MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS
AND THE
SENATE COMMITTEE ON FINANCE
JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT

Seventy-Third Session
May 11, 2005

The Assembly Committee on Ways and Means and the Senate Committee on Finance, Joint Subcommittee on General Government, was called to order at 8:12 a.m., on Wednesday, May 11, 2005. Chairwoman Kathy McClain presided in Room 2134 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Ms. Kathy McClain, Chairwoman
Mr. Morse Arberry Jr.
Mr. Lynn Hettrick
Mr. Joseph M. Hogan
Mrs. Ellen Koivisto
Mr. Bob Seale

SENATE COMMITTEE MEMBERS PRESENT:

Senator Bob Beers, Chairman
Senator Bob Coffin
Senator Dean A. Rhoads

COMMITTEE MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Steve Abba, Principal Deputy Fiscal Analyst, Assembly
Bob Guernsey, Principal Deputy Fiscal Analyst, Senate
Bob Atkinson, Senior Program Analyst
Joyce Garrett, Program Analyst
Carol Thomsen, Committee Attaché
Lila Clark, Committee Attaché

Chairwoman McClain called the meeting to order at 8:12 a.m. and stated that the Subcommittee would commence with budget closings for the Department of Business and Industry.

BUDGET CLOSINGS

B&I, HOUSING DIVISION, BA 3841

Joyce Garrett, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), advised that there were no major closing issues regarding BA 3841. The first closing item was the Cost of Bond Issues Program category. Ms. Garrett noted that there had been very little activity within the Bond Program in FY2004, but the Governor's recommended funding for the upcoming biennium had increased significantly when compared to the amount expended in FY2004. Ms. Garrett indicated that the agency explained that the Bond Program had been relatively dormant for the past 2 years due to historically low mortgage rates, which were lower than what could be offered through the Division's tax exempt bond issuance program. The Housing Division anticipated that it would become more active in issuing affordable single-family mortgages in the upcoming biennium. Ms. Garrett stated that the Division projected that 612 mortgages would be transacted in the first year of the biennium and 592 mortgages in the second year. Ms. Garrett noted that the reserve level had increased significantly due to the low level of mortgage activity.

The second closing item, said Ms. Garrett, was the Governor's new, affordable housing proposal. In the Governor's State of the State Address, he proposed to make homes more affordable under the Southern Nevada Public Lands Management Act of 1998. The Housing Division indicated that it would be involved in the Governor's program, however, no costs were reflected in the Division's budget. The Subcommittee might wish to ask the agency to provide testimony regarding the status of the affordable housing program.

Assemblyman Seale commended the employees of the Housing Division for their dedication and professionalism, and he asked for an explanation of the Governor's affordable housing proposal.

Charles Horsey, Administrator, Housing Division, Department of Business and Industry, introduced himself and Lon DeWeese, Chief Financial Officer, Housing Division, to the Subcommittee. Regarding the Governor's program, Mr. Horsey explained that the Division had actually made significant progress with the affordable housing program. According to Mr. Horsey, he and Mr. DeWeese had made a recent trip to Washington, D.C., to meet with Rebecca Watson, Assistant Secretary for Land and Minerals Management, U.S. Department of the Interior, who found the proposal very interesting and appeared to be extremely supportive. Also, said Mr. Horsey, he and Mr. DeWeese had briefed Nevada's Congressional Delegation regarding the Housing Division's efforts to provide an affordable housing program, and the delegates had also been very supportive.

Mr. Horsey indicated that approximately 2 weeks ago, the Division had provided a draft agreement to the Bureau of Land Management (BLM) and the Department of the Interior, Office of the Solicitor, regarding the actual purchase of land in Clark County. The Division had not received a response regarding whether or not there were concerns or disagreements, but it would follow up on the agreement in the near future.

Mr. Horsey stated that the latest economic figures available to the Division indicated that prices of homes continued to escalate, particularly in Clark and Washoe Counties, far beyond the range of affordability. The Division's primary concern was the State's difficulty in attracting entry-level teachers or nurses, et cetera. Mr. Horsey emphasized that the Division was proceeding "full speed ahead" regarding the Governor's proposal and he pointed out that dealing with the bureaucracy in Washington, D.C., was frustrating.

Mr. DeWeese acknowledged that there had been no change in the Division's budget relative to the Governor's affordable housing program. Even if the Division were able to conclude an agreement with the BLM in May 2005, Mr. DeWeese advised that the earliest that construction could commence with a new housing program would be September or October 2006. According to Mr. DeWeese, if there was an impact, it would be during the second year of the biennium.

Mr. Seale noted the large reserve in the Cost of Bond Issues Program, and he assumed that as the interest rate environment increased the Division would "dip" into its reserves. Mr. DeWeese stated that the projections used by the Housing Division were the same as those used by the Economic Forum. The Division believed that long-term mortgage interest rates were, in fact, going to increase; it was inevitable, as the rates could not maintain at a 45-year low. However, said Mr. DeWeese, the rate at which the mortgage rates increased was the question and, at the present time, there had been a 3-week to 4-week "dip," which even Alan Greenspan, Chairman of The Federal Reserve Board, could not understand. Mr. DeWeese believed that by the end of 2005, the mortgage rate market could be approximately 6.15 percent to 6.50 percent and, by the end of the biennium, the mortgage rate could be somewhere in the range of 7.25 percent to 7.50 percent. As a consequence, tax exempt mortgage revenue bonds would become more of an attractive alternative in producing mortgage money, which meant that the benefit from tax exempt mortgages would be felt. Mr. Seale noted that the "larger the spread" in mortgage rates, the more action the Division would see in its program. Mr. DeWeese said that had been the case historically and the Division expected that cycle to continue.

Assemblyman Arberry asked whether the Housing Division was going into the mortgage business. Mr. DeWeese indicated that, statutorily, the Division had been making mortgages since 1975. Mr. Arberry stated that was not his question, and he asked whether the Division would act as a mortgage company and actually accept and process the paperwork from applicants. Mr. DeWeese indicated that the process would remain the same as it had been in the past. Mr. Arberry asked what the process entailed. Mr. DeWeese stated that a person would apply through a commercial mortgage lender and the Division would then purchase that applicant's mortgage through the lender.

Mr. Horsey further explained that the Division had made approximately 17,000 to 18,000 mortgage loans over the years. Mr. DeWeese asked Mr. Arberry if his question was whether the Division was directly involved in the processing of a mortgage with the applicant. Mr. Arberry stated that was his question. Mr. DeWeese advised that the Division did not issue mortgages, but used service organizations to issue mortgages in the commercial world.

Mr. Arberry asked what would occur in the Governor's proposal. Mr. Horsey explained that in a typical home sale, approximately 40 percent of the total value was the cost of the land and, for the first time, the Governor had requested that the Housing Division become involved in the land acquisition/ownership business by acquiring BLM land at a cost of $1 per acre and passing that savings on to low- and moderate-income first-time home buyers.

Mr. Arberry stated that it appeared that participants in the Governor's proposed affordable housing program would own the land and, if not, how would home owners qualify to refinance or draw cash out of the equity from their homes. Mr. DeWeese explained that the Division had determined that the land would be placed in a trust and the Division would hold possession during a compliance period. That compliance period would be dictated through the rules of the Internal Revenue Service (IRS), since the Division would use tax exempt bonds to finance the underlying mortgage.

Mr. DeWeese indicated that if a person had equity in a property, that person would have equity in the dwelling above ground, even if the mortgage used a lease for the land, until the compliance period had been met. According to Mr. DeWeese, at the end of the compliance period, the home owner would be allowed to acquire the land. The Division had antispeculation clauses built-in, which prevented people from trying to sell the land and house too early. Mr. DeWeese reiterated that a home owner would be able to appreciate his/her home and draw out a portion of the equity from that appreciation, but the owner would not be able to sell the land and gain a windfall until the end of the compliance period.

Mr. Arberry asked how the land issue would be addressed in the mortgage lending process. Mr. DeWeese explained that the Division would issue a parallel note associated with the land, which indicated that the person would have an immediate "due on sale" for the difference between the fair market value of the land and the leasehold value. As a consequence, stated Mr. DeWeese, the home owner would not have actual claim to the land until after the note had been paid off.

Senator Beers asked how the Division would select the individuals whom the State was going to enrich with the built-in free equity. Mr. Horsey explained that at the present time the Division had spent approximately 98 percent of its time just trying to acquire the land. Some of the points of the program, such as who would be awarded the homes, had not yet been addressed. In all probability, stated Mr. Horsey, the Division would conduct a Request for Proposal (RFP) with Southern Nevada Home Builders, or some like entity, to build a certain number of houses at different locations. At that time, the Division would probably conduct a lottery for the houses according to standards it would establish, such as first-time home buyer, certain income levels, and employment, et cetera, which the Division used on a normal basis. Mr. Horsey indicated that the Division would then ask for applications to be submitted on a first-come, first-served basis, a lottery basis, or a needs basis. He explained that the Division had not yet determined the specifics for applicants, but it anticipated that there would be far more demand than supply. The Division did want to gear the program, as far as legally possible, to first-time teachers and first-time nurses, and other such groups. Mr. Horsey advised that the Division had to determine legally whether it could give preference to such groups in the lottery process.

One of the provisions dictated by the Governor, said Mr. Horsey, was to ensure that there would be no unjust enrichment in the affordable housing program, such as a person who was lucky enough to purchase a home only to sell that home the minute it closed escrow and achieve a $40,000 to $50,000 windfall.

Mr. Horsey reported that the Division was anticipating a graduated scale over a 10-year period where, if a homeowner sold the home within the first 10 years, a certain percentage of the gain on the sale of the land would have to be repaid to the trust that the Division would create. That money could then be recycled and another family could reap the benefit. Mr. Horsey reiterated that at the present time the Division was considering a 10-year period for the trust and, after that 10-year period, if the owner achieved a gain it would belong to the owner because of improvements made to the property and the payment history.

Senator Beers stated that after 10 years, it appeared the trust fund would not receive any portion of the proceeds from the sale of the property. Mr. DeWeese said the Division was considering a sliding scale beginning at 100 percent, and declining to adjust to the fair market value and the shared gain, because the State would have a vested interest in the development itself. Senator Beers indicated that the State would have a permanent vested interest, in that it would purchase the land. Mr. DeWeese stated that was correct, the State would purchase the land for $1 per acre. Senator Beers believed that the property would be worth far more than $1 per acre and after a period of 10 years, he asked what percent of the gain would be returned to the fund. If a homeowner lived in the house for 20 years and then sold the property, would the State realize a profit from the sale of the home. Mr. DeWeese stated that the Division was looking at the present value of the investment, not only the $1 per acre, but the land/home improvement, including all off-sites.

Senator Beers asked whether the Division planned on giving away the land. Mr. DeWeese indicated that the Division was purchasing the land for $1 per acre, which he considered a give-away price. Senator Beers said that was because the State government was purchasing the land, which would then be conveyed to private citizens. Mr. DeWeese stated that was correct, but the State would get back its full investment at the present value. Senator Beers said the State would still be giving away land. He understood that the State would acquire the land for $1 per acre, but it would be worth much more than $1 per acre.

Senator Beers indicated that he would be more comfortable with a declining scale where, in the first 3 years, the State would receive 100 percent of the capital gains on the land; he asked about the percentage the State would receive after the 10-year period. Mr. DeWeese indicated that the Division had not yet determined the exact scale, but it would mirror the IRS rules. Senator Beers said at the tail end, the State's portion would be reduced to a certain percentage, and he asked whether the Division anticipated that the State's percentage would reach zero. Mr. DeWeese said the Governor had indicated a shared appreciation and he believed the State would receive at least 50 percent back, however, as indicated by Mr. Horsey, that detail had not been worked out at the present time. The Division had not yet acquired the land and, therefore, no details had been determined. Mr. DeWeese advised that if the Legislature had a suggestion, the Division would be more than willing to listen.

Senator Beers asked whether the Subcommittee would be interested in having the Division report to the Interim Finance Committee (IFC) for approval of the affordable housing plan and/or perhaps create an IFC subcommittee to work with the Division during the process of developing the plan. Chairwoman McClain indicated that was a possibility. Assemblyman Seale stated when those details had been developed they could be presented to the IFC for review. He believed that would be a move in the right direction and he believed the Legislature should have some oversight regarding the program.

Assemblyman Arberry indicated that a program of the magnitude of the Governor's proposed affordable housing program should be held for further review. He was not comfortable with the idea that State government was becoming so involved in the private sector. He reiterated that the Housing Division budget should be held for further review; he did not want to open up a "can of worms" that could not be controlled. Mr. Arberry emphasized that the Subcommittee should "tighten up" the program as much as possible and not vote on the issue without all the details.

Mr. Horsey advised the Subcommittee that, in many respects, the Division already had the statutory authority to commence with the program. During past sessions, the Division had been given increased authority and power. Mr. Horsey indicated that the Division had not anticipated the specific program proposed by the Governor for affordable housing, but such an initiative had been taken into consideration by the Legislature and the Division's authority had been expanded during the past two sessions. At the present time, stated Mr. Horsey, the Division had sufficient statutory authority to proceed with the program.

Chairwoman McClain pointed out that the costs for the program were not contained in the budget for the Housing Division. Assemblyman Seale suggested that the Subcommittee proceed with closure of the budget, but reserve the right to ask the Division to report to the IFC for further explanation of the status of the program.

Chairwoman McClain asked Mr. Arberry if he would be comfortable in closing the budget with that stipulation.

Steve Robinson, Advisor on Wildlife, Conservation, and Rural Nevada Issues, Governor's Office, explained that the program had not been completed, and was not presented to the Legislature as a package that contained all the answers at the present time. Mr. Robinson stated that the problem that had been identified by the Governor, and many other persons over the past two years in southern Nevada, including the Congressional Delegation, was that Nevada needed to address the issue of affordable housing for low- and mid-income persons. With that, the Governor had instructed his staff, including the Housing Division, to look to the best available landlord in the State, which was the federal government, and see what the government could offer to help with the problem.

Mr. Robinson said it had been discovered that within the Southern Nevada Public Lands Management Act of 1998 there was a provision which mandated that the BLM provide an affordable housing program, however, the BLM had not carried out that provision. The Governor believed it would be a good time to approach the BLM regarding that provision to see if the federal government would work with the State regarding a program. Mr. Robinson reported that a draft proposal had been submitted to the U.S. Department of the Interior and the Secretary to begin to start working out the process. The program had not been approved by the Secretary of the Interior, and the Governor had no idea when approval would be given, but he did believe that the program would be approved. Mr. Robinson did not believe that approval would be given tomorrow or next week, or even in the next few months. Mr. Robinson emphasized that the Governor believed the program was worth pursuing, but the process had not been worked out; the Governor's Office would be happy to work with the Legislature as the point-by-point process was developed.

Chairwoman McClain asked whether it was the wish of the Subcommittee to close the budget as recommended by staff, including a Letter of Intent to the Housing Division to report to the IFC regarding the progress of the affordable housing program.

Senator Beers commented that previous Letters of Intent had been ignored and he asked whether there was a "Letter of Demand" or something a bit more compelling than a Letter of Intent. Senator Beers opined that to help address the affordable housing issue in southern Nevada, the miles of two-lane road between Las Vegas and Pahrump should be made into four lanes.

Bob Guernsey, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, LCB, indicated that one alternative the Subcommittee could consider was the issuance of a Letter of Intent and the requirement that the Housing Division return to the IFC on a quarterly basis, which would be monitored by staff to ensure that the Division complied with the requirement. The Division could then keep the IFC abreast of the changes occurring in the affordable housing program as guidelines were developed.

Mr. Horsey advised that the Division would be happy to comply with that requirement and, hopefully, there would be something to report. If the Division had something to report, it would mean that it had been successful in moving further along with the program, which would be fabulous. Mr. Horsey reiterated that the Division would welcome the opportunity to report its progress regarding the program.

Senator Beers stated that the Subcommittee certainly did not mean to cast dispersions regarding the action of the Housing Division or the Governor's proposal. He believed that the affordable housing program was a major undertaking and was more than what had been contemplated by the Legislature when it passed what, apparently, was the authorizing legislation. The plan represented a significant policy change and/or initiative.

> SENATOR BEERS MOVED THAT THE SUBCOMMITTEE CLOSE BA 3841 AS RECOMMENDED BY STAFF, INCLUDING A LETTER OF INTENT THAT THE HOUSING DIVISION APPEAR BEFORE THE IFC ON A QUARTERLY BASIS TO REPORT THE PROGRESS MADE REGARDING THE AFFORDABLE HOUSING PROGRAM.
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> ASSEMBLYMAN SEALE SECONDED THE MOTION.
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> THE MOTION CARRIED UNANIMOUSLY.
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> BUDGET CLOSED.

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<u>B&I, LOW INCOME HOUSING TRUST FUND, BA 3838</u>

Ms. Garrett explained that BA 3838 was funded through a portion of the Real Property Transfer Tax (RPTT) and received tax revenue of 10 cents per $500 of assessed unencumbered real estate transfer value. Ms. Garrett reported that the Economic Forum had revised revenue projections regarding the RPTT, which was projected to increase. Therefore, LCB staff had made adjustments to increase the revenue received in BA 3838 by $3.4 million in FY2006 and $4.1 million in FY2007. The corresponding adjustments had been made to the reserve category and Ms. Garrett noted that proposed programs to utilize the additional funding would be reviewed by the IFC.

ASSEMBLYMAN HETTRICK MOVED TO CLOSE BA 3838 AS RECOMMENDED BY STAFF.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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B&I, WEATHERIZATION, BA 4865

Ms. Garrett reported that BA 4865 was funded, in part, through the Universal Energy Charge (UEC), which was transferred to the agency via the Welfare Division, Department of Human Resources. Ms. Garrett indicated there were no major closing issues in BA 4865, and one new position had been approved by the IFC on March 23, 2005. She explained that LCB staff had made appropriate adjustments in the budget for FY2006-07 to fund the position, increasing the expenditure authority by $91,056 in FY2006 and $87,568 in FY2007 in a new Decision Unit M-150. Ms. Garrett noted that with approval of the position, the agency had identified contract costs that would no longer require funding, which had resulted in a reduction of $96,145 in each year of the biennium.

ASSEMBLYMAN HOGAN MOVED TO CLOSE BA 4865 AS RECOMMENDED BY STAFF.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

Mr. Hettrick stated he had received a significant number of emails recently concerning weatherization on mobile homes; he believed that might be attributable to a bill that would cut back the Division's ability to provide weatherization services for mobile homes. Mr. Hettrick asked whether closure of the budget would impact mobile home owners, or would that depend upon the outcome of the bill.

Mr. Horsey indicated that, statistically, the two groups that had benefited the most in the state of Nevada from the weatherization program had been senior citizens and persons living in mobile homes. Many times those groups were one and the same, where senior citizens lived in mobile homes. Mr. Horsey stated that S.B. 123 had been passed by the Senate and moved to the Assembly. It was his understanding that there would be a substantial amount of testimony presented when the bill was heard by the Assembly, asking that the exclusion of mobile homes be reconsidered. The Housing Division would take a position of neutrality in its testimony regarding S.B. 123, but it would discuss the statistics regarding the energy savings. Mr. Horsey noted that the statistics were very impressive regarding the savings in heating costs and heating use in mobile homes that were weatherized.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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B&I, DIVISION OF MORTGAGE LENDING, BA 3910

Ms. Garrett stated that there were a number of closing issues in BA 3910, with the first being the agency's reserve. During the budget hearing for BA 3910, it had been discussed that the Governor was recommending a reserve balance of $3.1 million in FY2006 and $3.8 million in FY2007. Ms. Garrett indicated that, typically, a State agency would have a 60- to 90-day reserve and, for the Division of Mortgage Lending, the reserve amount should be approximately $500,000. Ms. Garrett noted that if technical adjustments were taken into consideration, it would reduce the reserve balance by $1.0 million to $2.7 million in FY2006-07, which represented a substantial reserve.

Ms. Garrett reported that discussions had taken place with the agency and it had been determined that adjusting certain fees set in regulation, such as examination fees, to partially offset the growing reserve was not a viable option. That would create inequity issues for licensees, since not all licensees were examined annually and not all licensees would receive the benefit.

For the Subcommittee's consideration, Ms. Garrett stated that the agency had proposed several options, one of which would be suspending expenses currently passed on to licensees, including the agency's certified public accountant costs, and the Attorney General (AG) cost allocation to partially offset the reserve level.

Ms. Garrett indicated that if the Subcommittee chose to recommend one of the options proposed, Fiscal Division staff would suggest that the agency be directed to seek the opinion of the AG to make certain those actions would not be in violation of statute. The other options suggested by the agency included the expenditure of reserve funds, which would be of benefit to licensees and the public; conducting a consumer awareness campaign with radio and newspaper advertising; and offering continuing education programs for licensees at no charge. Ms. Garrett stated she could not comment on the merits of those proposals, as they had not been discussed by the Subcommittee, which might wish to consider having the agency's proposals considered by the IFC for additional evaluation. The Subcommittee might also wish to issue a Letter of Intent to the agency to report on a quarterly basis the revenue and expenditures during the upcoming biennium and the impact to the reserve.

Ms. Garrett indicated that the agency had requested 4 full-time equivalent (FTE) positions consisting of an Examiner II, a Certified Public Accountant (CPA), an Administrative Assistant II, and an Administrative Aide, to address workload related to industry growth. According to Ms. Garrett, LCB staff had reviewed the workload of the agency and it appeared that the request for the Examiner II position was reasonable. The approval of the requested position, along with the position recommended for transfer in E-901, would increase total Examiner positions to 11 within the agency.

The Certified Public Accountant (CPA) position would be an unclassified position, and Ms. Garrett advised that the agency currently employed a contract CPA to perform reviews of financial statements for licensees, and analyze for solvency and the ability to conduct business. Ms. Garrett reported that the contract for the current CPA would expire on June 30, 2005, and it was the agency's desire to have the CPA position added to its staff. She noted that ongoing funding for the contract CPA was not included in The Executive Budget. The annual salary for the position would be approximately $62,000 per year, plus benefits, for a total of approximately $78,000 per year. Ms. Garrett stated that the current contract for the CPA provided for funding of up to $70,000 per fiscal year. The Subcommittee should note that the Governor's recommendation called for a start date of October 1, 2005, however, the agency had requested that the Subcommittee consider approval for an earlier start date of July 1, 2005, in order to continue to maintain the review process. Based on the agency's need for a CPA to review financial statements and the expiration of the existing contract position, the request for a CPA position appeared reasonable.

Senator Coffin asked whether there was a need for an independent signature within the Division of Mortgage Lending, and was the agency using a contract CPA because it needed an opinion versus a skilled accountant. Ms. Garrett stated that was not the purpose of using an outside contractor. By statute, the agency had the authority to employ a CPA to conduct the reviews, but when the agency had been formed, it had chosen to hire a contract CPA. Senator Coffin asked whether the contract CPA had put a signature on any paperwork, as it was his concern that the agency would end up with an employee who could not provide an independent opinion. Ms. Garrett indicated that she was not certain regarding the aspect of the signature and suggested that a representative from the Division answer that question.

Audrey Brooks-Scott, Management Analyst I, Division of Mortgage Lending, Department of Business and Industry, explained that, to her knowledge, the contract CPA did not sign as an independent entity, and the only function of the contract CPA was to review financial statements submitted by mortgage brokers and mortgage bankers for solvency.

Senator Coffin asked whether the CPA attested to the solvency of organizations or examined the financial statements for completeness and format. Ms. Brooks-Scott indicated that it was her understanding that mortgage brokers, mortgage bankers, and escrow companies were required to annually submit financial statements that had been performed by a CPA. The CPA on contract with the Division would then review those statements for completeness. Senator Coffin said it appeared that the Division wanted a CPA position based on the skill level. Ms. Brooks-Scott stated that was correct. Assemblyman Seale said it was the skill level that the agency was looking for rather than the attest function.

Regarding the request for the Administrative Assistant II and Administrative Aide positions, Ms. Garrett explained that the agency had been utilizing temporary workers, one since October 2003 and the second since September 2004. The addition of the positions would eliminate the need for the temporary workers and, based on the agency's need to employ temporary workers in the current biennium to manage administrative duties, the request for the 2 FTE positions appeared reasonable.

According to Ms. Garrett, there were two positions currently under the budget account for the Division of Financial Institutions, a Deputy Commissioner and an Examiner II position, which had been assigned to the Division of Mortgage Lending by the Department Director when the Division was established in September 2003. Ms. Garrett indicated that the Governor recommended that the positions be permanently moved to the Division of Mortgage Lending, BA 3910. The Examiner position had been reassigned to address the workload, and, given the Deputy Commissioner's experience with financial institutions, that position was assigned to the Division of Mortgage Lending to provide the necessary oversight for the newly created Division and its ongoing operations. Ms. Garrett noted that the Division of Mortgage Lending had been reimbursing the Division of Financial Institutions for those employees. Based on the newness of the agency and industry growth, Ms. Garrett indicated that the transfer of the Deputy Commissioner position appeared to be reasonable and, based on the agency's examination workload, the transfer of the Examiner II position also appeared reasonable.

Ms. Garrett stated that the Governor recommended funding in the amount of $174,955 in FY2006 and $35,026 in FY2007 for the agency to implement a new database system. The Division of Mortgage Lending would purchase user rights to the Real Estate Division's Integrated Licensing Database System, a multiagency commercial off-the-shelf (COTS) system currently being implemented in the Real Estate Division. Ms. Garrett reported that the Division of Mortgage Lending was currently utilizing separate access databases to track its licensees for receipt of payment, and other data. Ms. Garrett stated that the proposal for the Division of Mortgage Lending to link with the Real Estate Division's licensing system appeared to be a good choice because the infrastructure for that system would be established by the Real Estate Division. The system would address the similar operating needs of both agencies to utilize the system to license industry professionals and track licensees and renewals, and also track complaints. Based on those facts, the funding for the project appeared reasonable.

Ms. Garrett recommended placing the expenditures authority in a distinct expenditure category in lieu of the standard category 26 – Information Services, which captured a variety of information technology expenditures. A separate expenditure category would facilitate tracking of all project-related expenditures.

ASSEMBLYMAN HOGAN MOVED THAT THE SUBCOMMITTEE CLOSE BA 3910 AS RECOMMENDED BY STAFF, INCLUDING APPROVAL OF THE NEW POSITIONS.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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B&I, NEVADA ATTORNEY FOR INJURED WORKERS, BA 1013

Ms. Garrett stated there were two closing issues in BA 1013, the purchase of a case management system and the request for new positions. The Governor recommended $303,095 in FY2006 and $21,899 in FY2007 to purchase and implement a commercial off-the-shelf (COTS) case management system. Ms. Garrett reported that the proposed system would provide connectivity between Las Vegas and Carson City, consolidate files into one program, and allow the agency to efficiently manage its caseload.

Ms. Garrett stated that the agency was currently utilizing three separate software applications to maintain client data and statistics. As the Subcommittee might recall, the 2003 Legislature approved $133,812 over the 2003-05 biennium to fund a COTS system. Prior to project implementation, the agency had submitted a request to the IFC to fund an additional $170,000, which would have brought the total cost of the system to approximately $304,000. Ms. Garrett reported that the IFC had not approved the agency's funding request because the additional cost was not adequately justified, and the agency had been unable to implement the project.

Ms. Garrett indicated that the Governor had recommended funding for a second request to establish a COTS system, however, a major issue and concern of the Subcommittee had been adequate project management. The Department of Information Technology (DoIT) had estimated the funding needed for adequate project management and quality assurance was approximately $94,000. Ms. Garrett noted that the budget did include that amount for project management and quality assurance in the first year of the biennium. She had confirmed with DoIT that the funding level was adequate to address the identified risks associated with implementation of the project. The funding would be used to employ an experienced contract manager who would manage the project, and Ms. Garrett explained that the position would report to the Department of Administration's Information Technology Division. In addition, to address the concerns of the Subcommittee regarding adequate project management, the agency had testified at its budget hearing that agency staff would be available to support the project as needed.

Ms. Garrett stated if the Subcommittee approved funding for the agency's request and the Governor's recommendation, Fiscal Division staff recommended placing the project in the Information Technology Division's budget, which was managed by the Department of Administration. That would ensure that the project received adequate oversight. Ms. Garrett reported that the DoIT had identified the project as high risk and had indicated that with the anticipated oversight, the project had a good probability of success.

For the record, Ms. Garrett noted that if the Subcommittee chose to approve the request, it might include in its motion the request that the vendor contract must explicitly recognize that the database server would reside at the State Computer Facility, as recommended by the Budget Division.

Ms. Garrett indicated that another item for the Subcommittee's consideration was the request by the agency, and the recommendation in The Executive Budget, that the total funding for the project of $324,994 be available over both years of the biennium in order to minimize any scheduling risks and enable successful completion of the project. Based on the information provided to Fiscal Division staff, the Governor's recommended funding for the project appeared reasonable.

Senator Coffin asked why the implementation of a COTS system would be considered high risk, and he also asked why a COTS system would require so much added project management and quality assurance, since it should be operational in another location. In response to Senator Coffin's question, Ms. Garrett explained that the system itself did not run the risk of failure. Ideally, the project vendor selected would provide a good product, but there were some risks in the actual mechanics of managing the project, keeping the project within budget, keeping the project on the projected time line, and implementing the project so that it followed the correct path.

Senator Coffin said if a COTS system was purchased, that meant the system was operational and working within another entity, which was why it was being purchased. That would mean all the parameters of the program would be known, and Senator Coffin did not see the high risk. Senator Beers believed that in the planning documents that were drawn up, concern had been expressed by the DoIT that the agency would not be able to devote adequate resources to ensure that the project was managed and implemented completely.

Senator Coffin referenced the continual reporting to the Department of Administration after implementation and wondered whether that was a good idea. Senator Beers noted that BA 1325 contained all the technology projects for the next biennium that were funded via the General Fund for purposes of accounting and project management oversight, and was more in the administrative contract management and payment schedule arena than technical management. The criteria for inclusion in BA 1325 was whether or not the program was funded through the General Fund, and Senator Beers noted that the project for BA 1013 was not funded through the General Fund but due to the risk involved, staff suggested that it be placed in BA 1325 for project administration oversight. Senator Coffin stated he would not have a serious objection to the placement of BA 1013 within BA 1325.

Ms. Garrett indicated that the intent was for the implementation of the project on an ongoing basis, which would be under the purview of the agency and the Department of Business and Industry.

Continuing her presentation, Ms. Garrett explained that the agency had requested 2 new positions in the upcoming biennium, a Legal Research Assistant I to conduct research for staff attorneys, and a Legal Secretary II to provide administrative support for the agency's attorneys. Ms. Garrett noted that the agency's performance indicators did not show an increase in the actual caseload, however, in discussion with the agency and in comparing the staffing ratios in other similar environments, the staff ratios requested by the agency did appear reasonable for the Legal Research Assistant I position. Ms. Garrett reported that the current staffing ratio was 1:4 for research positions to attorneys and with addition of the new position the ratio would be 1:3. For comparison purposes, Ms. Garrett noted that the Litigation Section of the AG's Office had a ratio of legal research assistants to attorneys of 1:3.

Regarding the Legal Secretary II position, Ms. Garrett explained that the ratios were compared to the Hearings Division, which currently had a ratio of legal secretary to Appeals Officer of 1:1, while the agency's current ratio of secretaries to attorneys was equivalent of 1.2:1. With the additional position recommended by the Governor, the ratio would be 1:1. Therefore, stated Ms. Garrett, the request for the positions appeared reasonable.

Ms. Garrett noted that a budget amendment had been submitted to increase Workers' Compensation Assessment funding, in order to fund one-half of the cost of a contract security guard for the Las Vegas office. That cost would be shared with the Hearings Division and the Victims of Crime, which were located in the same office building. Ms. Garrett pointed out that the cost would be based on a pro rata share of the square footage. The agency had indicated that from time to time in the past, when it was located in the Grant Sawyer Building, there had been occasions when the Capitol Police had been called and now that the agency was in a non-State owned building, the Capitol Police were available, but only by phone. The agency indicated that at times, claimants would become irate or would become threatening. Ms. Garrett pointed out that the Subcommittee had approved the share of the costs for the security guard for the Hearings Division and Victims of Crime.

Ms. Garrett stated that if the Subcommittee approved the Governor's recommended funding in BA 1013, a technical adjustment would be recommended to reduce funding by $18,590 in each year of the biennium to reflect the corrected cost share for the agency, as provided in updated information provided by the Budget Division. The total cost for the three agencies to hire a security guard would be $38,080 in each fiscal year.

> ASSEMBLYMAN HOGAN MOVED TO CLOSE BA 1013 AS RECOMMENDED BY STAFF.
>
> ASSEMBLYMAN SEALE SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Senator Rhoads was not present for the vote.)
>
> BUDGET CLOSED.

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B&I, DAIRY COMMISSION, BA 4470

Ms. Garrett stated there was one closing issue in BA 4470, which was the agency's reserve level. The agency's reserve level was recommended to increase significantly from $567,879 in FY2004 to $1.49 million in FY2007. Ms. Garrett explained that $1.49 million was a very large reserve for the agency; an estimate of reasonable operating reserve level would be equal to 60 days of operating expense, which would be approximately $185,000.

According to Ms. Garrett, the agency did respond to the Subcommittee's expressed desire to reduce the reserve and had implemented a 50 percent reduction to certain assessments on dairy products that had gone into effect on April 1, 2005. Based on information provided by the agency, Ms. Garrett estimated that the fee reductions would equate to approximately $366,667 by the end of FY2006, and would result in a reduction to the reserve by the same amount during that time period. The potential reduction to the reserve at the end of FY2006 would equal a reserve level of $649,266. Ms. Garrett reported that the agency indicated it would continue to monitor the reserve level and make any adjustments to reduce income as needed.

Ms. Garrett noted that Decision Unit E-900 recommended the transfer of 3.0 positions to the Director's Office, which the Director's Office had indicated was no longer needed. The agency requested that the positions be eliminated. Therefore, Ms. Garrett suggested that the Subcommittee consider elimination of the 3.0 FTE vacant positions in Decision Unit E-900.

Senator Beers said at the previous budget hearing, there had been testimony that the agency did not want to eliminate all three positions. He wanted to ensure that the agency was in compliance with the request. Ms. Garrett indicated that the agency agreed with the recommendation.

> ASSEMBLYMAN SEALE MOVED TO CLOSE BA 4470 AS RECOMMENDED BY STAFF.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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Chairwoman McClain declared the Subcommittee in recess. The Chair called the Subcommittee back to order at 9:34 a.m. and opened the hearing on BA 1338.

PUBLIC EMPLOYEES' BENEFITS PROGRAM, BA 1338

Bob Atkinson, Senior Program Analyst, Fiscal Analysis Division, LCB, stated that during the previous budget hearing, the Subcommittee had directed the Public Employees' Benefits Program (PEBP) to recalculate the rates publicized for Medicare-eligible retirees. The Subcommittee had asked the PEBP to recalculate the rates based on segregating those Medicare-eligible retirees into a separate pool; those retirees would no longer be commingled with actives and retirees. Mr. Atkinson believed that the PEBP had completed that recalculation and would present information to the Subcommittee.

Mr. Atkinson reported that other closing issues included a budget amendment and the rate stabilization reserve.

Chairwoman McClain asked Mr. Thorne to present information regarding the new rates for Medicare-eligible retirees.

P. Forrest "Woody" Thorne, Executive Officer, PEBP, referenced Exhibit B, "State of Nevada Public Employees' Benefit Program, Revised Rates Plan Year: July 2005 – June 2006," which contained the recalculated rates. The actuaries for the PEBP had recalculated the rates that would be required if the Medicaid-eligible retirees were no longer commingled with the pool. As requested by the Subcommittee, Mr. Thorne stated the PEBP had not changed the active employee cost or the non-Medicare retiree cost, as far as the participant's share under the scenario presented in Exhibit B.

Mr. Thorne explained that the exhibit contained the original figures for the participant's share, the revised figures for the participant's share, and the difference or amount of the reduction. He noted that the rate reduction for a single Medicare retiree was $29.88, and for the category of Medicare retiree and spouse, the reduction was $246.52; the remaining tiers were also listed in the exhibit. According to Mr. Thorne, those amounts were further adjusted for post-1994 retirees by the amounts listed on page B-2 of the exhibit. Based on a retiree's years of service, there would be either a further decrease or an increase in that participant's share, based on the years of service.

Mr. Thorne explained that for a Medicare retiree and spouse, the revised participant rate was $232.20, which would be further reduced by $120.48 if the retiree had 20 years or more of service.

Senator Beers referenced page B-2 of the exhibit, and asked why 15 years of service showed $0.00 for the premium adjustment. If he had retired with 10 years of service, would his premium be $120.48 more than the amount indicated on the first page of the exhibit. Mr. Thorne stated that was correct. He explained that the zero premium adjustment figure for 15 years of service was used for the base amount of the subsidy, and the figures either went up or down from that point. Senator Beers asked if the numbers on page B-1 of the exhibit were post-subsidy for a 15-year employee, and Mr. Thorne stated that was correct.

Continuing his presentation, Mr. Thorne indicated that pages B-3 and B-4 of the exhibit contained the information regarding the non-State group, which depicted reductions ranging from $188.06 for a single Medicare-eligible retiree to $698.57 for a Medicare-eligible retiree and spouse. Mr. Thorne stated that because of multiple employer billings, the subsidy for the non-State retirees was somewhat different. The computation commenced with a base amount, which increased based on years of service.

The basis for the changes, said Mr. Thorne, was the reversal of commingling for Medicare-eligible retirees, who would be segregated into a separate pool. The PEBP had applied the subsidy in the same manner that it had from the time that the budget process commenced, based on a percentage of costs applied to the amount of the rates. Mr. Thorne explained that the PEBP had eliminated the Medicare Part B reimbursement because that would simply be "trading dollars" with a separate segregated group. In order to receive the Medicare rate, the retiree would be required to have both Medicare Parts A and B, and Mr. Thorne stated there were approximately 260 Medicare-eligible retirees who were not eligible for Part A. The recalculated rates would be subject to passage of a bill that would amend the commingling requirements in *Nevada Revised Statutes* (NRS) 287.043.

If the PEBP put the revised rate structure into place across-the-board for active employees and Medicare-eligible retirees, Mr. Thorne reported that the State active subsidy would be revised to $501.33 to cover the additional costs, and the State retiree base subsidy would decrease to $246.23. Without additional subsidy, the participant's share for active employees and non-Medicare-eligible retirees would increase $19 for a single participant, $47 for participant and spouse, $59 for participant and children, and $110 for participant and family.

Mr. Thorne said, by comparison, if the new rates were implemented, the rates for the non-State actives and non-Medicare-eligible retirees would increase by $15 for a single participant, increase by $124 for participant and spouse, decrease $53 for participant and children, and increase $153 for participant and family. The rate for Medicare-eligible retirees would only decrease by $2, and for a Medicare retiree and spouse the rate decrease would be $6, however, the rate for a surviving spouse would increase by $103.

The reason for those figures, explained Mr. Thorne, was because there was an exact reverse ratio of retirees to actives in the non-State group as there was in the State group. There were approximately 3.9 active employees for every retiree in the State group and in the non-State group there was 1 active employee for every 3.8 retirees. Mr. Thorne stated that the rates in the non-State pool were so heavily influenced by the retiree costs that there was very little reduction in the recalculated rates based on that strong influence.

In looking at the overall impact, Mr. Thorne reported that the cost decrease of approximately $3.3 million was due to the elimination of the Medicare Part B reimbursement. Using the new rates, revenues decreased by approximately $3.7 million, and Mr. Thorne advised that without changes to all the rates, revenues would be short by approximately $6.2 million for FY2006 and, after an adjustment of 15.5 percent for trend increases, an additional $7.2 million would be needed from reserves for FY2007. The estimated reserve would be $10.7 million on June 30, 2007. Mr. Thorne indicated that his original estimate of an impact of $10 per person would be approximately double.

Mr. Thorne commented that in FY2006 and FY2007, the PEBP would use surplus as a one-time event that was built into the budget. The PEBP would use $22.4 million in surplus to bring the rates down to appropriate levels and supplement the subsidy income received by the PEBP during the biennium. Mr. Thorne indicated that when that amount was added to the previously mentioned decreases due to the adjustment for Medicare retirees of $13.4 million, the PEBP would end up $35.8 million in the "hole," which would be where the PEBP would start next session in an effort to bring its budget up to "dead even."

Chairwoman McClain asked Mr. Thorne to repeat the information regarding the deficit amount. Mr. Thorne stated that the PEBP had more surplus than it anticipated when the budget was compiled, and a budget amendment had been requested to use that surplus as a supplement to the subsidy amounts that were being paid into the program as new revenue over the biennium. The surplus was $22.4 million, and the bulk of that money would be used in FY2007. Mr. Thorne explained that adding that figure to the supplement for Medicare-eligible retirees would require an additional $13.4 million from reserves. At the end of FY2007, the PEBP would have used its surplus and reserves and would have to start from square one and look at the trends going forward for the following biennium. First, said Mr. Thorne, the PEBP would have to add the $35.8 million back into its current funding levels.

Senator Beers asked Mr. Thorne to explain the sequence of figures that would put the PEBP in the "hole." Mr. Thorne stated that the PEBP had projected surplus in its budget by the end of FY2005, which would be a substantial carry-forward. Senator Beers asked for the amount of the surplus. Mr. Thorne indicated that the surplus would be $65 million on June 30, 2005. That amount would cover the incurred but not reported (IBNR) reserve, the catastrophic reserve, plus surplus. Mr. Thorne stated when the PEBP built its budget including FY2006 rates, it realized that the surplus was too high. Mr. Thorne likened the situation to Medicaid announcing that since the caseload was down substantially from the projections in the budget, it would not need additional funding to cover the caseload. Rather than increasing the State's contribution via subsidy by trend percentages, the PEBP would use a portion of the reserve for part of the subsidy.

Mr. Thorne explained that rather than the State paying $500 per month in employee subsidy during the first year of the biennium, the PEBP reduced that amount to $480 and the $20 difference would be made up from the surplus. In FY2007, rather than the State paying $580 per month for employee subsidy, the rate would be $520, and the bulk of the surplus would be used in the second year of the biennium. Mr. Thorne noted that the total funding was the same as far as meeting the needs regarding the cost of the program, but a portion of that revenue would be drawn from surplus.

Senator Beers stated that the surplus amount on June 30, 2005, would be $65 million and he asked for the figures regarding the surplus. Mr. Thorne said that in addition to the amount received from the State and the participants in FY2006, funding from surplus of approximately $2 million to $3 million would be needed to fund the PEBP. He noted that expenses for FY2006 would be approximately $2 million to $3 million higher than the revenue received. During the second year of the biennium, stated Mr. Thorne, the PEBP would draw approximately $19 million to $20 million in surplus because expenses would be that much higher than the revenue received during FY2007.

Senator Beers calculated that there would be an approximately $42 million reserve on June 30, 2007. Mr. Thorne stated that was correct, which was targeted for $19 million in IBNR reserve, plus the $24 million in the catastrophic category. Senator Beers asked whether the PEBP planned on utilizing a rate stabilization reserve. Mr. Thorne explained that the $24 million for the catastrophic reserve was actually both the rate stabilization and catastrophic reserve.

Senator Beers asked for clarification regarding the budget amendment, which proposed to substantially reduce reserves by transferring funds to the General Fund and other funds. Mr. Thorne said the misconception regarding the budget amendment was that the PEBP was "giving back" money, but the PEBP had submitted a revised budget based on revised projections of the needed revenue. Senator Beers asked whether the numbers previously discussed were those from the budget amendment, and Mr. Thorne stated that was correct.

Mr. Thorne commented that when the PEBP compiled its budget, it did not have the claims data for the current year and had not developed the rates for plan year 2006, which started July 1, 2005. The original budget had been based on projected expenses for the current year, plus the projected trend for 2006 and the projected trend for 2007. Mr. Thorne explained that the rates for FY2006 had been calculated during January/February 2005, including the benefit enhancements that had been approved by the PEBP Board, and the figures were essentially flat. Those figures were well below what the PEBP had originally projected for FY2006. Mr. Thorne stated it was somewhat like revenue projections, when the base changed, the amount needed in the second year of the biennium also changed. The PEBP base was lower and the revenue needed for the second year of the biennium was also lower, and that was why the request for funding was reduced by approximately $47 million.

Senator Beers again asked for clarification. Mr. Thorne said the reduction in the PEBP's budget request was approximately $47 million lower than the original budget request and the revised budget request was based on the revised or lower projection regarding the cost of the program over the biennium.

James Wells, Accounting Officer, PEBP, further explained that the Board had approved the rate stabilization/catastrophic reserve plus the IBNR reserve, and the PEBP needed to fund the reserve in order to be financially sound. Those reserve amounts were built into the original PEBP budget. Mr. Wells explained that in August 2004, the PEBP's carry forward reserve estimate for June 30, 2005, was more than it needed to fund both categories in their entirety. The PEBP estimated that it would have approximately $52 million in reserve on June 30, 2005, and it needed $44 million to fund the IBNR reserve and the catastrophic reserve. Mr. Wells stated that the PEBP had included a spend-down of the surplus of approximately $7 million over the biennium in its original budget. When the rates were recalculated, it was discovered that the amount needed by the PEBP to operate, pay its claims, pay the contractors, et cetera, had decreased from the original projections made in August 2004. Mr. Wells indicated that the renewals for the Health Maintenance Organizations (HMOs) were less than first anticipated and the claims estimates from the

PEBP's actuary for 2006 were significantly less than the PEBP thought it would be.

According to Mr. Wells, if the PEBP let the proposed budget from August 2004 stand, the amount of revenue brought into the plan would have generated another gigantic surplus that the plan would not need, according to projected expenses. The PEBP had approached the Budget Division about revising the budget downward to meet its need, and the overall decrease was $46 million over the biennium.

Senator Beers asked about the time frame when the PEBP received a report regarding the last year's costs and whether that report would be accurate the following year during the month of May. He opined that the costs should not be a "guess" at the present time. The State had a history of learning that the numbers used for the last year's costs would change as late as the last half of the next year. Senator Beers believed that was part of the cause of the volatility of the PEBP's rates over time and he was seeking assurance that the 2004 actual spending, upon which the going forward costs were based, was accurate. Mr. Wells concurred that the actual figures were accurate and pointed out that the data for 2004 was closed.

Senator Beers said the PEBP was currently projecting a $65 million surplus at the end of June 2005, and Mr. Wells stated that was correct. He explained that the figure had been revised because the original projection was for a $52 million surplus and when the recalculation was done, the PEBP realized it would have additional carry forward as well as lower costs for the next year. Senator Beers noted that the starting reserve for the next biennium would be $65 million, which Mr. Wells stated was correct. At the end of FY2007, the reserve figure should be approximately $42 million and the budget amendment reduced the reserve, but not by subsidizing rates. Senator Beers commented that the budget amendment would reduce the reserve by reducing the State's subsidy.

Mr. Wells explained that the way the budget had been built it expended the reserve revenue first, and then the budget calculated how much had to come from the different pools based on the percentage of costs from the various sources. Senator Beers said "except for the employees." Mr. Wells stated that the calculation included all sources, and the reserve was taken from the top. Senator Beers asked whether the $23 million reduction in reserve over the biennium was matched by a roughly $4.5 million reduction in employee contributions over the biennium. Mr. Wells assured the Subcommittee that the dollar amount of the subsidy was taken off first and was applied to every category, State, non-State, active employees, employers, et cetera. He reiterated that the money from surplus was taken out first and then the rates and contributions were calculated based on the lower cost.

Senator Beers said the $23 million reduction in reserve was essentially not calculated as the State's roughly 80 percent of overall plan costs that the State subsidized. Mr. Wells stated that was correct, the cost was factored throughout every category. Senator Beers asked why 20 percent of the $23 million was not considered as reserve created by employee contributions. Mr. Wells did not believe that he could answer that question. Part of the reserve was generated by the amounts that employees paid.

Senator Beers stated that it appeared that the $23 million was the total reduction in reserve over the course of the biennium. Theoretically, if half of the State's subsidy was being paid from agencies funded through the General Fund and half was being paid from federally funded agencies, why would the federal government not claim half of the $23 million as federal funds that should be reimbursed to federal accounts and/or the contributing agencies. Mr. Wells said that had been done by decreasing all subsidies.

Senator Beers asked why employees had not received their 20 percent in that process and, since the General Fund subsidy was reduced by 40 percent and the federal government received a 40 percent reduction, what had happened with the employee's 20 percent. Mr. Wells stated that the reduction would be included in the employee's rate for the upcoming plan year. The reduction kept the rates from going up higher to maintain the 20/80 split.

Senator Beers said it appeared to be the PEBP's contention that the $23 million was new General Fund money, the federal government had been covered, and employees were covered through lower rates. He recalled that previous testimony indicated that the $23 million was only the State's 80 percent. Mr. Wells explained that the $23 million that the PEBP was spending-down included two pieces: 1) The overall reduction in the PEBP's cost equaled $46 million; 2) The $23 million was a spend-down of the surplus, which was being allocated across-the-board to all categories with no special treatment being afforded to any one category.

Senator Beers stated that the $23 million was being taken from the PEBP's reserve and, according to the budget amendment, being placed in the General Fund. Mr. Wells stated that was not correct.

Mr. Atkinson explained that the result of the reduction in the State's contribution meant that every entity that paid the State a contribution would realize a reduced expenditure. Reducing that contribution would mean that the federal government would make less of a contribution, the General Fund agencies would make less of a contribution, and the fee supported accounts would make less of a contribution. Mr. Atkinson noted that it would be the reverse of a cost allocation, or a reduction allocation, which would undo the over-cost allocation.

Senator Beers asked whether the total amount of that transaction would be $23 million over the biennium in General Fund dollars. He asked whether the $23 million that had to be replaced, and that the Subcommittee planned to put into the health plan, had been realized at 40 percent from non-General Fund agencies, 40 percent from General Fund agencies, and 20 percent from employees.

Mr. Atkinson stated that the original proposal in The Executive Budget was addressed by Budget Amendment Number 4, which indicated that the agency was anticipating that the projected expenditures over the biennium would decrease by approximately $46 million and, in addition, the agency anticipated that it would have approximately $13 million more in cash than anticipated. Because of that, the PEBP stated that it needed approximately $59 million less in revenue to run its program over the biennium than predicted when the original budget had been built. Mr. Atkinson explained that approximately $48 million would be related to the State program with the remaining $11 million being related to the non-State program. Of that $48 million, the estimate at that time was that approximately $28 million would be General Fund.

Mr. Atkinson stated that the reduced subsidies recommended in the budget amendment would lower the overall subsidies that were provided to the program from the State by approximately $48 million. The estimate was that the $48 million would include approximately $28 million of General Fund money.

Senator Beers indicated that $20 million of the expenses for other funds was being reduced by the budget amendment. Mr. Atkinson stated that was correct, but he noted that it was not true that the expenses were being reduced, rather, it would be a reduction in the expenditures that those funds would otherwise incur if the reduction in the State subsidy were not put into place.

Senator Beers stated that it appeared that the majority of the cause of the surplus was anticipated decreases in expenditures for the next biennium, and he asked how it would not be an equally valid interpretation to suggest that it was caused by having budgeted for too much revenue in the current biennium. Mr. Thorne commented that there were two sides to the equation and it could be interpreted that way. Senator Beers said if it was interpreted that way, the reserve that would be reduced had been accumulated from agencies funded 40 percent by the General Fund, 40 percent by non-General Fund or other non-State agencies, and 20 percent by employees. So, asked Senator Beers, why could the PEBP not reduce revenue by $59 million across-the-board from its revenue stream over the next biennium, with 20 percent of the reserve, or approximately $12 million being the component contributed by employees, and then apply the same ratios for the remaining $47 million to reduce subsidies. He asked why that would not be a valid interpretation.

Mr. Wells replied that one thing the PEBP had accomplished during the current plan year was to decrease participants' contributions; it could not change the State's share, so the participants' share had been reduced during the current year. He explained that was one of the ways the PEBP had given money back to the participants.

Senator Beers said the problem regarding the reserve had just recently been recognized after the budget process had been initiated. Mr. Wells indicated that the PEBP had lowered its rates during the current fiscal year because the reserve had continued to grow.

Chairwoman McClain asked about the difference between the rates for plan years 2003 and 2004. Mr. Wells said that the rates had obviously varied, but an example would be a single active employee on the $500 deductible plan, whose out-of-pocket expense went from $14.36 in 2004 to $4.53 in 2005. Chairwoman McClain commented that in 2006, the rate was increasing to $20, and Mr. Wells stated that was correct. Another example, stated Mr. Wells, was the Medicare-eligible retiree and spouse category, which went from approximately $178 in 2004 to approximately $78 in 2005. The categories varied in reduction, but Mr. Wells stated that many categories had been reduced.

Mr. Atkinson commented that when the PEBP reduced the $59 million by the 20 percent contributed by each employee, it was easier to consider only the State's portion, and of the $59 million, $11 million was probably related to non-State entities. For non-State entities, he did not believe that the PEBP knew exactly whether that was employer or employee money because it billed for the entire contribution and, other than the portion that was subsidized for active employees, the PEBP would not know whether the employee or the employer was paying the premium.

Senator Beers commented that Mr. Atkinson was suggesting that it made more sense to take the initial $59 million total for the budget amendment, minus the $11 million that would go to other non-State entities who participated in the plan, which left a balance of $48 million for the State's piece. Staff had tentatively allocated $28 million to the General Fund and $20 million to non-General Fund. Senator Beers stated that of the $48 million, 20 percent, or $9.6 million, would be the employee's portion and the remaining $38.4 million would be the State's portion.

Mr. Atkinson stated that if the reduction was viewed on a per-person basis in relation to the State subsidy, the budget amendment would reduce the State's subsidy for active employees by approximately $90 per person, per month. It appeared that Senator Beers was indicating that 20 percent of that reduction would be related to the employee contributions made in the past, which would leave $72 for the State's portion of that $90 reduction. Mr. Atkinson pointed out that approximately $36 would be General Fund, $36 would be federal, fees, and other funds, and $18 would be the employee's portion.

Assemblyman Seale asked for clarification regarding Senator Beers' comments. Senator Beers said the budget amendment before the Subcommittee proposed to reduce the reserves of the PEBP over the biennium by a total of $59 million, compared to the budget that had been drawn up at the end of 2004. Senator Beers stated of that $59 million, the budget amendment proposed that $11 million be returned to non-State agencies who participated in the PEBP to aggregate the smaller number of employees from those agencies with the larger number of State employees. Of the remaining $48 million, 58 percent would be for General Fund agencies through a reversed allocation process, and 42 percent would be for non-General Fund agencies. Senator Beers said it would seem more equitable to him to subtract the $11 million from the total of $59 million for non-State agencies, and 20 percent, or $9.6 million, of the remaining $48 million would be set aside as the employee's portion because employees had overpaid the premium for the plan. The reserve was created by employees paying 20 percent and employers paying 80 percent, and now that the reserve was being reduced, Senator Beers suggested that 20 percent should be attributed to employee contributions and 80 percent to employer contributions. Of the remaining $38.4 million, 58 percent would be returned to General Fund agencies and 42 percent to non-General Fund agencies.

Assemblyman Seale asked how that would change the budget. Senator Beers said it would reduce the amount of General Fund that would be contributed to the health plan, which would be available for additional spending or tax reductions. At the present time, stated Senator Beers, The Executive Budget included a $28 million source of revenue, which represented the General Fund portion of the budget amendment.

Mr. Seale asked whether there would be an impact on the PEBP reserve. Senator Beers indicated there would be no impact on the PEBP reserve, which would be reduced to its target level, as planned within the budget amendment. What would be different was the distribution of the monies between General Fund, non-General Fund, and employees. Currently, stated Senator Beers, the reduction of expenses impact was 58 percent General Fund, 42 percent non-General Fund, and he proposed that the Subcommittee take

20 percent of the $48 million and set that amount aside for benefit of employees, and distribute the remaining amount 58 percent to General Fund and 42 percent to non-General Fund agencies. Senator Beers indicated that would have an impact of reducing the $28 million by approximately $5.6 million, so the $28 million General Fund, which represented a negative expense that could be spent again, would be reduced to $22.4 million.

Mr. Seale asked whether that would have an impact on the rates. Chairwoman McClain noted that the Subcommittee was talking about two separate issues. The Medicare-eligible rate issue was different from the PEBP reserve issue. Senator Beers concurred that the reserve was a different issue from the Medicare-eligible retiree issue.

Mr. Atkinson clarified that the Subcommittee could not simply set an allocation of 58 percent and 42 percent. The percentage would depend on how the positions were funded, and that percentage was an estimate of the amounts.

Senator Beers believed that it was important to note, because of the budget amendment, that any action taken by the Subcommittee would cause a revision to the budget amendment.

Chairwoman McClain pointed out that the Subcommittee had two issues for consideration, the new Medicare-eligible retiree rates and the budget amendment regarding the reserves.

Assemblyman Arberry reminded the Subcommittee that whatever its decision was regarding the PEBP, it had to be accomplished within approximately 6 days, and the issue was extremely confusing. Mr. Arberry said he had attempted to follow Mr. Thorne's testimony, but still found the issue extremely confusing.

Assemblyman Hettrick questioned the rates, and explained that some years ago he had been involved in the insurance industry and his experience had been that when there was a difference in deductibles, generally the rate paid for choosing a higher deductible was enough money to offset the difference between the two. For example, if there was a choice between a $500 deductible and a $2,000 deductible, the reduction in rate was usually close to $1,500 per year because a person was, typically, less apt to reach the higher level of insurance coverage over the period of one year.

Mr. Hettrick referenced the rates listed in Exhibit B and he noted that there was a $1,500 difference between the two deductibles, and the difference for a $1,500 deductible should be $125 per month to generate the $1,500 a year difference. The highest difference Mr. Hettrick could find was $113, which was for an employee and spouse, non-State actives, or retiree and spouse for non-State retirees. Some differences dropped as low as $26 or $27 per month reduction, if a person chose the higher deductible. Mr. Hettrick opined that no one would choose the higher deductible on that basis, which meant that the plan would pay out more money. His question was why the rates worked out that way, as it did not make sense. If the employee or retiree was going to pick up the first $1,500 more, in order to encourage anyone to pick that option, the rate reduction would have to be different by $1,500, otherwise the plan was guaranteed to get "hit." Mr. Hettrick stated that persons would pick the higher rate (lower deductible) because it was actually cheaper in the long run, and he did not understand the rates.

Mr. Thorne explained that there were a couple of reasons, and one was that even though there was a $1,500 difference in the deductible, only a relatively small portion of the population in that plan would reach that deductible. If the PEBP gave complete credit for the deductible difference, it would pay approximately four or five times what the value of that was to the overall high deductible plan. Mr. Thorne stated that there were also different plan designs, which had an impact on the differences in rates. The predictive modeling would review the health status and projected usage of those in the higher deductible plans.

Mr. Hettrick stated that he understood that, but it appeared that the State was saying that people who selected the high deductible plan were subsidizing those who selected the lower deductible plan. He was not sure that should be how the plan worked. Mr. Hettrick referenced page B-3 of the exhibit, which indicated that a Medicare-eligible retiree and spouse would pay a revised premium of $576.36 for the $500 deductible plan, and, assuming that the plans were the same, if that retiree selected the $2,000 deductible premium the rate would be $517.81.

Mr. Thorne reported that the two plans were different. He explained that in the $500 deductible plan there were co-payments for doctor visits and the high deductible plan was a straight 80:20 plan, which conformed to the IRS requirements for a high deductible health plan.

Mr. Hettrick said that was interesting and, if the plans were different, he could understand the rates. It struck him that it would be interesting to see if there was a way to make that work and move more people to the high deductible plan. On the face of it, said Mr. Hettrick, if he looked at the rate schedule he would never switch to the $2,000 deductible, even though he always took the highest deductible because it was usually beneficial for a person to take such action.

Mr. Thorne advised that the PEBP had been searching for a tool for the participants to use to help them for just that reason, one that would be based on the type of medical expenses incurred, on a particular condition a person might have, and the person's projected claims utilization over the next year. Once the person plugged in the parameters of the plans, the tool would aid in making the best decision. Mr. Thorne said the PEBP hoped to have such a tool in place by open enrollment in 2006.

Chairwoman McClain indicated that the Subcommittee would consider the new rates and make a determination regarding the budget amendment. Senator Beers pointed out that the new rates would require a statutory change as well, and it would have an impact on the State's budget because the rates had to be funded. Chairwoman McClain believed that the funding would be realized via the budget amendment. Senator Beers explained that would amount to a subsidy for non-Medicare-eligible recipients and once that subsidy ceased in two years, participants would suffer "sticker shock." At some point, the State had to stop the short-term subsidization of the program and establish accurate rates. Chairwoman McClain concurred, and stated that was part of the reason to change the statute to define commingling. She believed that the IFC should review the rates before they were presented to the PEBP Board or were published, which would give the Legislature some oversight in the process.

Assemblyman Arberry stated that he did not feel the IFC should undertake the oversight process for the PEBP. He opined that it would be quite difficult since the IFC would then be the deciding factor regarding rates.

Senator Coffin noted that there would be another complication with the IFC, and that was that it took a great deal of time to understand the PEBP process, and even the Subcommittee had not completely grasped the concept. The Subcommittee would have to explain the PEBP rate to its colleagues on the full committees and then it would require a joint committee meeting to resolve budget differences. Senator Coffin noted that Mr. Arberry had advised the Subcommittee that it should take action regarding the PEBP budget within approximately 5 days, and it would take all that time for the full committees to understand, not counting the political ramifications of action that was being attempted to help those who would pay the higher rates.

Chairwoman McClain asked Mr. Atkinson to explain to the Subcommittee how the issues fit together and what action it should consider.

Mr. Atkinson believed that decisions should be made by the Subcommittee in the following order:

1. Decide whether the Medicare-eligible retirees would be segregated from the pool.
2. If the retirees were segregated, request that legislation be introduced to accomplish that segregation.
3. The Subcommittee would need to give the PEBP direction regarding how that should be accomplished for FY2006, which was based on the original employee deductions based on what had been published in the open enrollment packet for active employees and State retirees who were not Medicare-eligible.
4. In the second year of the biennium, the Subcommittee should direct that the program rates would be built with the Medicare-eligible retirees segregated.
5. The PEBP had indicated that the net cost of that decision would be approximately $10.7 million over the biennium; $6.2 million in decreased revenue the first year of the biennium and $7.2 million in decreased revenue the second year, reduced by $3.3 million of Medicare Part B reimbursement that the PEBP would no longer pay.
6. The Fiscal Division would need to know the biennial impact of approving the segregation, which would mean a reduction in the reserve if the budget amendment stood as presented. Once a decision had been made based on that cost, the amount of the reduction included in the budget amendment could be reduced in order to accommodate the cost of that earlier decision, so that the reserve levels at the end of the biennium would be approximately $46 million.

Mr. Atkinson indicated that if the Subcommittee approved the change in the Medicare-eligible retiree rates there would be a cost to the program and, if the Subcommittee did not change the budget amendment, the reserve for the PEBP would be less at the end of the biennium than the PEBP believed was necessary, and also less than the amount stipulated in the current budget.

Senator Beers asked whether the Subcommittee could address the issues sequentially rather than combining them; he believed that the issue of Medicare-eligible retirees was separate from the issue of the budget amendment. Chairwoman McClain stated that was true, except for the source to subsidize the retiree issue. Senator Beers indicated that part of the decision regarding the Medicare-eligible retirees would be how to pay for the change, either from the reserve by appropriating new funds or by raising rates in the second year of the biennium.

Chairwoman McClain commented that the PEBP had a very significant reserve, and she believed that would be the more appropriate way to pay for the changes. Senator Beers said that had the impact of, once again, subsidizing participants, which would cause “sticker shock” in the future. Chairwoman McClain believed that it was too late to recalculate the rates and the funding sources for the 2006 plan year. Senator Beers said if the Subcommittee was determined to pay for the changes from the reserves, he would suggest paying for the cost of the rate changes from the reserve for the first year of the biennium and changing the rate structure for the second year of the biennium. Mr. Atkinson believed that the PEBP budget could be reworked to accommodate that recommendation. Senator Beers asked Mr. Thorne if that would be possible, and Mr. Thorne replied that it would be possible.

Assemblywoman Koivisto understood that the suggestion was that the rates for the first year of the biennium would be subsidized by the PEBP’s reserve, and for the second year of the biennium the PEBP would establish increased rates, which could cause “sticker shock” for those Medicare-eligible retirees who participated in the plan, at a time when the Legislature would not be in session to deal with the problem.

Senator Beers indicated that the rate increase would be approximately $20 per month. Currently, the overall plan, until there was a new schedule of rates, would use the Medicare-paid health services, not for the benefit of those who participated in Medicare, but for the benefits of those who did not. Senator Beers stated that the original proposal was that the State subsidized non-Medicare retirees and actives with Medicare money, but the current proposal was that the Medicare-eligible retirees would receive the subsidy. Senator Beers indicated that by removing the subsidy for everyone else, the Subcommittee had to determine a method of funding. The two choices were that the State would add money to the PEBP budget or that the retirees would pay an increased rate. Senator Beers indicated that his suggestion was a compromise where the State paid the subsidy for the first plan year because it was too late for the PEBP to recalculate the rates since the open enrollment period had commenced. The second plan year would reflect the increased rates for Medicare-eligible retirees, which would mean that retirees would have to face the “sticker shock” caused by ending a special subsidy in a 1-year time frame rather than a 2-year time frame. Senator Beers noted that the “sticker shock” was relatively well-defined and would be approximately $20 per person, per month.

Chairwoman McClain stated that if legislation was passed that defined commingling and placed the Medicare-eligible retirees in a separate pool, she did not believe that the Medicare-eligible retirees would suffer “sticker shock” because the rates for that group would be as listed in Exhibit B and should be stable. The so-called “sticker shock” would affect actives and the non-Medicare-eligible retirees, which might not be too significant because there were only approximately 3,000 in the Medicare-eligible retiree pool.

Senator Beers indicated that such action would ease the PEBP into the 2007-09 biennium with a better chance of creating a smooth set of increases that would roughly parallel the cost of medical inflation.

Mrs. Koivisto stated that, as a participant and a State retiree, she had suffered "sticker shock" in FY2004-05 when her rates had increased by $100, and if the Subcommittee was sure that the rate increase would be only $20 she would concur with the recommendation. Senator Beers added that the commingling of the retirees and actives would greatly mitigate the "sticker shock" experienced by retirees.

Chairwoman McClain asked whether the Subcommittee would concur with the rate schedule for the Medicare-eligible retirees. She pointed out that eventually, the Medicare-eligible or non-Medicare-eligible retiree issue would be moot because within the next 10 years, almost every retiree would be eligible for Medicare. The only issue would be those retirees who were not eligible for Medicare at the time they retired.

The Chair called for a motion regarding the issue of Medicare-eligible retirees.

> SENATOR BEERS MOVED THAT THE SUBCOMMITTEE ASK THE COMMITTEE ON WAYS AND MEANS TO FORMALLY REQUEST A BILL DRAFT REQUEST (BDR) TO FACILITATE SEPARATION OF THE MEDICARE-ELIGIBLE RETIREES FROM THE PEBP IN ACCORDANCE WITH EXHIBIT B.
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> ASSEMBLYMAN HOGAN SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblyman Arberry was not present for the vote.)

The Chair called for the next motion.

> SENATOR BEERS MOVED THAT THE SUBCOMMITTEE FUND THE COST OF SEGREGATING THE MEDICARE-ELIGIBLE RETIREES FROM THE PEBP FOR THE FIRST YEAR OF THE BIENNIUM THROUGH A REDUCTION IN RESERVE OF $6.2 MILLION, AND THAT THE PEBP RECALCULATE THE RATES FOR THE SECOND YEAR OF THE BIENNIUM.
>
> SENATOR RHOADS SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblyman Arberry was not present for the vote.)

Chairwoman McClain indicated that the Subcommittee would consider the budget amendment. Senator Beers stated that, based on the last motion, the beginning reserve figure would be reduced from $65 million to approximately $58.8 million. Mr. Thorne reported that the beginning reserve figure would be $59.5 million. Senator Beers indicated that he was talking about the starting reserve figure that would be adjusted to $42 million. The PEBP currently projected a surplus as of June 30, 2005, of $65 million, and Mr. Thorne stated that was correct, but the amount being spent from surplus would have an impact on the fund balance as of June 30, 2006. Senator Beers stated that the motion approved by the Subcommittee regarding the Medicare-eligible retirees was that on July 1, 2005, $6.2 million would be encumbered from the

PEBP's reserve and, therefore, for the purposes of calculating the budget amendment, the beginning reserve figure would be $58.8 million. Mr. Thorne reported that the beginning reserve figure would be $59.5 million.

Senator Coffin advised that he would like to hear from the PEBP so that the Subcommittee would know how close it was getting to the comfort level that should be maintained for the reserve. The Board of the PEBP had the authority to change benefits and changes in benefits would impact the action taken by the Subcommittee. Senator Coffin did not believe that the Legislature had the authority to forbid the Board from changing or, in essence, increasing benefits to meet the needs. He felt the Subcommittee should recognize the PEBP's comfort zone regarding the reserve because appointees to the PEBP Board had a fiduciary duty to perform. Senator Coffin opined that the PEBP should go on record regarding how close the Subcommittee was to the comfort level of the reserve, particularly in the second year of the biennium. The Subcommittee had to be very careful because even though it sounded like a significant reserve, it was not.

Chairwoman McClain indicated that part of the budget amendment addressed the rate stabilization fund and rates had been very volatile in the past, but over the next two biennia, the plan would smooth out. Chairwoman McClain stated that there had been many anomalies in the plan over the past 4 to 5 years that, hopefully, would not continue to occur.

Senator Beers indicated that the beginning reserve figure would be $59.5 million and the target figure for the reserve was $42 million. Chairwoman McClain stated that the Subcommittee wanted to ensure that the reserve contained $19 million for the IBNR and $24 million in the catastrophic/rate stabilization category after all action had been taken. She asked Mr. Atkinson whether the Subcommittee could move to retain $42 million as the ending figure for the reserve. Mr. Atkinson replied that the Subcommittee could indicate that it would like Fiscal Division staff and the PEBP to work together to restructure the rates and maintain an ending reserve at the end of FY2007 that would include $19 million for the IBNR and $24 million for catastrophic/rate stabilization in the reserve. Mr. Atkinson indicated that staff would require some guidance regarding the premium that would be paid by the employee and the reserve amount that would be utilized to adjust the State subsidy.

Chairwoman McClain believed it was the Subcommittee's wish to maintain an ending reserve at the end of FY2007 of $19 million for the IBNR and $24 million for the catastrophic/rate stabilization in the reserve. Senator Beers asked Mr. Thorne if that action would maintain the appropriate level in the reserve, and Mr. Thorne replied, "Yes."

> SENATOR BEERS MOVED THAT THE SUBCOMMITTEE SET THE END POINT FOR THE RESERVE AT $42 MILLION AT THE END OF FY2007.
>
> ASSEMBLYMAN HETTRICK SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblyman Arberry was not present for the vote.)

Senator Coffin believed that the Subcommittee should instruct the PEBP not to raise benefits or reduce premiums over the biennium because that action would change the reserve amounts. For example, if any benefits were raised, a larger reserve would be required. Senator Beers opined that the Legislature always budgeted the ending reserve balances. Senator Coffin stated the ending balance was based on the maintenance of benefits and costs. Senator Beers commented that for every budget, when setting an ending reserve, the Legislature was making a statement regarding the maintenance of benefits and costs. Senator Coffin noted that at times people were under significant pressure to change benefits and/or premiums.

Chairwoman McClain pointed out that the Subcommittee could suggest that the PEBP not change benefits or rates over the biennium, but she did not believe the Subcommittee could mandate such action. Senator Coffin concurred, and pointed out that the PEBP Board should be advised and the Subcommittee should remember that if the Board felt the need to change benefits then the reserve requirement might be too low. Chairwoman McClain wondered whether the PEBP should report to the IFC on a regular basis regarding the status of the plan. That would provide the opportunity for the PEBP to advise the Legislature of any impending problems rather than waiting until the end of the budget cycle.

Mr. Thorne reassured Senator Coffin that the PEBP Board was extremely aware of its fiduciary responsibilities and worked very hard to balance the benefit structure and the projected costs in order to maintain the reserve level.

Chairwoman McClain suggested that the Subcommittee recess until after the Floor session. Senator Coffin believed that the Floor session for the Senate would be lengthy because of the discussion regarding S.B. 484, which eliminated retiree group insurance benefits in the future. Senator Beers commented that the bill would eliminate the subsidy for future employees upon retirement. Senator Coffin believed that the Subcommittee was seeing the "seeds" of such action affecting current retired employees. Those who had retired from State service believed they would receive the subsidy and the Subcommittee was considering removing a portion of that subsidy.

Senator Beers stated he would like to address the issue of the reserve. Action by the Subcommittee would reduce the reserve from $59.5 million to $42 million, or by $17.5 million. He indicated that he was somewhat confused by the previous conversations that recommended a $59 million reduction in reserve, with $11 million going to non-State entities and a $58 million/$42 million split between General Fund and non-General Fund agencies.

Mr. Thorne explained that reduction of the $59.5 million reserve to $43.3 million at the end of the biennium would be a reduction of the reserve. There was also a $59 million reduction in the funding that the PEBP needed over the biennium and those were two different issues, even though the numbers were similar, they were different issues. Mr. Thorne explained that one was the overall funding needed by the PEBP to operate the plan that would be decreased from the original budget request of $59 million.

Senator Beers commented that a reduction of the reserve from $59.5 million to $43.3 million would be a difference of $16.2 million. The question appeared to be how that $16.2 million reduction would be allocated and the simplest way would be to take the $16.2 million times 20 percent for State entities. Mr. Atkinson stated he was comfortable with the 20 percent number. He indicated that a reduction would be required to reach the ending reserve balance of approximately $42 million as recommended in The Executive Budget, and 20 percent of that reduction would go to the benefit of the employees and

80 percent would go to the benefit of the employer. Senator Beers concurred with that action.

Mr. Atkinson indicated that Fiscal Division staff would need direction from the Subcommittee regarding how that money would be allocated to benefit the employee, such as toward benefits, a refund, or a reduction in rates. Senator Beers indicated that he would prefer a refund to the employee on the first available check rather than a subsidization of rates, which would lead to further disappointment in the future when the State stopped subsidizing rates. If the Subcommittee took that action, staff would need to ascertain whether the Department of Personnel could pull the records for the past 2 years regarding employee contributions toward health premiums and determine what each current employee's percentage of the total would be.

Chairwoman McClain asked whether the Subcommittee could place the $16.2 million in a separate account. Mr. Atkinson replied that the Subcommittee could not take such action because there would be the same cost allocation problems as previously discussed regarding the reduction of the reserve. The federal government would realize, should the Subcommittee "hide" money in another account, that it was still the same money. Mr. Atkinson did not see how the Subcommittee could move a block of the reserve monies into a separate account.

A discussion ensued regarding distribution of the 80/20 percent split of the $16.2 million. Chairwoman McClain stated the 80 percent would be used to reduce the State contribution rate and the 20 percent would be in the form of a rebate to employees.

> SENATOR BEERS MOVED TO CLOSE BA 1338 BY CREATING A BUDGET THAT REDUCED THE JUNE 30, 2007, ENDING RESERVE BALANCE TO $43.3 MILLION, WHICH WOULD BE A REDUCTION IN RESERVE OVER THE COURSE OF THE BIENNIUM OF $16.2 MILLION. OF THE $16.2 MILLION, 20 PERCENT WOULD BE REFUNDED TO EMPLOYEES ON AN EQUAL BASIS AS A SUPPLEMENT TO PAYCHECKS, AND 80 PERCENT WOULD BE USED AS A REDUCTION IN STATE SUBSIDY.
>
> ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

Assemblyman Hettrick asked whether there was a way for the PEBP to provide a better "spread" among all groups that participated in the plan. The exhibit provided by Mr. Thorne listed persons who received benefits in various groups, such as retiree and spouse, active employee and family, et cetera, and Mr. Hettrick asked how difficult it would be for the PEBP to determine the appropriate level for each grouping, and adjust the refund so it would be equal by category. Mr. Hettrick explained that would mean that an employee and spouse would receive a greater refund than a single employee. Mr. Thorne said the difficulty was that employees had changed from one category to another over the past two years, either through marriage or divorce, additional children added, et cetera, and he believed it would be very difficult.

Mr. Hettrick stated that percentages would be too high and equal shares would not be fair because some categories paid twice as much in premiums as others. If the PEBP could determine a cut-off point, perhaps the refunds could be more equal. Mr. Hettrick noted that the exhibit showed four categories: employee only, employee and spouse, employee and children, and employee and family.

He asked whether those categories could be broken out in a relative percentage of the 20 percent refund. Mr. Thorne said the PEBP could do that, but because of the comparatively small amount that single employees paid, 60 percent of the employee population would receive a very small refund relative to the other categories. Mr. Hettrick noted that those employees had also paid a relatively small amount in premium rates; Mr. Thorne concurred. Mr. Hettrick said if that would be amenable to Senator Beers and if it would not place an undue burden on the PEBP, and the PEBP would generate the number for the Payroll Division for the refund, that would be his suggestion.

A discussion ensued regarding the method for refunding the 20 percent to employees. Senator Beers noted that the 20 percent portion divided by 15,000 employees would be $216.67 each. Mr. Hettrick indicated that if the refund was adjusted, the single employee would go down to approximately $50 and the employee with family would increase to approximately $300 or above, which would probably be more equal while still representing the 20 percent. He stated he was simply trying to make the refund more in line with the premium rate paid by the employee.

SENATOR BEERS AMENDED HIS ORIGINAL MOTION TO LEAVE THE QUESTION REGARDING EXACTLY HOW MUCH THE REFUND WOULD BE FOR EACH EMPLOYEE OPEN FOR DISCUSSION DURING SUBSEQUENT SUBCOMMITTEE MEETINGS.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

THE MOTION CARRIED. (Chairman Arberry was not present for the vote.)

BUDGET CLOSED.

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With no further business to come before the Subcommittee, Chairwoman McClain adjourned the meeting at 11:05 a.m.

RESPECTFULLY SUBMITTED:

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Carol Thomsen
Committee Attaché

APPROVED BY:

____
Assemblywoman Kathy McClain, Chairwoman

DATE:______________________________

EXHIBITS

Committee Name: Assembly Committee on Ways and Means/Senate Committee on Finance Joint Subcommittee on General Government

Date: May 11, 2005 **Time of Meeting: 8:00 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B	P. Forrest "Woody" Thorne, PEBP	State of Nevada, PEBP, Revised Rates Plan Year: July 2005 to June 2006