) for questions only, prior to voting for or against the potential audit.

In response to a question from Senator Holbert, State Auditor Ray stated that the potential audit would not start until the summer of 2015 because of staffing availability, regardless of if the LAC votes to approve the potential audit in March or June of 2015.

A motion was made by Vice-Chair Nordberg and seconded by Representative Saine to request OEDIT to attend the June 2015, LAC hearings for questions only prior to the LAC voting for or against the potential RTA audit. The motion passed unanimously.

Other Business

Representative Saine reviewed a proposed amendment to House Bill 15-1247 (HB15-1247), *Concerning the Implementation of the Legislative Audit Committee's Recommendations for Review of Dam Safety*, striking the sections regarding a fee of \$2,000 per year for the annual inspection required of a dam against which the State Engineer has imposed storage restrictions (safety inspection).

In response to a question from Representative Primavera, Representative Saine stated that the amendment would narrow HB15-1247 to only the dam project design review (design review) fee increase.

In response to a question from Representative Ryden, Scott Cuthbertson, Deputy State Engineer, Division of Water Resources, Department of Natural Resources (DNR), reviewed DNR's original legislation proposal, the reasons behind DNR's proposal, and DNR's current statutory authority regarding safety inspections and enforcement measures.

In response to a question from Representative Primavera, Mr. Cuthbertson stated that DNR has no position on the amendment.

In response to a question from Senator Holbert, Mr. Cuthbertson stated that design review fees are based on the capital cost of a dam, not the size. Further, he stated that DNR proposed one set safety inspection fee regardless of the size of the dam based on factors such as travel time, prep time, cost of the inspection, and communications with the dam owner.

In response to a question from Senator Holbert, Mr. Cuthbertson stated that dams are not categorized by size, but by the hazard level to the public. Further, he stated that the flat \$2,000 safety inspection fee may prompt small dam owners to take action to bring dams into compliance, but may not prompt large dam owners to take action.

In response to a question from Senator Neville, Mr. Cuthbertson clarified that the hazard levels are based on the potential impact to the public if the dam fails, not on the condition or size of the dam. Further, he reviewed definitions of each hazard level.

In response to a question from Senator Neville, Mr. Cuthbertson stated that he did not have any recommendations as to how to prorate safety inspection fees based on the size of the dam. Further, he stated that based on DNR's interpretation of the *Performance Evaluation of the Dam Safety Program, Division of Water Resources, Department of Natural Resources* (February 2014) report, and given that the average cost of safety inspections is approximately \$1,000, DNR suggested a flat \$2,000 fee which is at a level that is both cost recoverable and punitive.

In response to a question from Representative Ryden, Representative Saine stated that the cost to small dam owners to address safety concerns would be so costly that the whole dam would need to be replaced. Further, she stated her support for the amendment and allowing DNR, the Water Congress, and dam owners to find a better solution for setting safety inspection fees. Senator Holbert stated his support for the amendment and suggested that the safety inspections fees should be prorated based on the size of the dam.

In response to a question from Representative Ryden, State Auditor Ray stated that the design review fees will impact the Taxpayer's Bill of Rights (TABOR) "situation". Mr. Cuthbertson stated that design review fees are deposited in the General Fund, not DNR.

In response to a question from Chair Guzman, State Auditor Ray suggested that the LAC support the amendment and revisit the issue of safety inspection fees during the summer of 2015.

A motion was made by Representative Saine and seconded by Senator Holbert to approve the proposed HB15-1247 amendment striking the sections regarding safety inspection fees. The motion passed unanimously.

Adoption of the 2015 Interim Legislative Audit Committee Calendar

A motion was made by Senator Holbert and seconded by Senator Jahn to adopt the proposed 2015 Interim LAC calendar. The motion passed unanimously.

10:11 a.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled hearing is on June 1, 2015, 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



OFFICE OF THE STATE AUDITOR



DIANNE E. RAY, CPA
—
STATE AUDITOR

Legislative Audit Committee

June 1-2, 2015

Minutes

A meeting of the Legislative Audit Committee (LAC) was convened on June 1, 2015, at 9:58 a.m., in the Legislative Services Building, Audit Hearing Room. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Balmer, Senator Guzman, Senator Jahn, Senator Neville (arrived at 9:59 a.m.), Representative Primavera, Representative Ryden, Representative Saine (arrived at 10:05 a.m.)

EXCUSED: Representative Nordberg

Senator Balmer was temporarily appointed to replace Senator Holbert for the June 1-2, 2015, LAC hearings only.

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

OSA STAFF Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter,
PRESENT: Deputy State Auditors; Jenny Page, Meghan Westmoreland, Kate Shiroff, Trey Standley, James Taurman, Shannon Wright, Crystal Dorsey

ALSO Judy Zerzan, Tom Massey, Laurel Karabatsos, Chris
PRESENT: Underwood, Jed Ziegenhagen, Sarah Roberts, Department of Health Care Policy and Financing; Hal Logan, Pinnacol Assurance Board of Directors; Philip Kalin, Kathy Kranz, Pinnacol Assurance; Laurel Hammer, Brett Koll, KPMG LLP

OFFICE OF THE STATE AUDITOR
1525 SHERMAN STREET
7TH FLOOR
DENVER, COLORADO
80203

303.869.2800

9:58 a.m. – Medicaid Prescription Drugs
11:47 a.m. Department of Health Care Policy and Financing
Performance Audit, May 2015

Department of Health Care Policy and Financing
Tom Massey, Deputy Executive Director & Chief Operating
Officer
Judy Zerzan, Director, Client and Clinical Care
Laurel Karabatsos, Director, Health Benefits Division
Chris Underwood, Director, Health Information Office

Office of the State Auditor
Dianne E. Ray, State Auditor
Monica Bowers, Deputy State Auditor
Jenny Page, Managing Legislative Auditor
Kate Shiroff, Legislative Auditor
Meghan Westmoreland, Legislative Auditor

9:58 a.m. Representative Tracy Kraft-Tharp arrived.

9:59 a.m. Senator Neville arrived.

A motion was made by Representative Ryden and seconded by Representative Primavera to release the *Medicaid Prescription Drugs, Department of Health Care Policy and Financing, Performance Audit* (May 2015). The motion passed unanimously.

Following introductions and opening remarks, Jenny Page and Meghan Westmoreland provided an overview of the audit.

10:05 a.m. Representative Saine arrived.

In response to a question from Senator Neville, Ms. Page stated that the State receives 49 percent of the money from drug manufacturer rebates for prescription drugs (rebates), and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) receives 51 percent. Judy Zerzan stated that for the Medicaid expansion population the State receives a 100 percent federal fund match on everything including prescription drugs. Further, she stated that the federal fund match for the expansion population will phase down over 10 years to 90 percent for the State, and 10 percent for CMS.

In response to a question from Senator Neville, Ms. Page stated that the audit found that the rebates are the same for all Medicaid populations at 49 percent for the State. Further, she stated that during the audit the rate was 50 percent for the State but has since changed to 49 percent.

In response to a question from Senator Balmer, Ms. Zerzan stated that rebates have been around for a long time, prior to the implementation of the Affordable Care Act (ACA).

In response to a question from Representative Primavera, Ms. Page stated that the Medicaid population that receives drugs has risen over time; it was approximately 300,000 in Fiscal Year 2011, and approximately 500,000 in Fiscal Year 2014.

In response to a question from Representative Ryden, Ms. Page confirmed that as featured on the graph on page 12, the State paid \$101.8 million of the \$453.2 million total Medicaid prescription drugs expenditures in Fiscal Year 2014, and that the rest was paid with rebates and federal reimbursements.

In response to a question from Representative Ryden, Ms. Zerzan stated that 51 percent of the rebate goes to CMS, for both the existing and Medicaid expansion populations.

In response to a question from Representative Primavera, Ms. Zerzan stated that the Medicaid prescription drug dispensing fee was \$4 for a long period of time. Further, she stated that after the Department of Health Care Policy and Financing (HCPF) consulted with pharmacies dispensing Medicaid prescription drugs to determine the average cost for filling those prescriptions, HCPF increased the dispensing fee to between \$9 and \$14 to fairly reflect the work of the pharmacies.

In response to a question from Representative Primavera, Ms. Zerzan stated that the rebate is paid on the cost of the drug and does not include the cost of the dispensing fee.

In response to a question from Representative Primavera, Ms. Page stated that the audit did not review the eligibility of Medicaid recipients or any prescription drug benefits provided through Colorado's Medicaid Managed Care Program because the audit focused on fee for service and outpatient prescription drugs.

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

In response to a question from Senator Jahn, Ms. Westmoreland stated that the number of claims for opioid pain relievers is higher than other prescription drugs in part because opioids are often prescribed for shorter periods of time, thus requiring more claims than other drugs which are prescribed for longer periods of time.

In response to a question from Chair Guzman, Ms. Westmoreland stated that HCPF is required to have a 24-hour approval process for prescription drugs.

In response to a question from Representative Kraft-Tharp, Ms. Westmoreland stated that errors described on pages 30 and 31 were caused by HCPF not informing Xerox State Healthcare LLC (Xerox), HCPF's fiscal agent that processes prescription drug claims, of restrictions on drugs.

In response to a question from Representative Primavera, Ms. Westmoreland stated that the issues regarding emergency fills described on page 31 were the fault of HCPF, not Xerox.

In response to a question from Senator Neville, Ms. Page stated that HCPF was aware that some information received from the third-party vendor that collects and publishes drug information, First Data Bank, was outdated. Further, she stated that the audit recommends that HCPF implement processes to check the accuracy and timeliness of information from First Data Bank.

In response to a question from Senator Neville, Ms. Page stated that HCPF pays for information from First Data Bank.

In response to a question from Senator Neville, Ms. Page stated that she was not aware of any performance requirements for the contract Xerox has with First Data Bank. Ms. Zerzan stated that First Data Bank is considered the industry gold standard and HCPF's new pharmacy benefits contractor, slated for completion in fall 2016, will work with First Data Bank to improve the system. Tom Massey stated that HCPF will look at the third-party vendor contract provisions to determine if there is a possible "recovery mode".

In response to a question from Representative Saine, Chris Underwood stated that the new prescription benefits system will better monitor prescribers and detect patterns of abuse.

In response to a question from Senator Neville, Mr. Underwood stated that some controls already exist for drug refills.

In response to a question from Representative Ryden, Ms. Zerzan stated that the Colorado Department of Public Health and Environment (CDPHE) tracks overdose deaths. Further, she stated that HCPF is looking at predictors for overdose deaths to better utilize current systems to notify prescribers of individuals that are at risk for overdosing.

In response to a question from Representative Ryden, Ms. Zerzan stated that HCPF tracks drug use for certain drugs and some usage restrictions exist for children based on Food and Drug Administration (FDA) approval. Further, she stated that HCPF does not track drug usage of elderly citizens, however new software that HCPF has acquired may be able to analyze data by age categories.

State Auditor Dianne E. Ray clarified that the verbal response HCPF provided at the LAC hearing to Recommendation No. 1D is new and does not reflect HCPF's written response in the audit.

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

In response to a question from Representative Primavera, Laurel Karabatsos stated that the longer Medicaid clients are in the Accountable Care Collaborative Program (Program), the better they do. Further, she stated that the Program has difficulties finding and communicating with Medicaid clients.

In response to a question from Representative Primavera, Ms. Zerzan stated that there are Medicaid clients in the Prescription Drug Monitoring Program (PDMP) but that HCPF does not have access to information in the PDMP.

In response to a question from Representative Saine, Ms. Zerzan stated that heroin is not an approved drug. Further, she stated that HCPF supports addiction therapy to aide Medicaid clients to not abuse opioids or use illicit drugs.

In response to a question from Senator Neville, Ms. Zerzan stated that CDPHE, HCPF, and law enforcement representatives are meeting this week to figure out a better way to address drug abuse and the illegal selling of prescription drugs.

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

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

In response to a question from Senator Neville, Ms. Zerzan stated that HCPF's current rebate system cannot automatically track and provide warnings when drug manufacturers are past due in paying rebates, but that the new rebate system, slated for completion in fall 2016, will be able to track this information.

In response to a question from Senator Neville, Ms. Zerzan stated that the current rebate system requires a staff member to manually track due dates and determine when interest is due.

In response to a question from Representative Ryden, Kate Shiroff reviewed the complicated method used to calculate interest rates on late rebate payments. Ms. Zerzan stated that she did not know the exact interest rates for late rebate payments, but that it is low.

11:47 a.m. GENERAL BUSINESS

Minutes

A motion was made by Representative Saine and seconded by Senator Neville to approve the Minutes from March 30, 2015. The motion passed unanimously.

11:50 a.m. The committee recessed.

1:31 p.m. The committee reconvened in Hearing Room A, Legislative Services Building. Representative Saine left the room.

1:31 p.m. – Consumer-Directed Attendant Support Services
3:16 p.m. Department of Health Care Policy and Financing
Performance Audit, May 2015

Department of Health Care Policy and Financing

Tom Massey, Deputy Executive Director & Chief Operating Officer

Jed Ziegenhagen, Director, Office of Community Living

Sarah Roberts, Division Director, Long Term Services and Supports

Office of the State Auditor

Dianne E. Ray, State Auditor

Monica Bowers, Deputy State Auditor

Trey Standley, Managing Legislative Auditor

James Taurman, Legislative Auditor

Shannon Wright, Legislative Auditor

A motion was made by Representative Ryden and seconded by Senator Neville to release the *Consumer-Directed Attendant Support Services, Department of Health Care Policy and Financing, Performance Audit* (May 2015). The motion passed unanimously.

Following introductions and opening remarks, Shannon Wright provided an overview of the audit.

In response to a question from Senator Balmer, Ms. Wright stated that as long as individuals meet the Consumer-Directed Attendant Support Services (CDASS) Program requirements and eligibility standards, then they are accepted into the CDASS Program.

In response to a comment from Senator Balmer, Mr. Massey clarified that the 75 percent growth in the CDASS Program participation was over a 4-year period, not on a yearly basis.

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

In response to questions from Representatives Primavera and Kraft-Tharp, James Taurman stated that auditors spoke with two CDASS Program clients who also have an official role in the CDASS Program; the chair of the advisory policy committee and a peer trainer for other clients.

In response to a question from Representative Ryden, Ms. Wright stated that the audit did not find evidence of harm to clients as a result of HCPF not following CDASS Program rules.

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

In response to a question from Senator Neville, Mr. Taurman stated that it is case managers who establish what a client's needs for services are.

In response to a question from Senator Neville, Mr. Taurman stated that the client's plans are developed by case managers within Single Entry Point agencies (SEPs). Further, he stated that the client can appeal a needs assessment if they disagree with the needs assessment.

In response to a question from Senator Neville, Mr. Taurman stated that case managers are responsible for reviewing and approving client-created care management plans. Further, he stated that the audit found that when case managers reviewed the client-created plans, those plans did not always match the case managers' needs assessments.

In response to a question from Representative Primavera, Mr. Taurman stated that HCPF expects the purchased attendant care to fall within 10 percent, above or below, of the client's funding allocation, which is the amount clients can use to hire attendant care. Further, he stated that if purchased attendant care exceeds or is below 10 percent of the amount allocated, then it is considered an indication that a new needs assessment is needed.

In response to a question from Representative Kraft-Tharp, Mr. Taurman stated that during the initial needs assessment, case managers are required to discuss the attendant care needs of a client directly with their client, to provide an accurate assessment.

In response to a question from Senator Balmer, Mr. Taurman stated that in the audit sample, four clients paid attendants \$18,100 for care types that were not included on the clients' approved task worksheets, which are documents describing the type and hours of attendant care that a client has been allocated.

In response to questions from Senator Balmer and Representative Kraft-Tharp, Mr. Taurman stated that clients can meet with their case managers at any point to request a needs assessment adjustment, to better suit their current needs.

In response to a question from Senator Neville, Jed Ziegenhagen stated that HCPF is concerned with funding allocation utilization discrepancies and that HCPF is working to address Recommendation No. 2.

In response to a question from Senator Neville, Mr. Ziegenhagen reviewed the rationale behind the recommendation implementation dates as provided by HCPF.

In response to a question from Senator Neville, Ms. Roberts stated that the upcoming training for case managers will cover CDASS Program processes and in the process will collaborate with case managers to develop a better task worksheet.

In response to a question from Senator Balmer, Mr. Ziegenhagen stated that the clients' funding allocations represent 89 percent of the price for attendant services at a home-care agency.

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

In response to a question from Senator Balmer, Ms. Roberts stated that the longer clients are in the CDASS Program, the more they acclimate and are better able to manage their funding allocations.

In response to a question from Senator Balmer, Mr. Ziegenhagen stated that in-home care is regulated by CDPHE. Further, he stated that the CDASS Program has a protocol for clients who overspend on their funding allocation and that if clients violate that protocol then they can be removed from the CDASS Program.

In response to questions from Senators Balmer and Neville, Mr. Ziegenhagen stated that two clients, out of approximately 3,124 clients, have been removed from the CDASS Program for violating the overspending protocol.

In response to a question from Senator Neville, Ms. Roberts reviewed the steps that are taken to make the client aware that they are overspending on their funding allocation and retrain them before they are removed from the CDASS Program on the third offense.

In response to a question from Senator Neville, Ms. Roberts confirmed that after the third incident of overspending, the client is removed from the CDASS Program. Further, she stated that she did not know if the three incidents of violating the overspending protocol must be in consecutive months. Trey Standley stated that an overview of the overspending protocol can be found on pages 39 and 40.

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

In response to a question from Chair Guzman, Mr. Standley confirmed that HCPF expended an average of \$26,300 per year to provide in-home services to each client enrolled in the CDASS Program.

In response to a question from Senator Neville, Mr. Ziegenhagen stated that many factors, including state legislation and new federal requirements, have contributed to the planned 66 percent expansion of the CDASS Program over the next 5 years. Further, he stated that based on HCPF's review of other Home and Community-Based Services (HCBS) waiver programs clients, the CDASS Program may not be more costly than other Medicaid options.

3:16 p.m. The committee recessed.

3:23 p.m. – Pinnacol Assurance
3:59 p.m. Statutory-Basis Financial Statements and
Supplemental Schedules of Investment Information
December 31, 2014 and 2013

Pinnacol Assurance Board of Directors

Hal Logan, Member

Pinnacol Assurance

Philip Kalin, President & Chief Executive Officer

Kathy Kranz, Chief Financial Officer & Vice President,
Finance

Office of the State Auditor

Dianne E. Ray, State Auditor

Kerri Hunter, Deputy State Auditor

Crystal Dorsey, Managing Legislative Auditor

KPMG LLP

Laurel Hammer, Audit Partner

Brett Koll, Audit Manager

A motion was made by Senator Balmer and seconded by Representative Ryden to release the *Pinnacol Assurance, Statutory-Basis Financial Statements and Supplemental Schedules of Investment Information, December 31, 2014 and 2013*. The motion passed unanimously.

Following introductions and opening remarks, Laurel Hammer and Brett Koll provided an overview of the audit.

In response to a question from Representative Primavera, Kathy Kranz stated that Pinnacol Assurance (Pinnacol) recently hired an actuary. Further, she stated that the actuary started May 1, 2015, and thus was not involved in setting workers' compensation insurance rates for 2015, but Pinnacol contracted with outside actuary firm Milliman to review and ensure that the rate process was actuarially sound.

In response to a question from Chair Guzman, Ms. Kranz stated that Calendar Year 2014 was the first year Pinnacol issued a surplus note that will remain in effect for 20 years. Further, she stated that the surplus note was issued because of a change in the Governmental Accounting Standards Board (GASB) accounting rules and to cover the Public Employee's Retirement Association's (PERA) unfunded liability.

Philip Kalin provided an overview of Pinnacol's strategic direction and stated that Pinnacol is exploring the possibility of expanding into other states.

In response to a question from Senator Neville, Mr. Kalin stated that Pinnacol's expansion plans do not compete with, but are complementary to, private business and that if approved, Pinnacol will look for opportunities to collaborate with private insurers.

In response to a question from Chair Guzman, Mr. Kalin confirmed that for Pinnacol to expand beyond workers' compensation insurance within Colorado, statutory change is needed. Further, he stated that when Colorado-based companies expand outside of Colorado, Pinnacol cannot cover that company's employees in other states, which is something Pinnacol would like to change in the future.

3:59 p.m. The committee recessed.

A meeting of the LAC was convened on June 2, 2015, at 9:01 a.m., in the Legislative Services Building, Audit Hearing Room. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Balmer, Senator Guzman, Senator Jahn, Senator Neville, Representative Primavera (arrived at 9:10 a.m.), Representative Ryden, Representative Saine

EXCUSED: Representative Nordberg

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

OSA STAFF Dianne E. Ray, State Auditor; Monica Bowers, Kerri Hunter,
PRESENT: Deputy State Auditors; Crystal Dorsey, Gina Faulkner, Michelle Colin, Andrew Knauer, Trey Standley, Jeffrey Kahn, Greg Fugate

ALSO Jennifer Okes, Colorado Department of Education; Ed
PRESENT: Smith, TJ Vinci, Pueblo County Rural 70 School District; Brian Ewert, John Kvale, Englewood 1 School District; Fiona Arnold, Jeff Kraft, Office of Economic Development and International Trade; Erick Scheminske, Office State Planning and Budgeting; Gerald (Jerry) A. Marroney, Judicial Branch; Scott Cuthbertson, Bill McCormick, Department of Natural Resources; William (Robby) Robinson, Colorado Board of Veterans Affairs; Ben Mestas, Department of Military and Veterans Affairs; Dr. Larry Wolk, Colorado Department of Public Health and Environment; Robert Musgraves, History Colorado Board of Directors; Ed Nichols, Joseph Bell, History Colorado

9:01 a.m. – Colorado School Districts
9:57 a.m. Fiscal Health Analysis, Fiscal Years 2012-2014
Informational Report, May 2015

Colorado Department of Education
Jennifer Okes, Director, School Finance

Pueblo County Rural 70 School District
Ed Smith, Superintendent
TJ Vinci, Chief Financial Officer

Englewood 1 School District
Brian Ewert, Superintendent
Jon Kvale, Director, Budget & Finance

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

9:01 a.m. Representative Kraft-Tharp arrived.

A motion was made by Senator Neville and seconded by Representative Saine to release the *Colorado School Districts, Fiscal Health Analysis, Fiscal Years 2012-2014, Informational Report* (May 2015). The motion passed unanimously.

Following introductions and opening remarks, Crystal Dorsey and Gina Faulkner provided an overview of the report.

Ms. Faulkner stated that the five school districts that had three or more missed benchmarks were invited to the LAC hearing to discuss the details of the responses that they had provided in Appendix B. Alamosa RE-11J School District and Silverton 1 School District declined to attend but provided written statements; Westminster 50 School District was not able to attend.

9:10 a.m. Representative Primavera arrived.

Jennifer Okes discussed the Colorado Department of Education's (CDE) oversight of and actions taken to aide school districts with missed benchmarks.

In response to a question from Representative Ryden, Ms. Okes stated that CDE tracks changes to the “Negative Factor”, the term used to describe the annual reduction in the State’s share of total program funding to school districts. Further, she stated that CDE provides updates to school districts throughout the year via CDE’s email list-serve, and quarterly meetings with financial representatives from school districts, so that school districts can plan their budgets.

In response to a question from Representative Primavera, Ms. Okes stated that the Building Excellent Schools Today (BEST) Program is valuable for school districts with building maintenance issues and taxes from recreational marijuana have been a boost to funding for the BEST Program. Further, she reviewed the process of applying for, reviewing, and receiving a BEST Program grant.

In response to a question from Representative Ryden, Ms. Okes stated that because of recent legislation that made changes to the BEST Program, more rural school districts have been able to apply for BEST Program grants

Ed Smith, Superintendent, Pueblo Rural 70 School District, provided an overview of the current condition and actions taken to improve the finances of the school district.

In response to a question from Representative Ryden, Mr. Smith stated that Pueblo Rural 70 is the district of choice in their region because it receives approximately 1,000 of their 9,200 students from outside of the district, and loses only 400 students to other districts.

In response to a question from Representative Ryden, Mr. Smith stated that Pueblo Rural 70 has tried to acquire a mill levy increase but it is not supported by its citizens. Further, he reviewed the difficulties of being a medium-sized school district just shy of receiving the automatic funding increases for small school districts.

Brian Ewert, Superintendent, and John Kvale, Director, Budget and Finance, of Englewood 1 School District, provided an overview of the current condition and actions taken to improve the finances of the school district.

State Auditor Ray stated that the report serves to encourage discussions as to why school districts triggered financial ratios and understand the reasons behind them.

9:57 a.m. The Committee recessed briefly.

10:01 a.m. GENERAL BUSINESS

Regional Tourism Act – Audit Request

State Auditor Ray provided an overview of the status of the request for an audit of the Regional Tourism Act (RTA). Further, she stated that at the March 30, 2015, LAC hearing, the Committee requested that representatives from the Office of Economic Development and International Trade (OEDIT) attend the June 1-2, 2015, LAC hearings for questions prior to the Committee voting on the potential RTA audit.

Following introductions and opening remarks, Fiona Arnold, Executive Director, OEDIT, and Jeff Kraft, Director, Business Funding and Incentives, OEDIT, provided an overview of the RTA award process. Further, Ms. Arnold provided and discussed a handout regarding *Legislative Audit Committee Hearing, Regional Tourism Act Program Briefing Binder, June 2, 2015, Colorado Office of Economic Development and International Trade*.

In response to a question from Senator Balmer, State Auditor Ray confirmed that the OSA already has broad authority to audit OEDIT and the Office of State Planning and Budgeting (OSPB).

In response to a question from Senator Balmer, Mr. Kraft stated that he believes that OEDIT has an open, transparent, and fair process for RTA awards and that OEDIT administers the awards according to statute.

In response to a question from Senator Balmer, Ms. Arnold stated that OEDIT is not opposed to an audit and welcomes further review of the administration of the RTA.

In response to a question from Chair Guzman, Ms. Arnold stated that in the case of the Gaylord Entertainment project (Gaylord Project), the applicant is the city of Aurora, thus the applicant has not changed. Further, she stated that statute does not require OEDIT to revisit an RTA award if the developer, financier, or owner behind an RTA project changes.

In response to a question from Chair Guzman, Ms. Arnold stated that it would be difficult for RTA projects if legislators put statutory restrictions on any changes in the project given the ever-changing nature of the development industry, but that that decision is the purview of the General Assembly.

In response to a question from Senator Balmer, State Auditor Ray stated that it would be at least 6 months until an audit team would be available, and 9 months after that to complete the audit; thus, it would be June 2016 at the earliest before an audit could be released.

In response to a question from Representative Primavera, Ms. Arnold stated that OEDIT provides guidance on what constitutes an extraordinary and unique nature to qualify as a development project for an RTA award. Further, she stated that OEDIT provides recommendations to the Economic Development Commission (EDC) and the EDC has discretion to determine if projects meet all qualifying criteria. Mr. Kraft stated that the OEDIT handout provides guidelines on how to satisfy each of the four RTA award qualifying criteria.

In response to a question from Representative Primavera, Mr. Kraft stated that per statute, RTA projects have a single bond financing of up to 30 years, thus extending well beyond the RTA statute.

In response to a question from Senator Neville, Mr. Kraft stated that statute requires OEDIT to only approve RTA projects that bring in net incremental revenue to Colorado. Further, he stated that there are guardrails to ensure that the final delivered project represents what was agreed to in the RTA award in terms of the quality and nature of the project, but that there may be cost engineering and other factors that change throughout the project.

In response to a question from Senator Neville, Mr. Kraft stated that OEDIT is confident that the Gaylord Project deliverables will be completed as promised because if not, then the Gaylord Project will not continue to receive financing from the RTA.

In response to a question from Senator Neville, Mr. Kraft stated that if the Gaylord Project does not commence substantial work within 5 years, then the RTA award can be reduced or eliminated by the EDC.

In response to a question from Representative Ryden, Mr. Kraft reviewed how RTA projects receive funding.

In response to a question from Representative Ryden, Mr. Kraft stated that for the Gaylord Project the developer will not receive revenue until the project is complete and placed in service.

In response to a question from Representative Ryden, Mr. Kraft confirmed that for the Gaylord Project the State's commitment is to pay a percentage of the net incremental sale tax revenue towards the payoff of the bonds.

In response to a question from Representative Saine, Mr. Kraft stated that the Gaylord Project will only receive RTA monies if the project generates sales tax above the baseline year revenue.

In response to a question from Senator Balmer, Ms. Arnold stated that OEDIT is responsible for administering the RTA per statute and the guidelines that have been implemented, which does not include revisiting RTA awards if the developer or financing changes.

In response to a question from Senator Balmer, Ms. Arnold stated that parts of the Gaylord Project have changed, but the project is still committed to the deliverables agreed to under the RTA award.

In response to a question from Chair Guzman, Ms. Arnold stated that the details of the changes to the Gaylord Project pro forma building costs have not been discussed in a formal setting.

In response to a question from Representative Saine, Ms. Arnold stated that she did not have the details of any changes to the Gaylord Project pro forma building costs but would provide those to the LAC at a later time.

In response to a question from Representative Saine, Ms. Arnold stated that OEDIT receives updated information from RTA award recipients on a periodic basis. Mr. Kraft stated that OEDIT can provide to the LAC the Gaylord Project's quarterly progress reports and specifics on the costs, documentation, and pro forma of the project.

In response to a question from Senator Neville, Mr. Kraft stated that RTA awards are based on the idea that if not for an RTA award, the project would be unlikely to proceed in the foreseeable future. Further, he stated that it is important that when the government makes a commitment to the private sector, that the commitment is followed through on.

In response to a question from Senator Balmer, Mr. Kraft stated that all RTA applications and RTA project documentation are subject to the Colorado Open Records Act (CORA), with the exception that CORA allows for proprietary financial information to be designated as confidential if it will harm the competitive position of an entity. Ms. Arnold stated that OEDIT does not have an opinion as to the role of government investing in private projects; OEDIT is charged with executing the statute.

In response to a question from Representative Saine, Ms. Arnold stated that OEDIT is charged by statute to consider the size, quality, and extraordinary and unique nature of a project and to ensure that it will deliver a substantial increase in out-of-state tourism; RTA projects are not required to lock in specific financing and developers.

In response to a question from Representative Saine, Ms. Arnold stated that if statute is changed to put restrictions on RTA awards' financing or developers, then OEDIT will require an increase in full-time-equivalent (FTE) staff to continuously monitor and approve changes in RTA projects.

Monica Bowers reviewed the evaluation for a request for an audit related to the RTA.

Representative Ryden made a motion to wait until all RTA awards have been awarded before approving the RTA audit request. There was no second.

In response to a question from Senator Balmer, State Auditor Ray stated that the evaluation provides a starting point for the audit.

In response to a question from Chair Guzman, State Auditor Ray stated that the audit would not interfere with OEDIT's last RTA award cycle but would require OEDIT staff to devote time to assist in collecting the necessary information.

Following debate, a motion was made by Representative Saine and seconded by Senator Neville to approve the request for an audit of the RTA. The motion passed unanimously with comments from Senator Jahn, Representative Ryden, and Chair Guzman.

Status Reports

Following introductions and opening remarks, Michelle Colin reviewed highlights from the *Judicial Branch Oversight of Guardianships and Conservatorships, Performance Audit* (September 2011).

Gerald (Jerry) A. Marroney, State Court Administrator, Judicial Branch, provided an overview of the implementation status of the recommendations addressed to the Judicial Branch for the Guardianships and Conservatorships.

Following introductions and opening remarks, Ms. Bowers reviewed highlights from the *Performance Evaluation of the Dam Safety Program, Division of Water Resources, Department of Natural Resources* (February 2014).

Scott Cuthbertson, Deputy State Engineer, Department of Natural Resources (DNR), provided an overview of the implementation status of recommendations addressed to DNR for the Dam Safety Program.

In response to a question from Senator Neville, Mr. Cuthbertson stated that DNR does not currently have a standard time frame for updating Emergency Action Plans (EAPs) but is working to develop one.

Following introductions and opening remarks, Andrew Knauer reviewed highlights from the *Veterans Trust Fund Grant Program, Department of Military and Veterans Affairs, Performance Audit* (May 2014).

William (Robby) Robinson, Chairman, Colorado Board of Veterans Affairs (Board), provided an overview of the implementation status of recommendations addressed to the Board and the Department of Military and Veterans Affairs for the Veterans Trust Fund Program.

Following introductions and opening remarks, Mr. Standley reviewed highlights from the *Waste Tire Processor and End User Program, Department of Public Health and Environment, Performance Audit* (June 2014).

Dr. Larry Wolk, Executive Director & Chief Medical Officer, CDPHE, provided an overview of the implementation status of recommendations addressed to CDPHE for the Waste Tire and End User Program.

In response to a question from Representative Primavera, Dr. Wolk reviewed several new markets for waste tires that CDPHE has helped to develop. Further, he stated that there is now a second cement plant burning waste tires.

In response to a question from Representative Primavera, Charles Johnson, Manager, Solid Waste and Materials Program, Hazardous Materials Waste Management Division, CDPHE, stated that businesses are hoping to meet the target goal of closing monofills within 10 years.

In response to a question from Representative Kraft-Tharp, Mr. Johnson stated that CDPHE has five new categories of waste tire users. Further he stated that CDPHE's annual status of waste tire recycling report will provide better details of the various new waste tire markets.

In response to a question from Representative Kraft-Tharp, Dr. Wolk stated that direct re-use of waste tires has increased over the years.

In response to a question from Representative Saine, Mr. Johnson stated that CH2E was successful in creating a new marketable product in batch operations, but is currently undergoing a restructuring process to handle operations on a continuous basis.

Following introductions and opening remarks, Jeffrey Kahn reviewed highlights from the *History Colorado, Department of Higher Education, Performance Audit* (June 2014).

Ed Nichols, President and Chief Executive Officer, History Colorado, provided an overview of the implementation status of recommendations addressed to History Colorado and the Department of Higher Education for the audit.

In response to a question from Senator Balmer, Mr. Nichols stated that credit card use was reduced by 78 percent. Further, he stated that there is now a single credit card per operating division with the exception of the regional and outlying facilities.

In response to a question from Senator Balmer, Mr. Nichols stated that one employee that had used a credit card for a particular purpose and was reimbursed is no longer with History Colorado.

In response to a question from Senator Balmer, Mr. Nichols reviewed History Colorado's efforts to investigate allegations of credit card abuse and correct any procedural issues.

In response to a question from Senator Balmer, State Auditor Ray stated that the audit specifically looked at the number of cards, the lack of policies, and singular transactions, such as single purchases at Starbucks. Further, she stated that the Statewide Single Audit will be able to audit History Colorado's new credit card policies.

In response to a question from Representative Ryden, Mr. Nichols stated that the newly formed Director's Council will retain current History Colorado Board members in an advisory capacity.

Authority of the Department of Human Services to Waive Rules Promulgated by the State Board of Human Services

Ms. Bowers reviewed a draft letter to Reggie Bicha, Executive Director, Department of Human Services (DHS), regarding the authority of DHS to waive rules promulgated by the State Board of Human Services and ask that he appear before the LAC during the July 14, 2015, LAC hearing.

A motion was made by Representative Saine and seconded by Senator Neville to approve the draft letter and to ask Director Bicha to attend the July 14, 2015, LAC hearing. The motion passed unanimously.

Audit Requests

State Auditor Ray presented a request submitted by the members of the Joint Budget Committees for an audit of programs within the Department of Corrections (DOC). She requested the Committee's approval to begin conducting initial research to determine the potential scope of this audit.

In response to a question from Representative Ryden, State Auditor Ray stated that during the initial research, the OSA will determine if an outside specialist will be needed to conduct the audit. Further, she stated that the initial research may determine that this audit request will need to be split into three separate audits.

In response to a question from Representative Primavera, State Auditor Ray stated that the OSA will consider including the issue of the continuity of care for offenders in the audit.

A motion was made by Senator Neville and seconded by Representative Ryden to authorize the OSA to conduct initial research on DOC's Programs. The motion passed unanimously.

Ms. Bowers reviewed the evaluation for a request for an audit related to the DHS' Division of Youth Corrections (DYC).

In response to a question from Representative Primavera, State Auditor Ray stated that the OSA will consider including medication mismanagement during the scoping of this audit, which is dependent upon whether the OSA contracts with relevant specialists to help with the audit.

In response to a question from Representative Primavera, State Auditor Ray stated that as part of an audit, the OSA typically considers if there is a need to interview former department staff.

A motion was made by Representative Primavera and seconded by Representative Ryden to approve the request for an audit of DHS' DYC. The motion passed unanimously.

State Auditor Ray reviewed a request for an audit of the Conservation Easement Tax Credit Program within the Department of Regulatory Affairs (DORA), submitted by Barbara Kelley, Executive Director, DORA. The OSA will begin this audit in the near future. No action was required from the Committee.

State Auditor Ray reviewed the status of the request for an audit of Historic Preservation Funds. The OSA is currently awaiting an informal opinion from the Attorney General's Office to determine if the OSA has the legal authority to conduct this audit. No action was required from the Committee.

In response to a question from Chair Guzman, State Auditor Ray stated that she could not guarantee that the informal opinion from the Attorney General's Office will be ready prior to the July 13-14, 2015, LAC hearings.

Peer Review Results

Greg Fugate reviewed the peer review process in which, every 3 years, the OSA undergoes an independent, external peer review that examines the OSA's policies and procedures, interviews audit staff, and tests a sample of audits. This year the OSA received a rating of "pass," the highest opinion rating.

Reports Released Without a Hearing

A motion was made by Representative Saine and seconded by Representative Primavera to release the:

- State of Colorado, Department of Treasury, Statement of Federal Land Payments, For the Year Ended September 30, 2014

The motion passed unanimously.

Kerri Hunter reviewed the report released without a hearing.

Award Announcement

Ms. Hunter informed the Committee that State Auditor Ray received the University of Colorado Denver School of Public Affairs prestigious Leo Riethmayer Award for the 2015 Top Public Administrator in Colorado.

Other Business

Chair Guzman stated that during the 2015 Interim it is important for LAC members to attend the LAC hearings in order for the LAC to have a quorum. Further, she stated that if any LAC members cannot attend, they should notify the proper authority in a timely manner so a temporary appointment can be made.

12:09 p.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled hearing is on July 13-14, 2015, at 10:00 a.m., in the Colorado State Capitol, Joint Committee Room 271.

Minutes submitted by:

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



OFFICE OF THE STATE AUDITOR



Legislative Audit Committee

July 13-14, 2015

Minutes

A meeting of the Legislative Audit Committee (LAC) was convened on July 13, 2015, at 10:00 a.m., in the Colorado State Capitol, Joint Committee Room 271. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert, Senator Jahn (arrived at 1:50 p.m.), Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine

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

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

ALSO Maryann Motza, Colorado Public Employees' Retirement
PRESENT: Association (PERA) Board of Trustees; Greg Smith, Jennifer Paquette, PERA; Leslie Thompson, Diane L. Hunt, Gabriel, Roeder, Smith & Company; David Eberly, KPMG LLP; Ed Koebel, Pat Beckham, Cavanaugh Macdonald Consulting, LLC; Bob Lackner, Office of Legislative Legal Services

DIANNE E. RAY, CPA
—
STATE AUDITOR

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10:00 a.m. – Colorado Public Employees’ Retirement Association Hybrid
11:46 a.m. Defined Benefit Plan
A Comprehensive Study Comparing the Cost and
Effectiveness to Alternative Plan Designs
Authorized by Senate Bill 14-214

Colorado Public Employees’ Retirement Association
Board of Trustees
Maryann Motza, Chair

Colorado Public Employees’ Retirement Association
Greg Smith, Executive Director

Office of the State Auditor
Dianne E. Ray, State Auditor
Kerri Hunter, Deputy State Auditor
Michelle Colin, Managing Legislative Auditor

Gabriel, Roeder, Smith & Company
Leslie Thompson, Senior Consultant
Diane L. Hunt, Consultant

A motion was made by Representative Saine and seconded by Senator Holbert to release the *Colorado Public Employees’ Retirement Association Hybrid Defined Benefit Plan, A Comprehensive Study Comparing the Cost and Effectiveness to Alternative Plan Designs Authorized by Senate Bill 14-214*. The motion passed unanimously.

Following introductions and opening remarks, Leslie Thompson and Diane L. Hunt provided an overview of the study.

In response to a question from Senator Holbert, Greg Smith stated that the Rule of 90 is the phrase for PERA’s service retirement formula when that member’s age and service added together equals 90, with a minimum age of 60. Further, he reviewed the evolution of PERA’s service retirement formula from the Rule of 75 to the Rule of 90.

In response to a question from Senator Neville, Ms. Thompson stated that PERA benefits for judges are based on the judges’ 1-year highest annual salary, while other PERA members’ benefits are based their 3-year highest average salary.

In response to a question from Senator Neville, Mr. Smith clarified that PERA benefits are based on the average of the members' top three highest paying years, which are not necessarily the last 3 years of employment, for all PERA divisions except the Judicial Division (i.e., judges).

In response to a question from Senator Holbert, Ms. Thompson stated that for a member that retires with less than 5 years of service, i.e., non-vested, and leaves their employee contributions in the PERA Hybrid Plan after termination, their contribution will be converted to an annuity with a replacement ratio of 2 to 4 percent, dependent upon age at hire as described on page 28. Mr. Smith stated that all members are eligible to collect PERA benefits at age 65, regardless of years of service.

In response to a question from State Auditor Dianne E. Ray, Ms. Thompson stated that the employer contribution for new hires in the State Division is 0.82 percent of pay. Further she stated that in the State Division the normal cost, the annual cost assigned under the actuarial cost method to the current retirement plan year, plus the unfunded liability cost for current members, is 26.35 percent of pay.

In response to a question from Senator Neville, Ms. Thompson stated that the estimated normal cost for new hires in the State Division as a percentage of pay is 8.82 percent.

In response to a question from Senator Neville, Mr. Smith stated that everything beyond the 8.82 percent normal cost for new hires in the State Division goes to pay off the unfunded liability.

In response to a question from Senator Neville, Mr. Smith stated that the employers will continue to pay higher than actual costs for employees until the unfunded liability is paid off.

In response to a question from Representative Ryden, Ms. Thompson explained the attributes of the alternative Defined Benefit and Defined Contribution Side-by-Side Plan.

In response to a question from State Auditor Ray, Ms. Thompson stated that the Defined Benefit and Defined Contribution Side-by-Side Plan differs from PERA's current hybrid defined benefit plan because it offers a 1.50 percent multiplier, instead of 2.50 percent, and for the State Division the employer contributes 5.29 percent of pay towards the plan, as opposed to 0.82 percent. Further, she stated that in the Side-by-Side Plan for the State Division members contribute 9.03 percent of pay towards the plan, as opposed to 8.00 percent.

In response to a question from Representative Saine, Ms. Thompson stated that the analysis in this study that looked at the effectiveness of someone self-directing their defined contribution plan can be found on page 61.

In response to a question from Representative Ryden, Ms. Thompson stated that Senate Bill 10-001 was positive for PERA because it reduced the normal cost and helped to make PERA one of the most efficient retirement plans in the nation. Mr. Smith stated that the study revealed that PERA out performs all other plans that were studied for both career path and age.

In response to a question from Chair Guzman, Ms. Thompson stated that there are no plans that have the intention of providing full, adequate retirement; most plans rely on a combination of personal savings, other retirement plans, and part-time work. Further, she stated that if a member retires with 35 years of service, then PERA will meet the adequacy target.

In response to a question from Representative Saine, Ms. Thompson stated that the study only compared PERA's unfunded liability to other public sector plans.

In response to a question from Representative Saine, Ms. Thompson stated that PERA's unfunded liability was compared to a peer review group, as noted on page 70 as the "funded ratio".

In response to a question from Representative Saine, Ms. Thompson stated that the study did not compare PERA's unfunded liability to private sector plans. Further, she stated that if employers have defined contribution plans they will not have unfunded liabilities, but they may have unfunded liabilities if they have defined benefit plans.

In response to a question from Representative Saine, Ms. Thompson stated that the employer contribution will pay off PERA's unfunded liability. Further, she stated that none of the alternative plans make the unfunded liability go away.

In response to a question from Representative Saine, Mr. Smith stated that assumptions on head count growth will be covered in the afternoon PERA presentations.

In response to a question from Senator Neville, Ms. Thompson stated that there is cost to the portability options.

In response to a question from Senator Neville, Mr. Smith reviewed how PERA benefits both vested and non-vested members.

In response to a question from Senator Neville, Ms. Thompson stated that the study does not include figures on the ongoing cost of the employer match for terminated members. Mr. Smith stated that PERA has a breakdown of what each component costs within the normal cost and can provide that at a later time.

In response to a question from Representative Primavera, Mr. Smith stated that in the event of death in service, there are survivor benefits. Further, he stated that non-vested retirees who left their money in PERA, the money will always return to them or their beneficiaries.

In response to a question from Representative Ryden, Mr. Smith stated that PERA has not conducted a study to show the effects of reducing benefits and if that reduction would push individuals to use other social services.

In response to a question from Representative Saine, Ms. Hunt reviewed the PERA Hybrid Plan versus Defined Contribution plus Social Security chart on page 78.

In response to a question from Vice-Chair Nordberg, Ms. Hunt stated that private sector defined contribution plans are fully funded.

In response to a question from Representative Saine, Ms. Hunt stated that she did not know what percent of private sector plans were defined contribution plans but trending information on page 76 shows that the private sector has shifted away from defined benefit plans.

In response to a question from Senator Neville, Ms. Hunt confirmed that defined contribution plans are 100 percent funded.

In response to a question from Senator Neville, Ms. Hunt stated that some reasons as to why the private sector has shifted away from defined benefit to defined contribution plans include: defined contribution plans are fully funded, issues related to the regulatory environment for private sector plans, and it is less expensive for the employer to have defined contribution plans because the risk profile is different.

In response to a question from Senator Neville, Ms. Thompson stated that the fact that defined contribution plans do not have unfunded liabilities does not mean that those plans provide adequate benefits.

In response to a question from Vice-Chair Nordberg, Ms. Thompson stated that she did not know the average funded ratios for private sector defined benefit plans. Further, she stated that the legal structure for private and public sector plans are different.

In response to a question from Representative Ryden, Ms. Thompson stated that information on the average balance in retirees' 401(k) and other defined contribution plans can be found in the appendix of the study.

In response to a question from Representative Saine, Ms. Thompson stated that she was not aware of any legal caps on risks private sector employers can take to fund plan benefits.

In response to a question from Representative Saine, Ms. Thompson stated that if PERA does not earn 7.5 percent on the investment return, then over time the employer, member, or both, would have to cover the funding gap.

In response to a question from Representative Primavera, Ms. Thompson stated that PERA's current plan is the most efficient retirement plan.

11:46 a.m. GENERAL BUSINESS

Minutes

Senator Holbert requested that a sentence be added to clarify that Senator Balmer was temporarily appointed to replace Senator Holbert for the June 1-2, 2015, LAC hearings only.

A motion was made by Representative Saine and seconded by Vice-Chair Nordberg to approve the Minutes from June 1-2, 2015. The motion passed unanimously.

11:48 a.m. The committee recessed.

1:35 p.m. – Colorado Public Employees' Retirement Association
3:04 p.m. Financial Audit, Year Ended December 31, 2014

Colorado Public Employees' Retirement Association
Comprehensive Annual Financial Report
For the Year Ended December 31, 2014

Colorado Public Employees' Retirement Association
Board of Trustees
Maryann Motza, Chair

Colorado Public Employees' Retirement Association
Greg Smith, Executive Director
Jennifer Paquette, Chief Investment Officer

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

KPMG LLP
David Eberly, Partner

Cavanaugh Macdonald Consulting, LLC
Ed Koebel, Principal and Consulting Actuary
Pat Beckham, Principal and Consulting Actuary

A motion was made by Senator Holbert and seconded by Vice-Chair Nordberg to release the *Colorado Public Employees' Retirement Association, Financial Audit, Year Ended December 31, 2014*. 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, For the Year Ended December 31, 2014*, the *Colorado Public Employees' Retirement Association, Financial Audit, Year Ended December 31, 2014*, and the *Colorado Public Employees' Retirement Association Schedule of Employer Allocations and Schedule of Collective Pension Amounts*.

1:50 p.m. Senator Jahn arrived.

Pat Beckham and Ed Koebel provided an overview of a handout from Cavanaugh Macdonald Consulting, LLC, regarding the *Legislative Audit Committee 12/31/2014 Actuarial Valuation Results and 40-Year Projections*.

In response to a question from Senator Holbert, Ms. Beckham stated that the reason the average annual salary went down in 2012 is due to demographic fluctuations.

In response to a question from Representative Saine, Mr. Koebel stated that the handout provides deterministic actuarial projections. Further, he stated that a future study will look at stochastic simulations on investment rates of return.

In response to a question from Representative Saine, Mr. Koebel stated that the rate of return actuarial projection models can be based on past returns. Further, he stated that the PERA Board of Trustees (Board) prefers that the investment rate of return actuarial projection models use the same rate of return percentage for all years in the future.

In response to a question from Representative Saine, Mr. Koebel stated that his consulting company is required to provide static investment return rates over the 40-year projection period.

In response to a question from Senator Neville, Mr. Smith stated that he did not have investment return figures for 2015; the investment return for 2014 on market value of assets was 5.7 percent.

In response to a question from Senator Neville, Mr. Smith stated that per Senate Bill 14-214, a study is planned to be released by the LAC in October 2015 which will examine how many years of low investment returns must occur before there is a need for action.

In response to a question from Senator Neville, Mr. Smith stated that the investment rate of return fluctuates from year to year. Further, he stated that it is the Board's top priority to closely monitor whether PERA is on track for the objectives laid out in Senate Bill 10-001.

In response to a question from Senator Neville, Mr. Koebel stated that increased life expectancy is built in to all actuarial projections.

In response to a question from Senator Neville, Mr. Koebel stated that PERA did not provide a slide on mortality actuarial projections, but did provide a slide on gains and losses; in 2014 PERA lost \$67.1 million on mortality due to individuals living longer than projected. Further, he stated that every 4 to 5 years PERA reviews each actuarial projection assumption, including mortality rate, to avoid large swings in gains and losses each year.

In response to a question from Senator Neville, Mr. Koebel stated that the mortality tables include improved longevity going forward. Further, he stated that statistics on the age at death for retirees can be found in the Comprehensive Annual Financial Report and future life expectancy statistics can be found in the valuation report.

Mr. Smith and Jennifer Paquette provided an overview of a handout from PERA covering the past year.

In response to a question from Senator Holbert, Mr. Smith stated that the study [discussed previously] was charged to compare PERA to other plans, not to make recommendations. Further, he stated that the PERA sensitivity analysis authorized by Senate Bill 14-214 and PERA's 5-year status report on the implementation of Senate Bill 10-001 are due out by the end of 2015, which will shed further light on PERA.

3:04 p.m. GENERAL BUSINESS

Legislation Discussion

Bob Lackner, Senior Staff Attorney, Office of Legislative Legal Services, reviewed the two options for LAC bills that include either designating LAC bills as committee bills under Joint Rule 24(b)(1)(D), or making legislative recommendations to the Legislative Council as Interim bills. A motion was made by Senator Holbert and seconded by Representative Saine to designate LAC bills as committee bills. The motion passed unanimously.

State Auditor Ray reviewed *LAC Rule X. Legislative Recommendations*, which relates to LAC sponsored bills but does not address amendments to these bills, and asked for input from the LAC on how to handle these amendments in order to standardize the process.

In response to a question from Chair Guzman, State Auditor Ray stated that after hearing the concerns of the LAC, she will put together draft language and bring it back to the LAC for approval.

In response to a question from Senator Holbert, Mr. Lackner stated that once a bill leaves committee it belongs to the Committee of the Whole.

In response to a question from Representative Ryden, Mr. Lackner stated that he would look into what other committees, such as the Joint Budget Committee, do in terms of amendments to committee bills.

In response to a question from Senator Holbert, Mr. Lackner stated that he would research the possible use of committee reports and the procedures around them.

In response to a question from Senator Jahn, Representative Ryden stated amendments are not typically added to LAC bills and thus the 2015 Legislative Session may have been an anomaly.

After further discussion, the LAC requested that State Auditor Ray and Mr. Lackner work together and bring back draft language to the LAC to standardize the process regarding amendments to LAC bills.

Monica Bowers reviewed the Legislation Matrix. The LAC took no action on Recommendation 3B from the May 2013 *Outdoor Advertising Program, Department of Transportation, Performance Audit*.

In response to a question from Senator Holbert, State Auditor Ray stated that the OSA brings legislative recommendations before the LAC three times and if the LAC decides to not take action, then that legislative recommendation is no longer brought before the LAC for consideration.

In response to a question from Representative Primavera, Ms. Bowers stated that the Department of Natural Resources currently inspects all restricted dams and the cost is absorbed by the General Fund, not by inspection fees.

The LAC took no action on Recommendations 4B and 4C from the February 2014 *Performance Evaluation of the Dam Safety Program, Division of Water Resources, Department of Natural Resources*.

In response to a question from Representative Primavera, Ms. Bowers stated that the Department of Human Services (DHS) did not provide a timeframe to the OSA as to when its CPT stakeholder process will conclude. State Auditor Ray suggested that the LAC inquire about the CPT stakeholder process during the DHS portion of the LAC hearing on Tuesday, July 14, 2015.

The LAC took no action on Recommendations 7 and 8A from the October 2014 *Child Welfare, Department of Human Services, Performance Audit*.

Audit Requests

Ms. Bowers reviewed the evaluation for a request for an audit related to programs within the Department of Corrections (DOC).

In response to a question from Representative Primavera, Ms. Bowers stated that including the continuity of care of inmates both inside the correctional facility and upon release was not included in the evaluation, but it would not be precluded from consideration in the development of the scope of the audit.

In response to a question from Representative Ryden, Ms. Bowers stated that the drug and alcohol treatment programs are included as part of the behavioral health programs. Further, she stated that the drug and alcohol treatment programs were not specifically outlined in the audit request, but they would not be precluded from consideration in the development of the scope of the audit.

In response to a question from Senator Neville, Ms. Bowers stated that the audit would look at the measures DOC uses for judging the success of programs and if the programs are meeting their original intents.

In response to a question from Senator Neville, Ms. Bowers stated that audits often compare programs to comparable programs or to other states.

In response to a question from Senator Neville, Ms. Bowers stated that the evaluation did not include the opportunity cost of operating programs if other programs could be more effective, but that would not be precluded from consideration in the development of the scope of the audit.

In response to a question from Chair Guzman, Ms. Bowers stated that the evaluation recommends two separate audits to address the audit request: one focused on DOC's behavioral health programs, which includes its mental health program and sex offender treatment and monitoring program, and a second related to DOC's administration of inmate banking and the inmate canteen program. Further, she stated that the OSA will evaluate if outside experts will be needed for the behavioral health audit.

In response to a question from Representative Ryden, Ms. Bowers stated that the audit topics are not on a regular schedule to be audited.

A motion was made by Senator Holbert and seconded by Representative Saine to approve the request for an audit of behavioral health programs within DOC. The motion passed unanimously.

A motion was made by Senator Holbert and seconded by Representative Saine to approve the request for an audit of inmate canteen and inmate banking programs within DOC. The motion passed unanimously.

State Auditor Ray reviewed the status of the request for an audit of Historic Preservation Funds and stated that the OSA received an informal opinion from the Attorney General's Office that states that the OSA does not have the legal authority to conduct this audit. Further, she stated that the OSA received the annual financial audits from the three gaming cities and did not find anything of concern. No action was required from the Committee.

In response to a question from Representative Primavera, State Auditor Ray stated that all local government audits are standard financial audits and the OSA does not have input as to the scope of those audits. Further, she stated that standard financial audits should include consultations with lawyers to determine if any legal issues or violations exist for that local government.

4:09 p.m. The committee recessed.

A meeting of the LAC was convened on July 14, 2015, at 9:01 a.m., in the Colorado State Capitol, Joint Committee Room 271. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert, Senator Jahn, Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine

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

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Matt Devlin, Kerri Hunter, Deputy State Auditors; Michelle Colin, Derek M. Johnson, Sarah Grider, Scott Reid, Andrew Knauer, Nina Frant

ALSO PRESENT: Don Brown, Steve Bornmann, Nick Fisher, Chris Wiseman, Colorado Department of Agriculture; Reggie Bicha, Robert Werthwein, Ashley Tunstall, Melissa Wavelet, Department of Human Services; Gerald Marroney, Judicial Branch

9:01 a.m. – 10:28 a.m. **Pet Animal Care Facilities Act Program
Department of Agriculture
Performance Audit, June 2015**

Department of Agriculture

Don Brown, Commissioner of Agriculture
Steve Bornmann, Director, Division of Inspections and Consumer Services
Nick Fisher, Program Administrator, Pet Animal Care Facilities Act Program

Office of the State Auditor

Dianne E. Ray, State Auditor
Matt Devlin, Deputy State Auditor
Michelle Colin, Managing Legislative Auditor
Derek M. Johnson, Legislative Auditor
Sarah Grider, Legislative Auditor

9:01 a.m. Representative Tracy Kraft-Tharp arrived.

A motion was made by Vice-Chair Nordberg and seconded by Senator Neville to release the *Pet Animal Care Facilities Act Program, Department of Agriculture, Performance Audit* (June 2015). The motion passed unanimously.

Following introductions and opening remarks, Derek M. Johnson provided an overview of the audit.

In response to a question from Representative Primavera, Mr. Johnson stated that fines assessed against pet animal care facilities (facilities) go into the Pet Animal Care Facilities Act Program (Program) cash fund.

Recommendation 1 was reviewed, discussed, and agreed to by staff from the Colorado Department of Agriculture (CDA).

In response to a question from Representative Primavera, Steve Bornmann clarified that CDA spent approximately \$5,000 updating the Program section within the USAHerds database.

In response to a question from Representative Primavera, Mr. Bornmann stated that USAHerds is a livestock movement tracking database used across the country, and that a separate pet care database was set up within USAHerds to accommodate the needs of the Program. Further, he stated that approximately 2 years ago CDA set up a department-wide electronic inspection and licensing database that is internet based, and that the Program will be incorporated into it by June 2016.

In response to a question from Senator Neville, Mr. Bornmann stated that of the five Program inspectors, two live in the Denver Metropolitan Area (Denver) and one each lives in Colorado Springs, Fort Collins, and Grand Junction.

In response to a question from Senator Neville, Mr. Bornmann stated that of the 1,800 facilities, 1,000 are in Denver, so the Denver inspectors can inspect more than two facilities per day, the standard goal for each inspector. Further, he stated that Denver inspectors do more programmatic work such as follow-up inspections and prospecting for new businesses than their counterparts and that the Western Slope territory has been shrunk so that inspector does not have to cross the Continental Divide.

In response to a question from Senator Neville, Mr. Bornmann stated that the new Program changes are effective immediately and the updates to the current USAHerds database have been positive, but CDA looks forward to the new online inspection database.

In response to a question from Representative Saine, Mr. Bornmann stated that prospecting for new business is the process in which Program staff finds groups or individuals that have set up new facilities but have not applied for a license, and then educate the new facilities of the Program requirements.

In response to a question from Representative Primavera, Mr. Bornmann stated that CDA does not perform livestock inspections. Further, he stated that USAHerds is used to track the movement of livestock in case, for example, there is a disease outbreak so that the disease can be traced back to the original source.

In response to a question from Representative Primavera, Mr. Bornmann stated that the Program was originally in the Colorado Department of Public Health and Environment (CDPHE) where the focus was on preventing humans from catching diseases from animals. Further, he stated that the Program was transferred to CDA in the 1990's when the focus became on the health and welfare of the animals.

In response to a question from Representative Saine, Mr. Bornmann stated that the priority for an inspector on any given day, in order, is complaint investigations, routine inspections and follow-ups, and then prospecting for new business.

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

In response to a question from Representative Primavera, Mr. Bornmann stated that to date in 2015, the Program has collected approximately \$9,000 in fines, mostly generated from late license fees.

In response to a question from Representative Kraft-Tharp, Nick Fisher stated that for any facility operating without a license the inspector must give a cease-and-desist order or give the facility a license application.

In response to a question from Representative Kraft-Tharp, Mr. Fisher reviewed the current oversight process.

In response to a question from Representative Ryden, Mr. Fisher stated that there are 14 different categories of facilities such as training, boarding, and grooming, either as businesses in commercial buildings, independent contractors, or businesses operating out of personal homes.

In response to a question from Representative Ryden, Mr. Fisher stated that veterinary clinics are not included in the Program unless the clinic also engages in one of the 14 Program categories.

In response to a question from Senator Holbert, Mr. Bornmann stated that the Program has sunset reviews periodically and the last sunset review in 2013 recommended the continuation of the Program. Further, he stated that the Program was recently transferred to the Inspections and Consumer Services Division within CDA because this division is more accustomed to licensing and regulatory work.

In response to a question from Senator Holbert, Mr. Bornmann stated that he did not know if the Program went through the sunrise process and that all CDA programs are established statutorily.

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

In response to a question from Senator Neville, Mr. Fisher stated that on average a facility inspection lasts between 45 and 90 minutes.

In response to a question from Senator Neville, Mr. Fisher stated that more than 90 percent of facilities are in compliance with Program requirements. Further, he stated that Program staff work with the out-of-compliance facilities through disciplinary action and education to help the facilities come into compliance.

In response to a question from Senator Neville, Mr. Fisher stated that the Program conducts pre-license inspections and reviews plans for new facilities; during that process Program staff educate the facilities about the Program requirements.

In response to a question from Chair Guzman, Mr. Fisher confirmed that there are five inspectors for the approximately 1,800 facilities, with an average of between 300 and 400 facilities per inspection territory, with a target goal to inspect two facilities per day. Further, he stated that CDA is currently in discussions to determine if there is a need for more inspectors.

In response to a question from Chair Guzman, Mr. Fisher stated that the Program moved from CDPHE to CDA in 1993.

In response to a question from Representative Primavera, Mr. Fisher stated that inspections are unannounced and that if the facility owner is unavailable then the inspector is required to schedule an appointment with that owner. Further, he stated that per the new operations manual, supervisory review of the inspections is now required and he noted that the Attorney General's Office confirmed that it is acceptable to submit inspection reports without a signature from the facility.

In response to a question from Vice-Chair Nordberg, Mr. Fisher stated that his management style includes being in constant communication with Program inspectors.

In response to a question from Representative Ryden, Mr. Bornmann stated that the Program moved from CDA's Animal Health Division to the Inspections and Consumer Services Division in November 2014. Further, he stated that most of the recommendations raised in the audit were in the implementation process during the course of the audit.

In response to a question from Representative Ryden, Mr. Fisher stated that he did not have an estimate of the number of pet injuries and fatalities within facilities but that the Program will track those statistics from now on. Further, he stated that facilities are required to report a pet escape or death and that the inspectors are required to investigate those reports within 24 hours.

In response to a question from Senator Neville, Mr. Fisher stated that pet escape and death mandatory reporting does not include goldfish.

In response to a question from Senator Holbert, Don Brown stated that the Program was initially transferred to CDA's Animal Health Division to determine if the animals were in danger.

In response to a question from Senator Neville, Mr. Fisher stated that inspectors use a combination of paper and laptop computers to complete the inspection reports; CDA is looking into the use of iPads for inspection reports.

Recommendation 4 was reviewed, discussed, and agreed to by staff from CDA.

In response to a question from Representative Primavera, Mr. Johnson stated that CDA has a conflict of interest form for outside employment; the audit found that none of the Program staff have outside employment.

In response to a question from Representative Primavera, Mr. Fisher stated that he included pieces from the Federal Animal and Plant Health Inspection Agency (Agency) operations manual into the Program's new operation manual. Further, he stated that the Program has some crossover with the Agency for joint inspections of pet stores and petting zoos.

In response to a question from Vice-Chair Nordberg, Mr. Fisher stated that there is not a lot of crossover with the Agency. Further, he stated that the Agency inspects pet stores that import animals from other states.

In response to a question from Representative Kraft-Tharp, State Auditor Ray stated that the OSA brings departments in for status reports 6 months after an audit is released. Mr. Brown stated that moving the Program to the new division and implementing several changes has already had a positive impact and recently received praise from the Dumb Friends League.

10:29 a.m. GENERAL BUSINESS

Colorado State Fair Authority

Kerri Hunter, State Auditor Ray, and Mr. Brown provided an overview of the financial status of the Colorado State Fair Authority (Authority).

In response to a question from Senator Holbert, Mr. Brown stated that he was not aware of any state fairs that have been privatized. Further, he stated that the Colorado State Fair (State Fair) was privatized at one point but when it was returned to the State, the facilities were worn out and depreciated. Chris Wiseman, Deputy Commissioner, CDA, and General Manager, Authority, stated that most state fairs are subsidized. Further, he reviewed how other state fairs are funded, including allowing gambling on the premise or more aggressive state funding.

In response to a question from Representative Primavera, Mr. Wiseman stated that the Authority does a good job of bringing in outside dollars to the State Fair. Further, he stated that the Authority brought in \$525,000 in sponsorship dollars in Fiscal Year 2014 from corporations and started a foundation that has contributed approximately \$.5 million worth of improvements to the 4-H dormitories.

In response to a question from Senator Neville, Mr. Wiseman stated that when the Nebraska State Fair moved from Omaha to Grand Island, attendance went up. Further, he stated that the main focus for state fairs is 4-H and the National Future Farmers of America Organization (FFA).

In response to a question from Senator Neville, Mr. Brown stated that there are no state fairs that are expected to be financially self-sufficient; all state fairs receive outside income from their state.

In response to a question from Representative Saine, Mr. Brown stated that county fairs are traditionally heavily funded by their county and serve as a place for the local population to show projects in order to qualify for the State Fair. Further, he stated that the State Fair was chosen to be in Pueblo even though Pueblo was never an agricultural center and that he was unsure if the State Fair has ever been profitable.

In response to a question from Vice-Chair Nordberg, Mr. Wiseman stated that over the years the city of Pueblo has reduced its contribution from \$315,000 to \$125,000 and Pueblo County has increased its contribution from \$100,000 to \$175,000. Further, he stated that there should be more contributions from the local communities.

In response to a question from Vice-Chair Nordberg, Mr. Wiseman stated that the Authority conducted a study in 2010 that found that the State Fair itself has a \$29 million annual economic impact to Pueblo and Colorado, split evenly between the two.

In response to a question from Representative Saine, Mr. Brown stated that Governor John Hickenlooper has definitively stated that he will not approve moving the State Fair out of Pueblo. Mr. Wiseman stated that the size and infrastructure of the State Fair would make it difficult to move it anywhere else.

In response to a question from Senator Holbert, Mr. Wiseman reviewed the types of programs the State Fair offers for 4-H participants, including \$2 million in livestock sales that are refunded back to the 4-H participants. Mr. Brown stated that some 4-H programs compete directly at the State Fair, while other 4-H programs must first qualify for the State Fair through their county fairs.

In response to a question from Senator Holbert, Mr. Wiseman stated that the Authority has an extensive sponsorship program including solicited funds and in-kind donations of more than \$2 million annually.

In response to a question from Representative Ryden, Mr. Wiseman stated that the Authority has a great relationship with the Colorado State University-Pueblo including several joint ventures.

In response to a question from Representative Saine, Mr. Wiseman stated that he believes that Pueblo should contribute more to the Authority's facilities and operating expenses. Further, he stated that the fairgrounds serve as great facilities in case of natural disaster.

State Auditor Ray stated that the same financial recommendation has been made for the Authority for 13 years and is unlikely to go away unless something changes.

11:13 a.m. The Committee recessed briefly.

Status Reports

Following introductions and opening remarks, Michelle Colin reviewed highlights from the *Child Protection Ombudsman Program, Department of Human Services, Performance Audit* (June 2014).

Reggie Bicha, Executive Director, DHS, provided an overview of the transfer of the Child Protection Ombudsman Program (Program) from DHS to the Judicial Branch.

Gerald Marroney, State Court Administrator, Judicial Branch, provided an overview of the transfer of the Program from DHS to the Judicial Branch.

Following introductions and opening remarks, Andrew Knauer reviewed highlights from the *Medication Management for Committed Youth at Division of Youth Correction Facilities, Department of Human Services, Performance Evaluation* (August 2014).

Mr. Bicha stated that he appointed Patrick K. Fox, M.D., as DHS' new Chief Medical Officer, a newly created position to oversee all medical and psychiatric services provided by DHS. Robert Werthwein, Director, Office of Children, Youth, and Families, DHS, provided an overview of the implementation status of recommendations addressed to DHS for medication management for committed youth at the Division of Youth Correction (DYC).

In response to a question from Senator Neville, Dr. Werthwein stated that with the new parameters DYC should see a reduction in the use of psychotropic drugs for committed youth and a greater emphasis placed on behavioral health methods to control youth. Ashley Tunstall, Director, Behavioral Health and Medical Services, Office of Children, Youth, and Families, DHS, stated that the new parameters will guide medication prescribers on the necessary baseline testing before prescribing medication and provide explicit guidelines on medical testing and follow up care with the youth.

In response to a question from Senator Neville, Ms. Tunstall stated that DYC has always had a behavioral health intervention focus and that will continue to be the focus. Further, she stated the changes in DYC will promote a holistic approach and greater integrated care between behavioral health, therapy, and medication management.

In response to a question from Representative Primavera, Ms. Tunstall and Dr. Werthwein stated that Dr. Fox, in coordination with DYC, conducted medical evaluations for the youth identified in the audit that received medication by self-report, and determined that adequate care was provided with the proper diagnoses but the documentation was problematic.

In response to a question from Representative Primavera, Dr. Werthwein stated that DYC has heard anecdotally about individual cases of mood stabilization and a preference for the holistic approach to behavioral health, therapy, and medication management.

In response to a question from Representative Ryden, Dr. Werthwein stated that DYC has done a better job of ensuring that staff comply with policies and procedures, and have taken the necessary personnel actions when needed.

Following introductions and opening remarks, Nina Frant reviewed highlights from the *Child Welfare, Department of Human Services, Performance Audit* (October 2014).

Mr. Bicha, Dr. Werthwein, and Melisa Wavelet, Director, Office of Performance and Strategic Outcomes, DHS, provided an overview of the implementation status of recommendations addressed to DHS for Child Welfare.

In response to a question from Representative Primavera, Dr. Werthwein stated that DHS is working with counties and DHS' policy advisory committee to expand to other stakeholders, such as community advocates, to aide DHS in determining the future use and existence of child protection teams (CPTs). Mr. Bicha stated that DHS is currently awaiting an opinion from the Office of the Attorney General to determine if statute will allow CPTs to only review high-risk cases, instead of all 85,000 cases per year. Further, he stated that DHS will remain out of compliance with statute for the foreseeable future because there are not enough CPT volunteers to review all 85,000 cases every year and that in the 2016 Legislative Session, DHS will request resources or statutorily change from the General Assembly to address this issue.

Authority of the Department of Human Services to Waive Rules Promulgated by the State Board of Human Services

Ms. Bowers reviewed the June 2, 2015, letter sent to Mr. Bicha regarding the authority of DHS to waive rules promulgated by the State Board of Human Services (Board). Mr. Bicha provided a response to the letter and described how he plans to ensure that DHS complies with Board rules in the future.

In response to a question from Senator Holbert, Mr. Bicha stated that Rule 7.000.3 *Exceptions* [Eff. 1/1/15] was implemented as part of a comprehensive package of rules that was delayed until completion of the audit then approved in November 2014 by the Board with an implementation date of January 1, 2015.

In response to a question from Senator Holbert, Mr. Bicha stated that the January 1, 2015, implementation date was not chosen with the intent to avoid the rule review cycle, ending December 31, 2014, for the annual rule review bill, but was chosen in part to coincide with the opening of the Colorado Child Abuse and Protection Hotline (Hotline) child welfare hotline, operational on January 1, 2015.

In response to a question from Senator Neville, Mr. Bicha stated that there is a consistent child welfare needs assessment model across all Colorado counties.

In response to a question from Senator Neville, Dr. Werthwein stated that there are new risk and safety assessment tools being piloted in three counties.

In response to a question from Senator Neville, Dr. Werthwein stated that the overall child welfare assessment process is consistent across all counties, with the exception of three counties where a portion of that assessment, new risk and safety tools, are being piloted.

In response to a question from Representative Primavera, Dr. Werthwein reviewed the status and benefits of the new Hotline.

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

A motion was made by Senator Holbert and seconded by Vice-Chair Nordberg to convene an executive session as advised by legal counsel. The motion passed unanimously.

The LAC adjourned the executive session. A motion was made by Senator Holbert and seconded by Senator Neville to authorize State Auditor Ray, with assistance from Mr. Lackner, to send a letter to the Governor notifying him of the emergency report concerning ongoing audit work required to be kept confidential under Section 2-3-103(2), C.R.S., and requesting a response as to what entity the Governor feels is appropriate to notify of the issues that were raised. The motion passed unanimously.

12:46 p.m. There being no further business to come before the Committee, the meeting adjourned. The next scheduled hearing is on August 31 - September 1, 2015, at 10:00 a.m., in the Colorado State Capitol, Joint Committee Room 271.

Minutes submitted by:

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



OFFICE OF THE STATE AUDITOR



Legislative Audit Committee August 31 - September 1, 2015 Minutes

DIANNE E. RAY, CPA
—
STATE AUDITOR

A meeting of the Legislative Audit Committee (LAC) was convened on August 31, 2015, at 10:00 a.m., in the Colorado State Capitol, Joint Committee Room 271. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert, Senator Jahn, Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine

The following Office of the State Auditor (OSA) staff and agency staff were in attendance:

OSA STAFF Dianne E. Ray, State Auditor; Matt Devlin, Monica Bowers,
PRESENT: Kerri Hunter, Deputy State Auditors; Michelle Colin, Vickie Heller, Laura Bravo, Andrew Knauer, Jason LeBlanc, James Stout, Jenny Page, Carleen Armstrong, Trey Standley

AGENCY Kathy Connell, Colorado Transportation Commission;
STAFF Michael Lewis, Joshua Laipply, Maria Sobota, Colorado
PRESENT: Department of Transportation; Mike Dixon, Tony Anderson, Department of Revenue; Mindy Masias, Judicial Branch; Irv Halter, JoAnn Groff, Department of Local Affairs; Kevin Patterson, Brian Braun, Alan Schmitz, Connect for Health Colorado; Jennifer Bennett, Dennis Dunsmoor, Department of Corrections; Bob Lackner, Office of Legislative Legal Services

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10:00 a.m. – Collection and Usage of the FASTER Motor Vehicle Fees
11:55 a.m. Funding Advancements for Surface Transportation and
Economic Recovery (FASTER) Act
Performance Audit, August 2015

A motion was made by Senator Holbert and seconded by Vice-Chair Nordberg to release the *Collection and Usage of the FASTER Motor Vehicle Fees, Funding Advancements for Surface Transportation and Economic Recovery (FASTER) Act, Performance Audit* (August 2015). The motion passed by a vote of 8-0.

Following introductions and opening remarks, Matt Devlin, Vickie Heller, Laura Bravo, and Michelle Colin provided an overview of the audit.

Recommendation 1 was reviewed, discussed, and agreed to by staff from the Colorado Department of Transportation (CDOT). Further discussion ensued regarding how bridge projects are prioritized and concerns that no bridges were programmed and funded in Fiscal Year 2015 because all FASTER bridge revenue is being saved in order to program an estimated \$850 million bridge project on Interstate 70. CDOT stated that they would provide a list of all bridges funded by FASTER including location information and the order in which they were completed.

Recommendation 2 was reviewed, discussed, and agreed to by staff from CDOT. Further discussion ensued regarding closing completed bridge projects in a timely manner in order to release unused funds and incorporating risk-based cost estimations into bridge projects.

Recommendation 3 was reviewed, discussed, and agreed to by staff from the Transportation Commission (Commission).

Recommendation 4 was reviewed, discussed, and agreed to by staff from CDOT. Further discussion ensued regarding ensuring that FASTER projects benefit the entire state. CDOT stated that the no more than 50 percent of annual Statewide Bridge Enterprise monies will go toward the \$850 million Interstate 70 bridge project.

Recommendation 5 was reviewed, discussed, and agreed to by staff from CDOT. Further discussion ensued regarding non-construction projects that were prioritized over other priority projects and the way in which the Commission approves or sets eligibility criteria for bridge projects. CDOT stated that is their intent to use cost-benefit analysis in the future when identifying bridge projects.

Recommendation 6 was reviewed, discussed, and agreed to by staff from CDOT. Further discussion ensued regarding the goal of the Transit and Rail Division (Division) and the Denver b-cycle program. CDOT stated that they would provide information on why the Denver b-cycle program was pursued, why it was prioritized over other projects, and the connectivity based upon the goals of the Division. CDOT stated that they would find out and inform the LAC if Denver is the only city with a b-cycle program.

Recommendation 7 was reviewed, discussed, and agreed to by staff from CDOT. CDOT stated that it will work with the LAC if it decides to pursue legislation concerning the Efficiency and Accountability Committee (EAC).

Recommendation 9 was reviewed, discussed, and agreed to by staff from CDOT.

12:05 p.m. The committee recessed for lunch.

1:44 p.m. The committee re-convened.

Recommendation 8 was reviewed, discussed, and agreed to by staff from the Department of Revenue (DOR).

Recommendation 10 was reviewed, discussed, and agreed to by staff from the Judicial Department. Further discussion ensued regarding the collection and identification of the FASTER fee for unregistered vehicles and the ability of judges to waive the fee.

2:03 p.m. **GENERAL BUSINESS**

Minutes

A motion was made by Vice-Chair Nordberg and seconded by Senator Holbert to approve the Minutes from July 13-14, 2015. The motion passed by a vote of 8-0.

**2:04 p.m. – Senior and Disabled Veteran Property Tax Exemption
3:12 p.m. Program
Department of Local Affairs
Performance Audit, August 2015**

A motion was made by Representative Saine and seconded by Vice-Chair Nordberg to release the *Senior and Disabled Veteran Property Tax Exemption Program, Department of Local Affairs, Performance Audit* (August 2015). The motion passed by a vote of 8-0.

Following introductions and opening remarks, Monica Bowers, Jason LeBlanc, Andrew Knauer, and James Stout provided an overview of the audit.

Recommendation 1 was reviewed, discussed, and agreed to by staff from the Department of Local Affairs (DOLA). Further discussion ensued regarding how to collect money from counties for non-qualifying property tax exemptions (exemptions), potential fraud at the county level, and the need for further checks by the State to decrease the number of improperly approved exemptions.

Recommendation 2 was reviewed, discussed, and agreed to by staff from DOLA. DOLA stated that it does not currently have statutory authority to access tax data from DOR.

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

Recommendation 4 was reviewed, discussed, and agreed to by staff from DOLA. Further discussion ensued regarding the location of non-qualifying exemptions.

3:12 p.m. GENERAL BUSINESS

Update on Property Tax Exemption Letter to Governor Hickenlooper
State Auditor Ray provided an update on the property tax exemption letter sent to Governor Hickenlooper on July 31, 2015, notifying him of the emergency report concerning ongoing audit work required to be kept confidential under Section 2-3-103(2), C.R.S. The Governor's office will be discussing this and considering the appropriate course of action.

Legislation Discussion

Ms. Bowers provided an overview of legislative recommendations from the *Senior and Disabled Veteran Property Tax Exemption Program, Department of Local Affairs, Performance Audit* (August 2015). There are two main options to address problems with the Senior and Disabled Veteran Property Tax Exemption Program (Program) design: change responsibility for determining eligibility to the State, or make smaller improvements to the way the Program currently operates.

The LAC requested that DOLA reach out to stakeholders and work with the OSA to bring back legislative proposals to the October 19-20, 2015, LAC hearings, at which point, the LAC will vote on whether or not to request draft legislation.

Mr. Devlin provided an overview of the legislative recommendation (Recommendation 7) from the *Collection and Usage of the FASTER Motor Vehicle Fees, Funding Advancements for Surface Transportation and Economic Recovery (FASTER) Act, Performance Audit* (August 2015). There are two main options to address CDOT's noncompliance with statute regarding the EAC: work with the Commission to re-establish and re-implement the EAC, or repeal the statutory requirement for the EAC.

A motion was made by Representative Saine and seconded by Senator Neville to request that the OSA and the Office of Legislative Legal Services (OLLS) work together to draft legislation to re-establish and re-implement the EAC. The motion passed by a vote of 8-0. When formulating the draft legislation, the LAC requested that the OSA and OLLS take into consideration requirements for the EAC to report to the General Assembly, repercussions for CDOT if they do not adhere to statute, and creating a broader composition of the EAC members.

Status Reports

Following introductions and opening remarks, Jenny Page reviewed highlights from the *Colorado Health Insurance Benefits Exchange: Connect For Health Colorado, Limited Performance Audit* (October 2014).

OSA staff provided and reviewed a handout concerning *Issues Regarding Connect for Health's Status Report*. This handout raised concerns about whether specific policies described in the status report really addressed the recommendations.

Kevin Patterson, Interim Chief Executive Officer, Connect for Health Colorado (C4HC), provided an overview of the implementation status of recommendations addressed to C4HC for Colorado's Health Insurance Benefits Exchange.

C4HC stated that since the audit, they no longer use cost plus percentage payment methods and overpaid contract amounts using this method will not be recouped because of the costly legal and administrative burden. Further, C4HC stated that they would not recoup improper contract payments that used federal grant monies because C4HC transferred funds to pay for said contracts from other allowable program funds, such as the carrier fee assessed on plans purchased through the health benefit exchange. Lastly, C4HC stated that for the overpaid assistance network grantee's, monies will not be recouped but subsequent reimbursements to the grantee's will be reduced.

When asked about working with C4HC to ensure that the recommendations are implemented, State Auditor Ray explained that the OSA can verify if agencies implement new policies, but cannot help formulate the policies.

A motion was made by Representative Primavera and seconded by Senator Neville to request that C4HC provide a second status report in 3 months to address the issues regarding the first status report. The motion passed by a vote of 8-0.

Following introductions and opening remarks, Trey Standley reviewed highlights from the *Colorado Correctional Industries, Department of Corrections, Performance Audit* (January 2015).

Dennis Dunsmoor, Associate Director, Colorado Correctional Industries (CCI), Department of Corrections (DOC), provided an overview of the implementation status of recommendations addressed to DOC for CCI.

4:19 p.m. The committee recessed.

A meeting of the LAC was convened on September 1, 2015, at 9:05 a.m., in the Colorado State Capitol, Joint Committee Room 271. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert (arrived at 9:08 a.m.), Senator Jahn, Senator Neville, Representative Nordberg (arrived at 9:22 a.m.), Representative Primavera, Representative Ryden, Representative Saine

The following legislator, former legislator, OSA staff, and agency staff were in attendance:

NON-LAC PRESENT: Representative KC Becker, Former Senator Jeanne Nicholson

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Deputy State Auditor; Jenny Page, Carleen Armstrong, Isaac Hansen-Joseph, Greg Fugate

AGENCY STAFF PRESENT: Irv Halter, Chantal Unfug, Department of Local Affairs; Reggie Bicha, Nancy VanDeMark, Patrick Fox, Department of Human Services; Bob Lackner, Office of Legislative Legal Services

9:05 a.m. – 10:42 a.m. Gaming Impact Grants
Department of Local Affairs & Department of Human Services
Performance Audit, August 2015

A motion was made by Senator Neville and seconded by Representative Saine to release the *Gaming Impact Grants, Department of Local Affairs & Department of Human Services, Performance Audit* (August 2015). The motion passed by a vote of 6-0.

Following introductions and opening remarks, Ms. Bowers, Isaac Hansen-Joseph, Carleen Armstrong, and Ms. Page provided an overview of the audit.

9:08 a.m. Senator Holbert arrived at the hearing.

Recommendation 1 was reviewed, discussed, and agreed to by staff from DOLA. Further discussion ensued regarding the Local Gaming Impact Program grant approval process and the criteria considered for awarding grants.

9:22 a.m. Vice-Chair Nordberg arrived at the hearing.

Recommendation 2 was reviewed, discussed, and agreed to by staff from DOLA. Further discussion ensued regarding monitoring grant contracts and if there is a need for legislation to address various aspects of the grant process such as documentation needs and award criteria.

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

Recommendation 4 was reviewed, discussed, and agreed to by staff from Department of Human Services (DHS). Further discussion ensued regarding the Gambling Addiction Program (Program) administration contract and the use of Program funds for counselors who pursued but did not complete national accreditation as gambling addiction counselors. DHS stated that they will contact the National Problem Gambling Helpline (Hotline) for possible relevant information for a needs assessment of the Program and to possibly coordinate with the Hotline for the use of DHS resources.

Recommendation 5 was reviewed, discussed, and agreed to by staff from DHS. DHS stated its intent to seek spending authority from the General Assembly in order to conduct a needs assessment for the Program.

10:42 a.m. GENERAL BUSINESS

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

A motion was made by Representative Saine and seconded by Representative Primavera to convene an executive session as advised by legal counsel to discuss the *Required Communications with Those Charged with Governance* concerning ongoing audit work required to be kept confidential under Section 2-3-103(2), C.R.S. The motion passed by a vote of 8-0.

11:00 a.m. The LAC adjourned the Executive Session.

11:00 a.m. Vice-Chair Nordberg and Representative Ryden left the hearing.

Legislative Audit Committee Rules

State Auditor Ray provided an overview of LAC Rules and proposed draft language to address the process for major amendments to LAC-sponsored legislation. Further, she stated that similar committees, such as the Joint Budget Committee and the Committee on Legal Services, fight for the purity of their bills and informally (personally or by email) discuss any proposed amendments.

Following discussion, the LAC did not adopt the proposed draft language; the LAC agreed to informally discuss proposed amendments to LAC-sponsored legislation.

Colorado Office of the State Auditor Annual Report Fiscal Year 2015

Greg Fugate reviewed the *Colorado Office of the State Auditor Annual Report for Fiscal Year 2015*.

State Auditor Ray stated that copies of the report could be provided to the General Assembly during the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act hearings.

Award Announcement

State Auditor Ray announced that the OSA received a 2015 National Legislative Program Evaluation Society (NLPES) Certificate of Impact for OSA's *History Colorado, Department of Higher Education, Performance Audit* (June 2014).

11:12 a.m. There being no further business to come before the LAC, the meeting adjourned. The next scheduled hearing is on October 19-20, 2015, at 10:00 a.m., in the Colorado State Capitol, Joint Committee Room 271.

Minutes submitted by:

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



OFFICE OF THE STATE AUDITOR



Legislative Audit Committee

October 19-20, 2015

Minutes

DIANNE E. RAY, CPA

STATE AUDITOR

A meeting of the Legislative Audit Committee (LAC) was convened on October 19, 2015, at 10:01 a.m., in the Colorado State Capitol, Joint Committee Room 271. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert, Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine

EXCUSED: Senator Jahn

The following legislator, Office of the State Auditor (OSA) staff, and agency staff were in attendance:

NON-LAC PRESENT: Representative Tracy Kraft-Tharp

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Kerri Hunter, Matt Devlin, Monica Bowers, Deputy State Auditors; Michelle Colin, Jenny Page, James Taurman, Maya Rosochacova, Jeffrey Kahn, Selome Negassa, Kate Shiroff

AGENCY STAFF PRESENT: Maryann Motza, Colorado Public Employees' Retirement Association (PERA) Board of Trustees; Greg Smith, PERA; William B. Fornia, Linda L. Bournival, Pension Trustee Advisors; June Taylor, Department of Personnel and Administration; Tammy Nelson, Office of the State Controller; Gerald Marroney, Chad Cornelius, Judicial Branch; Lenny Merriam, Department of Corrections; Deborah Blyth, Don Wisdom, Office of Information Technology

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10:01 a.m. – Sensitivity Analysis of
12:30 p.m. Colorado Public Employees’ Retirement Association
Hybrid Defined Benefit Plan
Actuarial Assumptions, October 2015

A motion was made by Senator Holbert and seconded by Representative Primavera to release the *Sensitivity Analysis of Colorado Public Employees’ Retirement Association Hybrid Defined Benefit Plan, Actuarial Assumptions* (October 2015). The motion passed by a vote of 7-0.

Following introductions and opening remarks, William B. Forna and Linda L. Bournival provided an overview of the analysis. The analysis states that Senate Bill 10-001 made significant changes to benefits and funding with the goal of full funding for the PERA Hybrid Plan by 2041. Further discussion ensued regarding the average 8.6 percent annual long-term investment return, actuarially accounting for future potential financial downturns, and the effects of payroll increase and population growth.

Recommendation 1 was reviewed, discussed, and agreed to by staff from PERA. Further discussion ensued regarding the use of the signal light methodology to aid the Colorado General Assembly in making policy decisions around the pension plan.

Recommendation 2 was reviewed, discussed, and agreed to by staff from PERA. Further discussion ensued regarding the PERA 30-year funding policy, adopted in 2015, and potential legislation regarding the signal light methodology.

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

12:30 p.m. The committee recessed for lunch.

2:04 p.m. – Annual Report: Status of Outstanding Audit
2:42 p.m. Recommendations as of June 30, 2015
Informational Report, October 2015

A motion was made by Senator Neville and seconded by Representative Saine to release the *Annual Report: Status of Outstanding Audit Recommendations as of June 30, 2015, Informational Report* (October 2015). The motion passed by a vote of 7-0.

Following introductions and opening remarks, Matt Devlin, Jenny Page, Maya Rosochocova, and James Taurman provided an overview of the report. Further discussion ensued regarding departments setting and delaying their own recommendation implementation dates. The OSA stated that the report is one of many ways to hold the departments accountable and is presented to each Committee of Reference and the Joint Budget Committee.

Monica Bowers provided an overview of current OSA efforts to follow up on audit recommendations and a new OSA project to conduct follow-up reviews and audit work of performance audits; the follow-up information would be provided to the LAC and included in the report.

2:42 p.m. – Schedule of TABOR Revenue
3:10 p.m. Performance Audit, September 2015

A motion was made by Representative Saine and seconded by Senator Neville to release the *Schedule of TABOR Revenue, Performance Audit* (September 2015). The motion passed by a vote of 7-0.

Following introductions and opening remarks, Kerri Hunter, Jeffrey Kahn, and Selome Negassa provided an overview of the audit. The Office of the State Controller (OSC) provided an overview of how the Taxpayer's Bill of Rights (TABOR) refund is calculated and possible adjustments to future refunds because of changing financial information due to the challenges of implementing the Colorado Operations Resource Engine (CORE), the State's new electronic financial system implemented on June 1, 2014.

Recommendations 1 and 2 were reviewed, discussed, and agreed to by staff from the OSC. Further discussion ensued regarding CORE implementation issues, the purchase of the "labor allocation module" for CORE, and the delay of statutorily required reports such as the Comprehensive Annual Financial Report (CAFR).

3:10 p.m. – Higher Education Enterprise Status
3:18 p.m.

A motion was made by Representative Saine and seconded by Senator Neville to release the *Higher Education Enterprise Status*. The motion passed by a vote of 7-0.

Following introductions and opening remarks, Ms. Hunter and Mr. Kahn provided an overview of the report.

3:18 p.m. GENERAL BUSINESS

Minutes

A motion was made by Vice-Chair Nordberg and seconded by Senator Holbert to approve the Minutes from August 31 – September 1, 2015. The motion passed by a vote of 7-0.

Status Reports

Following introductions and opening remarks, Kate Shiroff reviewed highlights from the *Victim's Restitution, The Judicial Branch, Department of Corrections, Performance Audit* (April 2014).

Lenny Merriam, Controller, Department of Corrections (DOC), provided an overview of the implementation status of recommendations addressed to DOC for Victim's Restitution.

Gerald Marroney, State Court Administrator, Judicial Branch, provided an overview of the implementation status of recommendations addressed to the Judicial Branch for Victim's Restitution.

Following introductions and opening remarks, Mr. Devlin reviewed highlights from the *Systems Backup and Recovery, Governor's Office of Information Technology, IT Performance Audit* (October 2014).

Deborah Blyth, Chief Information Security Officer, Office of Information Technology (OIT), and Don Wisdom, Deputy Director, Infrastructure Operations, OIT, provided an overview of the implementation status of recommendations addressed to OIT in the audit.

Mr. Devlin reviewed highlights from the *Public IT Vulnerability Assessment, Penetration Test, and Technical Security Review, Governor's Office of Information Technology & Judicial Branch, Performance Evaluation* (November 2014).

Ms. Blyth provided an overview of the implementation status of recommendations addressed to OIT in the public evaluation. Ms. Blyth announced that Colorado received national recognition from the National Association for Chief Information Officers for the State's multi-year cyber security strategic plan called *Secure Colorado*.

Mr. Marroney provided an overview of the implementation status of recommendations addressed to the Judicial Branch in the public evaluation.

**3:32 p.m. Executive Session Pursuant to Section 24-6-402(3)(a)(IV),
C.R.S.**

A motion was made by Senator Holbert and seconded by Representative Primavera to convene an executive session as advised by legal counsel to discuss the status report for the *Confidential IT Vulnerability Assessment, Penetration Test, and Technical Security Review, Governor's Office of Information Technology & Judicial Branch, Performance Evaluation* (November 2014). The motion passed by a vote of 7-0.

4:06 p.m. The committee recessed.

A meeting of the LAC was convened on October 20, 2015, at 9:06 a.m., in the Colorado State Capitol, Joint Committee Room 271. Chair Guzman called the meeting to order. The roll was called with the following result:

PRESENT: Senator Guzman, Senator Holbert (arrived at 9:08 a.m.), Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine

EXCUSED: Senator Jahn

The following legislator, OSA staff, and agency staff were in attendance:

NON-LAC PRESENT: Representative Kraft-Tharp

OSA STAFF PRESENT: Dianne E. Ray, State Auditor; Monica Bowers, Matt Devlin, Kerri Hunter, Deputy State Auditor; Greg Fugate, Michelle Colin, Andrew Knauer

AGENCY STAFF PRESENT: Chuck Sisk, Regional Transportation District (RTD) Board of Directors; David Genova, Bruce Abel, Terry Emmons, RTD; Brian Hill, Joanne Hill, Matt Lausten, Two Hills Accounting & Consulting, P.C.; Andy Karsian, Colorado Department of Transportation; Jason Gelender, Office of Legislative Legal Services; Andy Karsian, Department of Transportation; JoAnn Groff, Bruce Eisenhauer, Department of Local Affairs; William B. Forna, Pension Trustee Advisors

9:06 a.m. – 10:25 a.m. Bus and Light Rail Train Operator Safety
Regional Transportation District
Performance Audit, September 2015

A motion was made by Vice-Chair Nordberg and seconded by Representative Ryden to release the *Bus and Light Rail Train Operator Safety, Regional Transportation District, Performance Audit* (September 2015). The motion passed by a vote of 6-0.

Following introductions and opening remarks, Ms. Bowers, Greg Fugate, Brian Hill, Joanne Hill, and Matt Lausten provided an overview of the audit.

9:08 a.m. Senator Holbert arrived at the hearing.

Recommendation 1 was reviewed, discussed, and agreed to by staff from RTD. Further discussion ensued regarding specific disciplinary incidents, the progressive disciplinary program, the use of SmartDrive, the electronic monitoring system, the need to increase the punishment for using electronic devices while driving, and the Memorandum of Understanding (MOU) with the Amalgamated Transit Union Division 1001 (Union), the Union that operates RTD's buses and light rail trains; RTD employees are not required to join the Union.

Recommendation 2 was reviewed, discussed, and agreed to by staff from RTD. Further discussion ensued regarding drug and alcohol screening of the workforce working in a safety capacity, low recruitment rates, programs to incentivize new and existing employees, and Federal Transit Administration (FTA) audits of RTD.

10:25 a.m. The Committee recessed briefly.

10:28 a.m. GENERAL BUSINESS

Legislation Discussion

Mr. Devlin and Michelle Colin reviewed Bill Draft LLS No. 16-0239.01, *Concerning the Reestablishment of a Standing Efficiency and Accountability Committee by the State Transportation Commission, and, in Connection therewith, Expanding the Membership and Responsibilities of the Committee*. Jason Gelender, Senior Attorney, Office of Legislative Legal Services (OLLS), provided an overview of the memo from OLLS regarding reestablishing the Efficiency and Accountability Committee (EAC) and changes to its structure.

The Colorado Department of Transportation (CDOT) stated that it does not support legislation to reestablish and change the structure of the EAC; CDOT provided an overview of why the EAC was disbanded, a vision for the future of the EAC, and stated its intent to reestablish the EAC without legislation.

The LAC requested to continue the discussion with CDOT regarding the EAC at the December 7-8, 2015, LAC hearings; the Committee took no action on LLS No. 16-0239.01.

Ms. Bowers and Andrew Knauer reviewed legislative proposals (Attachment G) for the Senior and Disabled Veteran Property Tax Exemption Program (Program) as requested by the Committee at the August 31, 2015, LAC hearing. The main proposal includes six statutory solutions for recommendations from the *Senior and Disabled Veteran Property Tax Exemption Program, Department of Local Affairs, Performance Audit* (August 2015), as outlined on pages 2-4 of Attachment G. In addition, there are two options to significantly change the Program structure: Option A to make the Department of Local Affairs (DOLA), rather than county assessors, responsible for determining program eligibility, or Option B to enact statutory change to allow DOLA to direct the county process and require additional resources to effectively monitor the process.

DOLA stated its support for the six statutory solutions for audit recommendations. Further discussion ensued regarding tax savings from verifying exemptions against death records.

A motion was made by Representative Primavera and seconded by Representative Ryden to request draft legislation for the six statutory solutions for audit recommendations and Option B to make significant changes to the Program structure. The motion passed on a vote of 7-0.

Ms. Colin discussed the policy discussion in the *Sensitivity Analysis of Colorado Public Employees' Retirement Association Hybrid Defined Benefit Plan, Actuarial Assumptions* (October 2015). While it did not recommend legislation, she inquired if the LAC was interested in pursuing legislation regarding the implementation of the signal light methodology.

Following discussion, the LAC requested that the OSA work with PERA to bring back legislative proposals to the December 7-8, 2015, LAC hearings, regarding implementing the signal light methodology.

Ms. Hunter provided an overview of Recommendation 2 from the *Schedule of TABOR Revenue, Performance Audit* (September 2015); the Department of Personnel and Administration has not decided whether to seek legislation through the LAC to create a consistent methodology surrounding changes in budgetary reporting that affect TABOR revenue.

State Auditor Dianne E. Ray reviewed Senate Bill 15-204 which moved the Child Protection Ombudsman Program out of the Department of Human Services and reincorporated it as the Office of the Child Protection Ombudsman (Office) under the Judicial Branch. Further, as confirmed by

OLLS, she stated that the statutory change requires a new audit at the beginning of the third year of operations of the Office, which OSA confirmed was not the intent of the bill sponsor. State Auditor Ray requested the Committee's approval for draft legislation to remove the mandatory audit requirement but maintain the OSA discretionary audit authority of the Office.

A motion was made by Representative Ryden and seconded by Vice-Chair Nordberg to request that the OSA and OLLS work together to draft legislation to remove the mandatory audit requirement but maintain the OSA discretionary audit authority of the Office. The motion passed by a vote of 7-0.

State Auditor Ray inquired if the Committee would like to pursue legislation to hold departments accountable by capping the amount of time departments can extend implementation dates for unimplemented audit recommendations.

Following discussion, State Auditor Ray recommended that instead of seeking statutory change, the OSA can change internal policies to re-categorize unimplemented audit recommendations extended by more than 12 months as high-priority recommendations in the *Annual Report: Status of Unimplemented Audit Recommendations*, which is presented to the Colorado General Assembly. The LAC agreed to State Auditor Ray's recommendation.

11:00 a.m. Vice-Chair Nordberg and Representative Ryden left the hearing.

Proposed 2016 Legislative Audit Committee Session Calendar

State Auditor Ray reviewed the proposed 2016 LAC Session Calendar; the Committee will vote to approve the proposed calendar at the December 7-8, 2015, LAC hearings. The annual *Statewide Single Audit* will be released during a short hearing in April 2016, exact date to be determined.

11:47 a.m. There being no further business to come before the LAC, the meeting adjourned. The next scheduled hearing is on December 7-8, 2015, at 10:00 a.m., in the Colorado State Capitol, Joint Committee Room 271.

Minutes submitted by: Brittany Wirth
Executive Assistant to the State Auditor
Office of the State Auditor



OFFICE OF THE STATE AUDITOR



Legislative Audit Committee December 7-8, 2015 Minutes

DIANNE E. RAY, CPA
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STATE AUDITOR

A meeting of the Legislative Audit Committee (LAC) was convened on December 7, 2015, at 10:02 a.m., in the Colorado State Capitol, Joint Committee Room 271. Vice-Chair Nordberg called the meeting to order. The roll was called with the following result:

PRESENT: Senator Cooke, Senator Heath, Senator Jahn, Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine

Senator John Cooke was temporarily appointed to replace Senator Holbert for the December 7-8, 2015, LAC hearings only.

Senator Rollie Heath was temporarily appointed to replace Senator Guzman for the December 7-8, 2015, LAC hearings only.

The following legislator, Office of the State Auditor (OSA) staff, and agency staff were in attendance:

OTHER Representative Tracy Kraft-Tharp
LEGISLATOR
PRESENT:

OSA STAFF Dianne E. Ray, State Auditor; Monica Bowers, Kerri
PRESENT: Hunter, Matt Devlin, Deputy State Auditors; Trey Standley, Christopher Harless, Torry van Slyke, Heidi Wagner, Nina Frant, Jenny Atchley, Dana Berry, Andy Brienzo, John Kormos, Crystal Dorsey, Jenny Page

OFFICE OF THE STATE AUDITOR
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AGENCY STAFF PRESENT: Barbara Brohl, Paul Northrup, Eric Myers, Laura Solano, John Caligaris, Department of Revenue; Shailen Bhatt, David Spector, Department of Transportation; Mahesh Albuquerque, Greg Johnson, Department of Labor and Employment; Frances Koncilja, Michael Weatherwax, Lottery Commission; Kimberly K. Higgins, Eide Bailey LLP; Lise Aangeenbrug, Jason Brinkley, Great Outdoors Colorado; Karla Whittenburg, Lisa Hrinik, EKS&H; Kevin Patterson, Brian Braun, Abran Barela, Connect for Health Colorado

10:00 a.m. – Local Sales Tax
11:30 p.m. Department of Revenue
Performance Audit, November 2015

A motion was made by Representative Saine and seconded by Representative Primavera to release the *Local Sales Tax, Department of Revenue, Performance Audit* (November 2015). The motion passed by a vote of 8-0.

Following introductions and opening remarks, Monica Bowers, Christopher Harless, Ph.D., Torry van Slyke, Heidi Wagner, and Trey Standley provided an overview of the audit.

Recommendation 1 was reviewed, discussed, and agreed to by staff from DOR. Further discussion ensued regarding how businesses figure out which taxing jurisdictions they reside in, current tax-rate database providers and the need to upgrade to a single state-operated geographic-information-system (GIS), how DOR handles businesses that fail to collect the appropriate sales tax, and the need to collect sales tax in the taxing jurisdiction in which the products or services are sold as opposed to the physical location of the business.

Recommendation 2 was reviewed, discussed, and agreed to by staff from DOR. Further discussion ensued regarding the implementation date and possible private business solutions for the new GIS, holding businesses “harmless” if the certified tax-rate database providers did not provide the business with correct information, and the 11,070 business-site licenses identified in the audit as incorrectly registered.

Recommendations 3, 4, and 5 were reviewed, discussed, and agreed to by staff from DOR. Further discussion ensued regarding customer satisfaction.

11:53 a.m. GENERAL BUSINESS

Minutes

A motion was made by Representative Saine and seconded by Representative Primavera to approve the Minutes from October 19-20, 2015. The motion passed by a vote of 8-0.

Status Report

Following introductions and opening remarks, Matt Devlin reviewed highlights from the *US-36 Public-Private Partnership (P3) Project, High Performance Transportation Enterprise, Colorado Department of Transportation, Performance Audit* (March 2015).

Shailen Bhatt, Executive Director, Colorado Department of Transportation (CDOT), and David Spector, Director, High Performance Transportation Enterprise (HPTE), CDOT, provided an overview of the implementation status of recommendations addressed to HPTE. Further discussion ensued regarding the contract management on current and future HPTE public-private partnership (P3) projects and that HPTE is a Taxpayer Bill of Rights (TABOR) enterprise.

12:07 p.m. The Committee recessed for lunch.

1:30 p.m. – Conveyance Program

**2:42 p.m. Department of Labor and Employment
Performance Audit, November 2015**

A motion was made by Senator Jahn and seconded by Representative Primavera to release the *Conveyance Program, Department of Labor and Employment, Performance Audit* (November 2015). The motion passed by a vote of 8-0.

Following introductions and opening remarks, Ms. Bowers, Nina Frant, Jenny Atchley, Dana Berry, and Andy Brienzo provided an overview of the audit.

Recommendation 1 was reviewed, discussed, and agreed to by staff from the Colorado Department of Labor and Employment (CDLE). Further discussion ensued regarding violations that do not pose an imminent safety risk, the low incident rate, and the size and use of fines for noncompliance.

Recommendations 2, 3, and 4 were reviewed, discussed, and agreed to by staff from CDLE. CDLE provided a copy of an informal opinion from the Attorney General's Office regarding "*Determination of Sufficient Local Regulation under Section 9-5.5-112, C.R.S.*"

2:42 p.m. GENERAL BUSINESS

Update on Property Tax Exemption Letter

State Auditor Dianne E. Ray provided an update on the status of the Property Tax Exemption Letter.

LAC Rule II. Election of Officer - Duties

State Auditor Ray provided an overview of the memo.

Adoption of 2016 Legislative Audit Committee Session Calendar

State Auditor Ray provided an overview of the calendar. A motion was made by Representative Primavera and seconded by Representative Ryden to adopt the 2016 LAC Session Calendar. The motion passed by a vote of 8-0.

2:49 p.m. The Committee recessed briefly.

**2:54 p.m. – Colorado Lottery
3:20 p.m. Financial and Compliance Audit
 June 30, 2015 and 2014**

A motion was made by Representative Ryden and seconded by Representative Primavera to release the *Colorado Lottery, Financial and Compliance Audit, June 30, 2015 and 2014*. The motion passed by a vote of 8-0.

Following introductions and opening remarks, Kimberly K. Higgins provided an overview of the audit. Further discussion ensued regarding the accounting logistics that allow the Lottery to seemingly operate at a net loss.

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

3:24 p.m. – State Board of the Great Outdoors Colorado Trust Fund
3:32 p.m. Financial and Compliance Audit
For the Years June 30, 2015 and 2014

A motion was made by Representative Saine and seconded by Representative Primavera to release the *State Board of the Great Outdoors Colorado Trust Fund, Financial and Compliance Audit, For the Years June 30, 2015 and 2014*. The motion passed by a vote of 8-0.

Following introductions and opening remarks, Karla Whittenburg and Lisa Hrinik provided an overview of the audit.

3:32 p.m. GENERAL BUSINESS

Status Report

Following introductions and opening remarks, Mr. Devlin and Jenny Page reviewed concerns from the August 2015 status report on the *Colorado Health Insurance Benefits Exchange: Connect For Health Colorado, Limited Performance Audit* (October 2014).

Kevin Patterson, Chief Executive Officer, Connect for Health Colorado (C4HC), and Brian Braun, Chief Financial Officer, C4HC, provided an overview of the revised status report, the impact of the collapse of Colorado HealthOp (co-op), and measures taken to assist former co-op members.

Further discussion ensued regarding remaining federal funds, the current C4HC enrollment period, and collaboration efforts with the State's largest health care insurance providers.

3:56 p.m. The Committee recessed.

A meeting of the LAC was convened on December 8, 2015, at 9:00 a.m., in the Colorado State Capitol, Joint Committee Room 271. Vice-Chair Nordberg called the meeting to order. The roll was called with the following result:

PRESENT: Senator Cooke, Senator Heath, Senator Jahn, Senator Neville, Representative Nordberg, Representative Primavera, Representative Ryden, Representative Saine

The following legislator, OSA staff, and agency staff were in attendance:

**OTHER
LEGISLATOR
PRESENT:** Representative Kraft-Tharp

**OSA STAFF
PRESENT:** Dianne E. Ray, State Auditor; Kerri Hunter, Matt Devlin, Monica Bowers, Deputy State Auditors; Pooja Tulsian, Jarrett Ellis, Cindi Radke, Kiran Keshav, Andrew Knauer, Michelle Colin, Trey Standley, Christopher Harless

**AGENCY
STAFF
PRESENT:** Secretary Wayne Williams, Gary Zimmeran, Trevor Timmons, Brad Lang, Andrew Cole, Mike Hardin, Department of State; JoAnn Groff, Bruce Eisenhower, Department of Local Affairs; Andy Karsian, Department of Transportation; Greg Smith, Public Employees' Retirement Association; Jason Gelender, Office of Legislative Legal Services

**9:00 a.m. – Department of State
10:11 a.m. Performance Audit, November 2015**

A motion was made by Representative Saine and seconded by Representative Primavera to release the *Department of State, Performance Audit* (November 2015). The motion passed by a vote of 8-0.

Following introductions and opening remarks, Kerri Hunter, Pooja Tulsian, Jarrett Ellis, Mr. Devlin, Cindi Radke, and Kiran Keshav provided an overview of the audit. The Department of State (DOS) provided a handout with additional information.

Recommendation 1 was reviewed, discussed, and agreed to by staff from DOS. Further discussion ensued regarding DOS budget requests to the Joint Budget Committee (JBC), the \$1.66 million in unsupported revenues and expenditures for Fiscal Year 2015, the enactment of fee holidays, and the impact of House Bill 13-1303, which required extensive revisions to the State's voter registration system and increased reimbursements to counties for election expenses.

Recommendation 2 was reviewed, discussed, and agreed to by staff from DOS. Further discussion ensued regarding Denver Civic Ventures (DCV), which acts as the fiscal agent for donated revenue to DOS' Business Intelligence Center (Center), the need for legislation to codify the Center in statute, and noncompliant expenditures in the Center.

Recommendations 3 and 4 were reviewed, discussed, and agreed to by staff from DOS.

10:11 a.m. The Committee recessed briefly.

10:15 a.m. Executive Session Pursuant to Section 24-6-402(3)(a)(IV), C.R.S.

A motion was made by Senator Heath and seconded by Representative Primavera to convene an executive session as advised by legal counsel to discuss the *Department of State, Confidential Report, Performance Audit* (November 2015). The motion passed by a vote of 8-0.

10:37 a.m. The Committee recessed briefly.

10:40 a.m. GENERAL BUSINESS

Legislation Discussion

Andrew Knauer provided an overview of Bill Draft LLS No. 16-0453.01., *Concerning the Administration of the Property Tax Exemptions for Qualifying Seniors and Disabled Veterans*.

The Department of Local Affairs (DOLA) stated its support for the Bill Draft.

A motion was made by Representative Primavera and seconded by Senator Jahn to approve Bill Draft LLS No. 16-0453.01 to be put on Bill Paper. Further, the LAC requested a Safety Clause be added to the Bill Draft. The motion passed by a vote of 8-0.

The Bill will start in the House.

Sponsors: Representatives Nordberg and Primavera
 Senators Neville and Jahn

Co-Sponsors: Representative Saine and Ryden
 Senators Cooke and Heath

State Auditor Ray provided an overview of Bill Draft LLS No. 16-0478.01, *Concerning Removal of Audit Requirement for the Office of the Child Protection Ombudsman*. No action was taken by the Committee.

Michelle Colin provided an overview of revised legislative proposals to Bill Draft LLS No. 16-0239.01 to reestablish the Efficiency and Accountability Committee (EAC) by the State Transportation Commission and changes to the EAC's structure.

The Colorado Department of Transportation (CDOT) stated it did not recommend specific membership requirements for the EAC but flexibility for private citizens to participate when relevant.

A motion was made by Vice-Chair Nordberg and seconded by Representative Saine to include private citizens and a representative from the motorcycle community on the EAC in any potential bill draft. The motion passed by a vote of 8-0.

A motion was made by Representative Saine and seconded by Representative Primavera to request draft legislation to amend Bill Draft LLS No. 16-0239.01 with the amendments from the previous motion. The motion passed by a vote of 8-0.

Mr. Standley reviewed Recommendation 5B from the Colorado *Correctional Industries, Department of Corrections, Performance Audit* (January 2015).

The Department of Corrections (DOC) stated that it is seeking legislation to allow their Division of Education (Division) to sell goods and services on a limited basis to the public, such as to DOC staff and visitors, and to reinvest the monies into inmate educational training programs.

A motion was made by Representative Ryden and seconded by Representative Primavera to request draft legislation to allow the Division to sell goods and services on a limited basis to the public. The motion passed by a vote of 8-0.

Ms. Colin and Greg Smith, Director, Public Employees' Retirement Association (PERA), provided an overview of potential legislation regarding identifying benchmarks and implementing the new signal light methodology.

A motion was made by Representative Saine to request draft legislation to work with PERA to identify benchmarks and implement the new signal light methodology. No action was taken by the Committee.

The LAC requested that PERA bring back legislative proposals to the LAC in the summer of 2016 regarding identifying benchmarks and implementing the signal light technology.

State Auditor Ray provided an overview of the required performance audit of the Department of Personnel & Administration (DPA) and the State Personnel Board (Board), conducted every 4 years per Section 24-50-103.5(2)(b), C.R.S. Considering the implementation of the new Human Resources Information System, and the relatively low risk of the findings in the prior audits, State Auditor Ray requested that the Committee move the next due date to "at least 7 months before July 1, 2020," or by December 1, 2019, and remove the 4-year requirement, leaving future audits at the discretion of the State Auditor.

A motion was made by Representative Ryden and seconded by Representative Saine to request draft legislation to move the next DPA & Board audit to "at least 7 months before July 1, 2020" and remove the 4-year requirement, leaving future audits at the discretion of the State Auditor. The motion passed by a vote of 8-0.

State Auditor Ray and Dr. Harless reviewed sections from the *Local Sales Tax, Department of Revenue, Performance Audit* (November 2015), concerning businesses that fail to collect and remit sales taxes for a local jurisdiction, in which DOR is responsible for assessing the amount of underpayment and any applicable penalties and interest within 3 years of the filing date on the business' sales tax return. The Committee discussed the idea that the State should assume businesses to have operated in good faith and thus should not be held liable for sales taxes that they were not aware they were required to collect.

A motion was made by Senator Jahn and seconded by Representative Primavera to request draft legislation to hold “harmless” the businesses within the 3-year window that failed to collect appropriate sales tax due to errors in the DOR tax-rate databases. The motion passed by a vote of 8-0.

Annual Executive Summary of Audits of Tobacco Settlement Programs

Ms. Bowers provided an overview of the *Annual Executive Summary of Audits of Tobacco Settlement Programs*.

Reports Released Without a Hearing

A motion was made by Representative Saine and seconded by Representative Ryden to release:

- Auraria Higher Education Center, Financial and Compliance Audit, June 30, 2015 (With Independent Auditors' Report Thereon)
- CollegeInvest College Savings Program Funds, Financial Statements and Independent Auditor's Reports, Financial Audit Years Ended June 30, 2015 and 2014, Compliance Audit Year Ended June 30, 2015
- Colorado Mesa University, Financial and Compliance Audit, Fiscal Year Ended June 30, 2015
- Colorado School of Mines, Financial Statements and Independent Auditor's Reports, Financial Audit Years Ended June 30, 2015 and 2014, Compliance Audit Year Ended June 30, 2015
- Colorado State University – Global Campus (A University within the Colorado State University System), Financial Statements and Independent Auditor's Reports, Financial Audit, Years Ended June 30, 2015 and 2014
- Colorado State University System, Financial Statement and Independent Auditor's Reports, Financial Audit Years Ended June 30, 2015 and 2014, Compliance Audit Year Ended June 30, 2015

- Metropolitan State University of Denver, Financial and Compliance Audit, Year Ended June 30, 2015
- University of Colorado, Financial and Compliance Audit, June 30, 2015 and 2014

The motion passed by a vote of 8-0.

Ms. Hunter provided an overview of the audits.

Information Only

State Auditor Ray provided an explanation of the accounting logistics that allow the Lottery to seemingly operate at a net loss.

State Auditor Ray reviewed a section from the *Conveyance Program, Department of Labor and Employment, Performance Audit* (November 2015) which states that per statute, CDLE should verify if adequate controls and policies are in place that are equal to or greater than state standards.

11:43 a.m. There being no further business to come before the LAC, the meeting adjourned. The next scheduled hearing is on January 12, 2016, at 7:00 a.m., in the Audit Committee Hearing Room, Legislative Services Building.

Minutes submitted by:

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