

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

**Seventy-fourth Session
February 15, 2007**

The Senate Committee on Finance and the Assembly Committee on Ways and Means, Joint Subcommittee on General Government was called to order at 8:09 a.m. on Thursday, February 15, 2007. Chair Kathy McClain presided in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblyman Tom Grady
Assemblyman Joseph P. (Joe) Hardy
Assemblyman Joseph Hogan
Assemblywoman Ellen Koivisto
Assemblyman David R. Parks

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Bob Beers, Chair
Senator Dean A. Rhoads

SUBCOMMITTEE MEMBERS ABSENT:

Senator Bob Coffin (Excused)

STAFF MEMBERS PRESENT:

Joi Davis, Program Analyst
Larry L. Peri, Principal Deputy Fiscal Analyst
Mark W. Stevens, Assembly Fiscal Analyst
Cynthia Clampitt, Committee Secretary

OTHERS PRESENT:

Andrew Clinger, Director, Department of Administration and State Budget
Director
David McTeer, Chief, Information Technology Division, Department of
Administration
Mary Keating, Administrator, Administrative Services Division, Department of
Administration and Member, Committee on Deferred Compensation for
State Employees
Sue Dunt, Risk Manager, Risk Management Division, Department of
Administration
William Chisel, Chief, Division of Internal Audits, Department of Administration
Bryan A. Nix, Senior Appeals Officer and Coordinator for the Victims of Crime
Program, Hearings Division, Department of Administration
Brian L. Davie, Chair, Committee on Deferred Compensation for State
Employees

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CHAIR MCCLAIN:

I hereby open this meeting, and we will begin with the budgets of the Department of Administration.

FINANCE AND ADMINISTRATION

ADMINISTRATION

Budget and Planning – Budget Page ADMIN-1 (Volume I)
Budget Account 101-1340

ANDREW CLINGER (Director, Department of Administration and State Budget Director):

Budget account (B/A) 101-1340 is the Budget Division's budget. It is also known as the Executive Budget Office. Its primary function is to create the Governor's *Executive Budget*.

The first enhancement decision unit is E-225.

E-225 Eliminate Duplicate Effort – Page ADMIN-3

This decision unit is one piece of the Integrated Financial System (IFS) server consolidation. Another piece is allocated in the budget of the Department of Personnel (DOP), the Nevada Department of Transportation (NDOT), the Office of the State Controller and the Department of Information Technology (DoIT). Decision unit E-225 represents the Budget Division's piece of the system. Essentially, the costs include UNIX and storage support for the Division's portion of the project.

The server project is an effort to consolidate 15 IFS servers into 2 servers, 1 in the north and 1 in the south. It will be a savings to the State and create a disaster recovery site in Las Vegas in the process.

CHAIR MCCLAIN:

Please explain how the total costs were determined. How were they allocated across the various user agencies?

DAVID McTEER (Chief, Information Technology Division, Department of Administration):

The costs were allocated on the projected storage requirements for the storage component. The allocations for UNIX support were determined by working with International Business Machines and with the DoIT capacity planner to identify projected processing loads experienced by each of the agencies. A percentage of the total costs were allocated for both UNIX and storage support to user agencies. The allocations will cover the cost and use of the two servers.

CHAIR MCCLAIN:

Do these charges affect only the Budget Division, the DOP, the Office of the Controller and the NDOT?

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MR. McTEER:

That is correct. There is another component allocated in budget account (B/A) 101-1320.

Information Technology Division – Budget Page ADMIN-29 (Volume I)
Budget Account 101-1320

Currently, the Information Technology Division pays the UNIX support charge for the two disaster recovery servers in the Emergency Operations Center located in Carson City. Because those servers will be decommissioned, B/A 101-1320 will include a credit of approximately \$120,000 annually.

MR. CLINGER:

There is also a request allocated in the DoIT budget to purchase the hardware.

The next enhancement in B/A 101-1340 is E-250.

Budget and Planning – Budget Page ADMIN-1 (Volume I)
Budget Account 101-1340

E-250 Working Environment and Wage – Page ADMIN-3

This decision unit requests a portion of the transfer costs for a personal computer local area network (PC LAN) technician from the DoIT. Enhancement unit E-250 will cover additional training for the position.

E-275 Maximize Internet and Technology – Page ADMIN-4

This enhancement will fund the purchase of a Microsoft Project Server and required licenses. It will allow the Department of Administration to have a timeline plan from which each analyst can work on their portion of the budget. That is only one use of the server.

During the interim, our office typically embarks on several projects, whether an upgrade to the Nevada Executive Budget System (NEBS) or other internal processes.

CHAIR McCLAIN:

Is this a different server than the two in your earlier testimony?

MR. CLINGER:

This component is for several software programs. The name, Microsoft Project Server, is the software. It allows users to collaborate on projects. It is simply a project management tool.

CHAIR McCLAIN:

The decision unit says it provides for a file server, router, twelve desktop computers, two laptop computers, a heavy-duty laser printer and two local laser printers. Is that correct?

MR. CLINGER:

You are referring to decision unit E-710.

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CHAIR MCCLAIN:
Decision unit E-275 only contains a software package?

MR. CLINGER:
That is correct.

E-710 Replacement Equipment – Page ADMIN-5

The replacement equipment includes a photocopy machine, a server, and hardware and software replacement. Hardware and software to be replaced include a router and other equipment.

CHAIR MCCLAIN:
How many servers are there currently? Will they be consolidated with the others in your testimony?

MR. CLINGER:
There is currently one server within the Division. The server allocation in decision unit E-710 would replace the existing server.

CHAIR MCCLAIN:
Do the Division equipment replacement requests follow the DoIT guidelines?

MR. CLINGER:
The requests comply with the State standards for computer and hardware replacement.

MR. MCTEER:
This request is also a part of the director's wish to consolidate the information technology issues within the Department. Part of that plan is to upgrade the version of the server used by the Budget Division allowing a common off-site backup system.

CHAIR MCCLAIN:
Will the request in decision unit E-710 also appear in the budgets of the other user agencies specified under decision unit E-225?

MR. MCTEER:
The request in decision unit E-710 is totally separate. The server requested in this unit is a simple file and print server. It is not a part of the IFS project. This server will remove its users from the obsolete Novell operating system to a Microsoft Windows server.

CHAIR MCCLAIN:
Is this request a part of decision units E-901 and E-903?

MR. CLINGER:
Those decision units relate to a different issue that will be discussed later.

E-720 New Equipment – Page ADMIN-5

The decision unit includes a rack for hosting the server and the addition of one photocopy machine.

E-813 Unclassified Step Adjustments – Page ADMIN-5

In listening to testimony at a different meeting, I heard a question which I will answer at this time. Decision unit E-813 provides unclassified employees of the State with the equivalent of a one-step increase in pay. A one-step increase was granted to classified employees two years ago. This decision unit adjusts the unclassified salaries by the same amount.

When the DOP established the salary tier structure for unclassified employees in 2005, that tier structure was based on the classified compensation schedule in place at that time. When a pay increase was authorized for the classified service, it threw those salaries in the unclassified service out of line. For example, there are classified positions in the Department of Administration who actually earn more than some staff who are in the unclassified service. This decision unit will appear in nearly every account within the *Executive Budget*. The adjustment will be made across the board.

CHAIR MCCLAIN:

Will the allocation request appear as a decision unit in the DOP, or will it appear in each agency budget?

MR. CLINGER:

The allocation is requested in each agency budget. It is shown in B/A 101-4883 as well.

General Fund Salary Adjustments – Budget Page ADMIN-10 (Volume I)
Budget Account 101-4883

E-813 Unclassified Step Adjustments – Page ADMIN-11

The total allocation requests for the adjustment in this budget account are rolled up reflecting a total cost to the General Fund of \$3.1 million in fiscal year (FY) 2007-2008 and \$2.2 million in FY 2008-2009.

Budget and Planning – Budget Page ADMIN-1 (Volume I)
Budget Account 101-1340

E-900 Transfer of 1320 – Page ADMIN-6

This decision unit transfers the Division's Master Service Agreement programmer costs to the Information Technology budget, B/A 101-1320. This position functions in projects on a statewide basis. Those include NEBS, the Nevada Employee Action and Timekeeping System and others.

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E-901 Transfer from BA 1320 to BA 1340 – Page ADMIN-6

E-903 Transfer from BA 1386 to BA 1340 – Page ADMIN-7

These decision units are related to the transfer of the PC LAN position from the DoIT into the Department of Administration. All PC LAN positions are being decentralized into other State agencies. The position will serve all divisions within the Department.

CHAIR MCCLAIN:

Is the position funded from the General Fund or another fund?

MR. CLINGER:

The position will be within the budget account of the Budget Division. It is cost allocated to all Divisions of the Department including non-General Fund Divisions.

CHAIR MCCLAIN:

Assembly Bill (A.B.) No. 580 of the 73rd Legislative Session requires the public to be notified of tax changes through the "Annual Report to Tax Payers." What is the status of that report?

MR. CLINGER:

All information related to the report is on the Website of the Department of Administration. The information is gathered and formatted to be readable by the general public. The Website address is budget.state.nv.us.

CHAIR MCCLAIN:

The Committee has questions concerning the office cost allocation and the single audit report.

MR. CLINGER:

There was an error in that Division's cost allocation schedule within the original submittal of the budget for the Budget Division. The corrected information has been sent to your staff. The error consisted of a cell error in a spreadsheet.

CHAIR MCCLAIN:

Does the budget amendment cover the 2007 budget shortfall?

MR. CLINGER:

The 2007 shortfall is a different issue. The shortfall relates to an error in cost allocation and to the increased cost of the single audit. The Legislative Counsel Bureau (LCB) enters into a contract with an outside audit firm and the Department of Administration pays for the single audit costs. The LCB renegotiated a contract this year and the Department was informed the single-audit cost would increase by \$71,000. The Department has requested a supplemental appropriation for those two items.

CHAIR MCCLAIN:

Will the single-audit cost be \$71,000, rather than the \$63,000 that was budgeted?

MR. CLINGER:

The increased cost of the single audit is \$71,712. The amount of the cost allocation error is approximately \$68,000. The total supplemental appropriation request is currently \$135,218 to cover the two items.

CHAIR MCCLAIN:

The Committee will need the actual budget revision for the 2007-2009 biennial cost allocation.

MR. CLINGER:

The revision will be sent to your staff this afternoon.

CHAIR MCCLAIN:

I will now close the hearing on B/A 101-1340 and open the hearing on B/A 101-1302, the Judicial College & College of Juvenile & Family Justice.

Judicial Coll & Coll of Juvenile & Family Justice – Budget Page ADMIN-9
(Volume I)
Budget Account 101-1302

MR. CLINGER:

The 2005 Legislature established B/A 101-1302 which passes through funding to the National Judicial College and the National College of Juvenile and Family Court Judges. The recommendations for FY 2008-2009 are at the same level they were in the last biennium. That budget request is for \$250,000, annually, transferred to the National Judicial College and \$125,000, annually, transferred to the College of Juvenile and Family Justice. There are no enhancements in this budget.

CHAIR MCCLAIN:

I will hereby close the hearing on B/A 101-1302 and open the hearing on B/A 716-1371.

Administration - Administrative Services – Budget Page ADMIN-16 (Volume I)
Budget Account 716-1371

MARY KEATING (Administrator, Administrative Services Division, Department of Administration):

This Division is a central services division. The fund is an internal service fund serving the Department of Administration, the Office of the Governor, the State Board of Examiners, the Civil Air Patrol, the Deferred Compensation Plan, the Commission on Women, the Graffiti Fund and various other areas.

The Division is funded by tracking the number of transactions made on behalf of the various budgets for which we are responsible. Expenses are allocated accordingly. That funding comprises 50 percent of the Division budget. The remaining 50 percent is based on time calculations. The time calculations were implemented during the past budget cycle because the Division assumed responsibility for the funding of approximately 400 Capital Improvement Program (CIP) projects. While there are not as many transactions, they are time consuming. If the CIP projects were allocated based on the number of

transactions, the State Public Works Board (SPWB) would be subsidized by the other agencies.

E-710 Replacement Equipment – Page ADMIN-18

Budget account 716-1371 has only one enhancement unit to replace computer equipment and the computer server in 2009. Both requests are in compliance with the statewide replacement cycle.

CHAIR MCCLAIN:

Do the projected transactions still support the full-time equivalent (FTE) positions in this budget?

MS. KEATING:

That is correct. It is my understanding the proposed CIP is \$100 million. I am somewhat concerned that the CIP appears to be much larger than I had anticipated. During the 2005 Legislative Session, a Technology Improvement Plan was approved for CIP projects. It is an accounting package currently being designed to work with the Advantage Software, allowing the Division to track multi-year projects.

The Advantage Software is a traditional governmental accounting package, otherwise known as the IFS, that requires accounting data to be closed every year. However, CIP projects work on a four-year cycle; therefore, certain transactions need to carryforward. We are hoping the additional software will eliminate the double set of books being run for CIP projects, allowing the Division to absorb more projects with existing staff.

CHAIR MCCLAIN:

When developing your projections, were your performance indicators to reflect the changes taking place? Your projections have traditionally been based on the number of transactions. Now, the amount of time required for certain transactions is being considered.

MS. KEATING:

The figures for FY 2007-2008 and FY 2008-2009 are not projections. They are based on the actual data from FY 2005-2006. It has been a consistent belief of the Division that, eventually "time will catch up and become cost-positive to the cost-payers."

CHAIR MCCLAIN:

Does the Division have enough staff? I understand funds will catch up to expenditures.

MS. KEATING:

We believe we have enough staff. We intend to implement the new accounting package for CIPs allowing the Division to absorb the workload growth. The CIP projects operate in a staggered-implementation process. We are not requesting new employees. I cannot promise additional staff will not be needed by the 2009 Legislative Session.

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CHAIR MCCLAIN:

Hopefully, technology will help with the additional workload. I will now close the hearing on B/A 716-1371 and open the hearing on B/A 715-1352.

Insurance Loss and Prevention – Budget Page ADMIN-40 (Volume I)
Budget Account 715-1352

SUE DUNT (Risk Manager, Risk Management Division, Department of Administration):

I have provided the Committee with a booklet titled "State of Nevada, Department of Administration, Risk Management Division, B/A 1352, Insurance & Loss Prevention, Susan Dunt, Risk Manager, 74th Session" ([Exhibit C](#), original is on file in the Research Library), prepared by Mr. Jim Fry, Deputy Risk Manager.

The mission of our Division is to provide insurance, claims management, safety, loss prevention and risk-management consultation services to all State agencies.

Our office is located in Carson City with seven full-time employees. The majority of our mission functions are addressed by seven large contracts providing a variety of services throughout the State.

Our funding is received through pooled assessments to all Executive Branch agencies covering the costs of insurance, claims and administration of the agency.

Page 3 of [Exhibit C](#) provides a breakdown of how revenue is received and shows that a majority of costs are in the Workers' Compensation Program for the State.

In addition to the Workers' Compensation Program, we administer the property insurance program and various types of liability insurance. We also adjust all property and automobile physical-damage claims on the State's behalf. The liability claims are processed by the Office of the Attorney General.

Page 4 of [Exhibit C](#) reflects the insurance rates recommended by the Governor in the *Executive Budget*. We have experienced increases which are reflected in the maintenance units of this budget. Many increases are shown in the property and Workers' Compensation Programs.

Certain increases in cost were offset to the agencies by the utilization of reserves. Several insurance recoveries were received and utilized to ensure there are no large swings in insurance rates to the agencies.

One exception is the Property Insurance Program. In 2005, the Division negotiated a three-year-guaranteed rate with the property insurer. The intent was to insulate the State from wide variations occurring in the insurance market due to the tragedy of September 11, 2001 (9/11), Hurricane Katrina and so forth. The benefit was a stable cost program for the past three years.

Beginning in the next biennium, we will see increased costs to catch up for the stabilized rate. The Division did not allow for inflationary changes in the fixed asset program. I would like to include a 5- to 10-percent component for inflation

costs. As we enter the next biennium, the Committee will see those costs have increased.

CHAIR MCCLAIN:

Are you currently in negotiations for a new contract?

Ms. DUNT:

It is time for contract negotiations.

CHAIR MCCLAIN:

Will the inflation factor be included in the next contract?

Ms. DUNT:

That is correct.

CHAIR MCCLAIN:

Will you negotiate a contract longer than three years?

Ms. DUNT:

We will attempt to negotiate for a term longer than three years. The insurance world is currently fluctuating. Most companies are not comfortable in granting a term longer than three years. We were pleased, at the time, to have received our current three-year contract. Nevada was similar to other employers, post-9/11, who were shocked when told what their rate of insurance would be. Our insurer is cooperative in working with property values and rates.

One situation Nevada has experienced is increased construction costs, particularly in the Las Vegas area. The value and replacement costs of State properties have increased from what they were in FY 2004-2005. We are currently working with our insurer to provide an incremental increase in property value, instead of a large single rate increase. Our goal is to provide stability and predictability in our costs.

Nevada's current insurer has held the State's policies since 1995. Sometimes, in the risk management business, long-term relationships are important when the tough times occur. The insurer is more willing to realize the rates will catch up over time.

CHAIR BEERS:

I would think the increase in property insurance rates would be more statewide because of the increased costs of building materials. In Las Vegas, the primary construction cost is land value.

Ms. DUNT:

I am not an expert in construction costs, but I am aware the State Public Works Board has not experienced difficulties with construction costs in the Las Vegas area.

Page 6 of [Exhibit C](#) reflects property values over the last several years. Our insurer uses several national registries to evaluate replacement costs for certain types of buildings. Those are factored into the inflationary costs going forward.

CHAIR BEERS:

Is the chart, on page 6 of [Exhibit C](#), adjusted for new properties that have been opened?

Ms. DUNT:

The chart projects costs for the new properties.

ASSEMBLYMAN HOGAN:

You mentioned the value of a long-term relationship with the insurer. In other circumstances, there is an advantage after a time, of opening the contract up to competition. Was consideration given to both options?

Ms. DUNT:

The Division routinely works with brokers to market our program although we have remained with our current insurer in the past. During the last three-year cycle, we have not done as much marketing because of the current contract. We will receive a membership credit of approximately \$90,000 if we renew with the current insurer in the next cycle. We work with insurers and brokers to review market trends and options.

One advantage of the current insurer is they retain many of their own risks in the area of earthquake damage. Our insurer does not rate our exposure with that of California. Nevada is placed in a Midwest category with regard to earthquake risk factors. With many other insurers, Nevada would be rated at the California earthquake level. Therefore, our rating allows Nevada to receive a higher capacity in earthquake coverage.

ASSEMBLYMAN HOGAN:

I noticed that brokerage services are approaching \$600,000. Is there a savings in brokerage costs when we are under a three-year contract? How are the brokerage fees set?

Ms. DUNT:

Brokerage fees vary, depending on the contract in place. We currently utilize a pool of brokerage firms. The brokerage firms are selected through a Request for Proposal (RFP) process. For example, the property insurance broker currently charges a flat fee of \$150,000 to negotiate for any type of insurance coverage we request. In addition, they service our account throughout the year. They set up meetings with the insurer and provide training, such as in the area of loss prevention.

Other brokers require a 7- or 9-percent commission fee. It depends on what services are provided.

Part of the increase in costs for the property program includes the cost of claims. Page 7 of [Exhibit C](#) indicates the difference in the amount of claims paid from the Risk Management Division. The current deductible is \$500,000. There are sub-limits for certain kinds of losses. A significant amount of insurance recoveries have been made, but we must retain the ability in our budget to pay the initial costs of claims.

Page 8 of [Exhibit C](#) details insurance recoveries in the past two years. The Federal Emergency Management Agency (FEMA) provided some cost recovery for the January 2006 flood damages.

CHAIR MCCLAIN:

Why does the NDOT have more claims than other agencies? What kinds of claims do they have?

Ms. DUNT:

The NDOT has many heavy-equipment claims such as for an attenuator. The equipment is expensive and the NDOT has had a series of odd occurrences causing their losses over the last two years.

ASSEMBLYMAN HARDY:

I recall a mitigation agreement which stated if FEMA provided surplus funding in the account for the January 2006 flood, some of those funds could be used for the flood damage in southern Nevada. What is the status of that agreement?

Ms. DUNT:

The Risk Management Division was not a part of that agreement. Certain programs were submitted for mitigation, but, by the time all entities had made their requests, Nevada received no mitigation funds.

ASSEMBLYMAN HARDY:

Does that mean no funds will be forthcoming for the southern Nevada areas with flood damage?

Ms. DUNT:

That is correct. A large majority of the cost increases for the Workers' Compensation Program are related to claims costs. An actuarial study is used to project the cost of claims. There were catastrophic losses in 2001 and 2002. Currently, the actuarial study uses past history to project the loss rate. Until those high-cost years drop off, there will be conservative claims projection. In consultation with the Budget Division, we decided to fund the claims area at 83.7 percent of actuarial projections. The same rate is used in the current biennium.

CHAIR MCCLAIN:

Is your testimony that there have been a few large claims rather than medical inflation across the board?

Ms. DUNT:

It is a combination of both. Page 9 of [Exhibit C](#) reflects the medical inflation cost history. The current third-party administrator has a managed-care agreement throughout the State. Page 10 of [Exhibit C](#) indicates the savings the State has received through the utilization of the managed care organization's discounted rate. Approximately \$5 million has been saved over the past five years in the Division of Industrial Relations (DIR) based on negotiated contracts with providers.

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CHAIR MCCLAIN:

How much of the increased costs can be attributed to medical costs, and how much is attributed to major losses?

Ms. DUNT:

That is an actuarial question. I believe the increase is due to a combination of both areas.

CHAIR MCCLAIN:

The Committee frequently hears medical inflation is growing at 14 to 16 percent each year. I am curious as to the source of the computation for the increased rate.

Ms. DUNT:

The higher medical-inflation rates were not used because one advantage Nevada has is its DIR rates which cap reimbursements. The DIR rates have increased by approximately 14 percent over the past several years.

Another increase in the total claims costs arises from the increase in Permanent Partial Disability (PPD) lump-sum awards. The fifth edition of the American Medical Association guides was adopted in 2005. At that time, the Division provided a fiscal note alerting the Legislature that those changes would impact our budget. Those impacts are now beginning to be realized. There has been an average increase of approximately 9 percent. Page 12 of [Exhibit C](#) reflects the cumulative cost of PPD awards between 2002 and 2006.

The Division views the PPD awards as a driving factor in the total Workers' Compensation increases.

E-250 Working Environment and Wage – Page ADMIN-43

The Division is requesting additional services to be dedicated to the Property Loss Prevention Program. Currently, our property insurer is the only entity performing systematic inspections of State properties for the purposes of property preservation. Approximately 20 properties are inspected each year. The Division has been working with the SPWB in reviewing the facility audit report findings. We are concerned. There are many unsprinklered State buildings. The intent is to have a more systematic and methodical approach to property inspection and to assist agencies and facility personnel in managing day-to-day situations that can become loss situations. We would like to dedicate a resource to establish a more systematic program, follow up on recommendations made by the insurer and address issues in the facility audit reports.

Our goal is to minimize our losses by addressing issues on a more-frequent basis.

CHAIR MCCLAIN:

Are you saying someone on your staff would physically inspect all State buildings?

Ms. DUNT:

That would be part of the job description. Pages 14 and 15 of [Exhibit C](#) provide a more specific outline of the goals and duties of the requested position. We envision using a brokerage service contract to provide contracted loss prevention services. The current contract allows for that form of service.

E-251 Working Environment and Wage – Page ADMIN-43

The Division is requesting approximately \$3,500 to provide an independent claims audit of our claims process. It is our goal for claims to be processed in the most efficient way possible. The Division does not have the time or ability to perform the audit internally. We have talked to the Division of Internal Audits about this audit process. They indicated they were willing to check the transaction process, but did not have staff qualified to audit the claims-management process.

E-252 Working Environment and Wage – Page ADMIN-43

The Division has consulted with the NDOT and the Arizona Department of Transportation regarding a project at the Hoover Dam. From a liability standpoint, it is a hot potato. Once the bridge over the Dam is completed, Nevada is the closest entity available for bridge maintenance. The nearest Arizona maintenance station is located approximately 90 miles away in Kingman, Arizona.

Several years ago, an agreement was made between the two states for Nevada to provide maintenance for the Hoover Dam Bridge. Unfortunately, Arizona has no tort claim limit. Nevada would have no protection if our employees were working on the bridge in Arizona. Our goal is a project-specific insurance policy to cover Nevada workers who are working in either state. Costs would be shared with the State of Arizona.

CHAIR MCCLAIN:

Would the NDOT pay for the Nevada portion of the cost?

Ms. DUNT:

That is correct. It would be a pass-through cost to NDOT.

ASSEMBLYMAN PARKS:

Is there a similar agreement for the bridge at Laughlin, Nevada?

Ms. DUNT:

There is a similar situation at Laughlin. The State currently has an excess-liability policy that can be utilized for those situations. It is difficult to project whether the State will have, or can afford, such a policy in 2009.

E-710 Replacement Equipment – Page ADMIN-44

The requests in this decision unit are based on the schedule and recommendations in the budget instructions.

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E-719 Replacement Equipment – Page ADMIN-44

We are following the schedule provided by the Budget Office in this decision unit as well.

The Division's performance indicator information has been provided for the Committee in [Exhibit C](#).

CHAIR MCCLAIN:

I will now close the hearing on B/A 715-1352 and open the hearing on B/A 101-1342.

Division of Internal Audits – Budget Page ADMIN-47 (Volume I) Budget Account 101-1342

WILLIAM CHISEL (Chief, Division of Internal Audits, Department of Administration):

I have provided the Committee with a document titled, "Department of Administration, Response to Question from Joint Committee Budget Overview Hearing on February 7, 2007, Response from the Division of Internal Audit" ([Exhibit D](#)).

Fiscal responsibility and a well-run government are vital to Nevada. That is especially true as agencies face the challenge of serving one of the fastest-growing states in the nation. The Division of Internal Audits assists Executive Branch agencies in meeting those challenges.

The Division provides Executive Branch agencies with resources. We are available to Constitutional Officers or Executive Branch administrators when they need assistance. The Division provides performance audits that have benefited the State with millions of dollars in revenue. We assist agencies in implementing and developing internal controls for fiscal responsibility.

The Division consists of three sections. The Internal Audits Section conducts performance audits. We meet with agencies to ensure they operate as efficiently as possible and make recommendations. The Division goes beyond most performance audits by attempting to find solutions through review of other Executive Branch agencies, other States and private industry. We provide solution-based recommendations.

The Post Review Section reviews Executive Branch agencies' expenditure processes. Those reviews are conducted at the direction of the State Board of Examiners. Approximately one-third of the agencies are reviewed each year.

The Financial Management Section assists agencies in developing and maintaining internal controls. We provide internal-control training for financial managers. We assist in the development of internal-control standards for the State.

There are two enhancement modules in this budget.

E-250 Working Environment and Wage – Page ADMIN-49

The Internal Audit Section falls under the guidelines of the Internal Audit Standards. The Standards require a peer review to be completed every five years. The decision unit requests \$18,000 for the peer review.

E-710 Replacement Equipment – Page ADMIN-49

This decision unit requests \$31,415 in FY 2007-2008 and \$18,000 in FY 2008-2009. It will replace computers and software according to the State replacement guidelines.

CHAIR BEERS:

Performance indicator number 2 is the ratio of the amount Nevadans benefited from internal audit recommendations versus the amount spent on the Internal Audits Section. The budget document shows a 24:1 ratio for FY 2005-2006. Is that correct?

MR. CHISEL:

That is correct.

CHAIR BEERS:

Essentially, does that number represent the cumulative impact of the Division's audits against the current year's cost of delivery rather than a ratio of cumulative audits to cumulative cost of delivery?

MR. CHISEL:

That is correct.

CHAIR BEERS:

In addition, staff was adjusted in the Legislative Branch which created savings attributed to Legislative suggestions over a few sessions. Would the Division staff be willing to meet with Legislative staff to arrive at a different performance measure? Page 8 of [Exhibit D](#) indicates it is reasonable to expect your performance indicator to double each year because of the ongoing cumulative benefits being attributed.

It is interesting, academically, but does not provide the agency or the Committee the ability to analyze the performance. The Committee is interested in a measure that allows us to see if the agency is performing better or worse than in the previous budget cycle. Performance indicator number 2 does not meet that need.

MR. CHISEL:

I attempted to use an implemented amount rather than a recommendation. Other federal agencies use a 9-year rollover. When a recommendation is used that provides a one-time benefit, it can only affect that particular year. A recommendation is made that has benefits over periods of several years and it is rolled forward for nine years. That was the Division's plan for this performance indicator. Some agencies roll performance indicators for a period of 10 or 20 years.

We could identify the recommended savings each year as a performance indicator.

CHAIR BEERS:

This performance indicator is a function to justify the work of the agency. This indicator does not help the Legislature and the agency to measure performance. The percentage of hours billed in a certified public accountant (CPA) office, for example, would be a valid measurement. A certain amount of time in any office is spent completing documentation for time sheets and similar duties.

MR. CHISEL:

We track that information.

CHAIR BEERS:

Performance indicators measuring that kind of data would help us understand how well the agency performs. It is good to hear you are tracking that information.

MR. CHISEL:

We used to report performance measures on that data, but we were asked to change. We were, and still are, running at approximately 90 percent after sick-and annual-leave calculations are removed.

CHAIR BEERS:

The Division has an auditor III position that has been vacant for two years. What is the status of that authorized position?

MR. CHISEL:

It is tough to find auditors. There has been turnover in the position of the financial manager, and I left the auditor position vacant to allow the new manager to make the selection. The Division is in the process of filling the vacancy at this time. Fewer individuals are becoming CPAs. We reviewed the graduating class at the University of Nevada, Reno, during the last semester and there were only six individuals graduating with a Master's Degree in Accounting.

CHAIR McCLAIN:

I understand Chair Beers' comments on performance indicator 2, but the information provided in this indicator is also good information to have available. I do not want to see a nine-year projection, but a five-year projection provides good data.

I hereby close the hearing on B/A 101-1342 and open the hearing on B/A 101-1015.

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BRYAN A. NIX (Senior Appeals Officer, Hearings Division, Department of Administration):

The Hearings Division is one part of the workers' compensation system in the State of Nevada. We hold hearings on all disputes between injured workers and insurers.

There is a two-tiered appeals process. The first level is a hearing-level process in which hearing officers, who are not attorneys, hear cases on an informal basis. Those cases are typically heard and decided within approximately 35 days from the date of a request. The second tier is that of appeals officers, appointed by the Governor, who are attorneys. They conduct a more formal hearing when an appeal of a hearing officer's determination is made.

In addition to workers' compensation, the Division hears a variety of other cases for State agencies such as Medicare and the Department of Employment, Training and Rehabilitation, among others.

There are only a few enhancements in this budget.

E-710 Replacement Equipment – Page ADMIN-121

This decision unit is pursuant to the State schedule for replacement of computer software and hardware in each year of the biennium. The request is nearly \$59,000 in FY 2007-2008 and \$54,000 in FY 2008-2009.

CHAIR BEERS:

There needs to be reconciliation between the replacement schedule viewed by our staff and the Division. Our staff is under the impression the 2005 Legislature approved 54 desktop computer replacements for 46 positions.

MR. NIX:

We will review the decision unit and report to the Committee staff.

CHAIR BEERS:

Please provide a list of computers to be replaced including when they were purchased.

MR. NIX:

Yes, sir.

CHAIR BEERS:

Will the new telephone system be compatible with other State telephone systems to allow five-digit dialing within the State system?

MR. NIX:

The new telephone system has not been bid. Estimates have been received. I presume it will have all the features required. The primary difficulty with the current system is its age. The Division relies increasingly on telephone testimony in our proceedings. Telephone testimony is becoming critical in testimony from physicians. Considerable exchange occurs, and when one is speaking over a speaker system there is feedback and bounceback, making it difficult to receive accurate transcripts. We hope the new telephone system will have a better

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speaker system and allow the Division to tie the system into recording devices. The bid is approximately \$9,000.

CHAIR BEERS:

Please advise the Committee if the new telephone system will integrate with the State telephone system.

MR. NIX:

If you are referring to five-digit dialing, I believe that is the plan. I will confirm the information.

CHAIR BEERS:

What is the status of the digital recording project?

MR. NIX:

The recording project has gone to bid. The award of the contracts is being circulated for signatures and presented to the Board of Examiners. Our technology staff has been working with the vendor.

There are certain issues with replacement of hubs. The hubs and other system equipment within the agency must be upgraded to accommodate the new system. The system used by the Legislature is similar to what our vendor will provide. These systems contain a large amount of data that must be transferred through computer connections to the servers. We were concerned the offices would need to be rewired which would have been a major setback. With the replacement of the hubs and necessary equipment, it now appears the project will remain close to the anticipated budget for purchase.

CHAIR BEERS:

Please ask your technical staff the following questions: what is the topology of the office network, and what will be the format of the final digital sound files the system will produce? Please provide that information to the Committee staff.

MR. NIX:

I will provide the requested information.

The lowest bid we received was from the CourtSmart Digital Systems, Inc. I believe the vendor is the same as the one used by the Legislature.

CHAIR BEERS:

Will the Division see a reduction in court-reporter costs when the new recording system is in place?

MR. NIX:

That is the plan. This project was the result of an Internal Audit recommendation. We currently have a court-reporter contract. They sit in the courtroom and operate the equipment.

CHAIR BEERS:

Do the court reporters provide their own equipment?

MR. NIX:

They do. Their system is an old tape-recording system. The court reporters were considering an upgrade to their equipment until we began our project pursuant to the audit recommendation. The current budget eliminates the court-reporter contract except for transcription of the proceedings. It is an unclear area. No court we can find has completely eliminated the use of courtroom clerks. Nevada will be the first. We may return to the Interim Finance Committee (IFC) if it proves tenable to operate without courtroom clerks. Based on our review of equipment demonstrations, I believe it will work.

CHAIR BEERS:

Has funding been placed in the budget for transcription as needed?

MR. NIX:

Some funding is requested for transcription. The two functions that are difficult to predict are transcription and interpreter needs. Those are based on the type of appeals received, and there is no way to predict those needs. The budget is less than the 2005-2007 *Executive Budget* requests because of the elimination of the recorder contract.

CHAIR BEERS:

Please provide the Committee with a breakout of the percentage of cases in the Division in each category.

MR. NIX:

What type of breakout information are you requesting?

CHAIR BEERS:

Please list cases by the *Nevada Revised Statutes* (NRS) classifications, such as workers' compensation and victims of crime. If there are too many categories, just provide the top three areas.

MR. NIX:

We can provide the information. You will see the bulk of cases pertain to workers' compensation issues.

CHAIR MCCLAIN:

Would it cost less to have a staff member perform the transcription rather than having a court-reporter contract?

MR. NIX:

We are considering that possibility. That is one option. With the conversion to digital equipment, the Division will own the audio recordings. We intend to employ a transcription service in the interim because we do not have sufficient staff for the task at this time.

One purchase within the equipment contract is for foot pedals and controls so staff can perform limited transcription. We do not have sufficient staff to complete all the transcription necessary. Currently, it is not unusual for an appeals officer to request a portion of a transcript prepared to review specific testimony such as that of a physician. The new equipment will allow the

appeals officer to click the mouse on the portion of testimony and listen without having to order a transcript.

We plan to consider the amount of transcription necessary over the interim and determine whether or not to request additional transcription positions in the next budget cycle. There are additional costs for employees not incurred with a contract worker. The per-page cost of a transcript is higher, but there are no benefit package considerations with a contract employee.

CHAIR BEERS:

If a certain percentage of the cases being heard are Medicaid appeals, is the federal government being billed for a portion of those services?

MR. NIX:

We do bill those charges back. We bill State agencies, as well, under contract. Our current rate is \$70 an hour.

CHAIR BEERS:

Where is that information shown in the *Executive Budget*?

MR. CLINGER:

The revenue stream is reflected under the charges for the service portion of the budget. The amount of \$9,300 in FY 2005-2006 is minimal.

MR. NIX:

We may see revenue stream increases. The Division has new software allowing us to track our time more efficiently. We will have a better way to bill agencies for our services. That consideration has not always been a top priority.

CHAIR BEERS:

At the risk of being too remedial, let me explain when a State agency is billed a workers' compensation case, it eventually comes out of Nevada's pocket. If a Medicaid case is billed, one-half of the cost is paid by the federal government. We always want to find ways to maximize our federal fund opportunities.

MR. NIX:

I understand.

CHAIR MCCLAIN:

I hereby close B/A 101-1015 and open B/A 287-4895.

Victims of Crime – Budget Page ADMIN-124 (Volume I)
Budget Account 287-4895

BRYAN A. NIX (Coordinator, Victims of Crime Program, Hearings Division, Department of Administration):

This program was placed in the Department of Administration in the late 1960s or early 1970s. I have been coordinator of the Program for the past 15 years.

The Victims of Crime Program is responsible for providing assistance to innocent victims of crime who have no other resources. The Program pays their medical

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bills, counseling fees, lost wages and other types of assistance such as crime-scene cleanup or relocation to a more secure location.

The Program has offices in Reno and Las Vegas staffed by three compensation officers. Funds are derived primarily from fines and forfeitures.

There are no enhancements in this budget except some replacement equipment in the amount of \$8,000.

CHAIR BEERS:

That replacement equipment has the same issue as was discussed in B/A 101-1015. The Committee is under the impression the 2005-2007 Executive *Budget* allocated nine replacement computers and ten printers.

MR. NIX:

I will review the technology portion of the budget.

CHAIR BEERS:

You should also consider the possibility of sharing printers in adjacent offices.

MR. NIX:

Printers have been shared in the past. There has been enhancement in some areas to increase the number of printers. We will consider that option.

CHAIR BEERS:

Is there an imminent revision for this budget?

MS. KEATING:

Yes, a maintenance decision unit, M-150, adjustment was keyed in as a category 4 item instead of a category 10 item. It does not ultimately affect the budget.

CHAIR MCCLAIN:

Will the budget revision be provided soon?

MS. KEATING:

Yes, it will.

CHAIR BEERS:

The Committee has heard there is an anticipated change in the percentage of claims to be paid from this budget. Is that the case?

MR. NIX:

There is a provision in the NRS that states the State Board of Examiners must make projections about the revenue and expenses of the program in each quarter. Based on the current rate of claims, it is anticipated revenue claims payment must be at a reduced rate. I anticipate the rate will be approximately 25 percent of the claim amount for one quarter.

CHAIR BEERS:

It would appear the judges need to be compelled to better collection practices.

MR. NIX:

The Division is receiving the revenue anticipated from the courts, although we have no way of knowing what amount the revenue stream is supposed to be.

The Victims of Crime Program is unique. There are victims who, if they are eligible, will have their claims accepted. At that time, the medical bill payments will be approved according to fee schedules. The claims will not be paid until funds are available. Currently, there are approximately \$4.5 million in approved, unpaid claims. They are not a claim against the State because the Program is voluntary. Unfortunately, revenue is not received as quickly as claims. Claims are paid as funds become available.

As noted in the document I provided to the Committee ([Exhibit E](#)), according to NRS 217.250, staff must go before the State Board of Examiners to obtain approval for claims payment. We are currently attempting to clear the claims by paying 25 percent of billed amounts. We will ask vendors to accept the lesser payments. Without the Program, vendors would receive nothing because those victims who apply have nothing. They are perhaps uninsured and have no assets; otherwise, they would not qualify for the Program.

Over \$100,000 in claims was approved approximately three weeks ago and the Program received \$30,000 in revenue during the same week.

CHAIR MCCLAIN:

Are those decisions made on a quarterly basis?

MR. NIX:

That is correct. The State Board of Examiners is required by law to make quarterly adjustments on the claims.

CHAIR MCCLAIN:

Could an individual receive only a 25-percent payment on their claim in one quarter and the next quarter another individual receive 100-percent payment on their claim?

CHAIR BEERS:

Is the Program being managed on more of a weekly basis?

MR. NIX:

I approve claims every week, and the deficit continues to grow weekly. Population and crime rates have increased while reimbursements from the courts do not seem to be keeping up with the claims in this Program. In many ways, we are victims of our own success. We have had good outreach programs and have made a major effort to work with eligible victims, paying what benefits we can. Unless some adjustment is made in the revenue stream, the situation will not improve.

CHAIR BEERS:

Several new courts have been added, and one would expect the assessments would increase proportionately.

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MR. NIX:

We have no way of knowing what accurate assessments will be and no statutory authority to question the revenues received. I assume the courts are following the law.

CHAIR MCCLAIN:

How are the revenues from court assessments calculated?

MS. KEATING:

The statute specifies the agencies and the amount each receives from court assessments. Each of the entities is audited, and we must rely on the auditor's reviews.

CHAIR MCCLAIN:

Are the amounts divided by so many dollars to one fund and so many to another, or is it done on a percentage basis?

MS. KEATING:

I believe they are specified in percentages. We do not audit the courts. However, all courts and local jurisdictions are audited and we must rely on those audits.

At the moment, we are in a dilemma in that we have not yet received our federal grant. We have projected approximately \$1 million is available when considering all our sources of revenue. When we reduce the revenues for a small operating budget, approximately \$1 million is left to pay \$4 million in claims between the present time and June 30, 2007. It is unlikely the federal grant will be received during this quarter and the actual grant amount is unknown. It is traditionally calculated at 60 percent of what the Program paid in the previous year. The choice is to either pay nothing or pay a reduced amount on approved claims. We hope to present a work program to the IFC, when the grant is received, requesting authority to spend the grant funds. The projections were made without anticipation of a growth in claims which is unreasonable.

CHAIR MCCLAIN:

Approximately how much revenue do you hope to receive from the grant?

MS. KEATING:

If the grant comes in at 60 percent of last year's payments, it should be approximately \$2.3 million. Even with \$2.3 million from the grant and the \$1 million in revenue currently available, we are still short of the \$4 million in currently-approved claims.

MR. NIX:

Claims approval is an ongoing process. Over the next biennium, we plan to review the revenue stream to see what recommendations can be made to enhance the revenues. It is difficult to appear before the Committee and ask for additional fees or revenue, but, at some point, decisions must be made about the Program.

The victims are at the mercy of the Program. When revenue is received, we try to pay the most critical needs such as wage losses. The victims receive

telephone calls from collections agencies regarding outstanding bills. We attempt to intercede on their behalf, but it is an exercise in apology. At some point, a decision must be made regarding whether or not the Program can be stabilized to pay victim's approved bills when they are due. It is a tough call coupled with dramatic growth in the last few years. Prior to the current cycle, bills were rarely paid below a 100-percent level.

CHAIR MCCLAIN:

I assume no bills are paid that qualify for payment from another source such as insurance?

MR. NIX:

Absolutely not. Victims who qualify come to us as the payer of last resort.

CHAIR BEERS:

For approximately three years has the Program had a contract with a network that reduces medical charges below list cost?

MR. NIX:

We have contracted those services for approximately ten years. The contract is for bill-review services. It assures bills are paid according to the medical-fee schedule.

CHAIR BEERS:

Are the medical providers respecting those reductions, whether or not a claim is paid? Is the victim still required to pay amounts beyond what the fee schedule allows, especially since the Program only pays a percentage of the fee schedule amounts? It does not make sense to have the contract unless we can reduce the liability of the crime victim as well.

MR. NIX:

My experience is that vendors are happy to receive fee-schedule payments. Without those payments, the vendor would not receive payment because the victims are uninsured. We provide payment based on a fee schedule the vendor has accepted through one of their Health Maintenance Organizations, Preferred Provider Organizations or the Workers' Compensation fee schedule.

CHAIR BEERS:

Are the vendors happy enough not to send the remainder of the charges to collection agencies?

MR. NIX:

Once a vendor has accepted payment from the Program, they are legally prohibited from pursuing the victim for any additional funds. The fee schedule has been a tremendous benefit, saving millions of dollars. The providers are happy to receive fee-schedule payments. However, this quarter they will only receive 25-percent payment on fee-schedule calculations because resources are unavailable. The victim is still protected regardless. I have yet to see a vendor refuse to accept a payment from the Program. There may be complaints in the next quarter. The vendors must also consider the reality that 25 cents on the dollar is better than zero cents on the dollar.

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CHAIR BEERS:

When you state 25 cents on the dollar, are you referring to the dollar as reduced by the fee schedule?

MR. NIX:

That is correct.

CHAIR MCCLAIN:

How can you develop performance indicators for a budget with so many unpredictable facets?

MR. NIX:

We rely on the history of the Program although crimes do not occur in predictable rates. We are currently experiencing a crime wave. There has been a steady growth in the Victims of Crime Program of approximately 2 percent annually for the last several years, and I anticipate it will continue.

CHAIR MCCLAIN:

I have a question regarding the Statewide Cost Allocation and the Attorney General's Cost Allocation plan. Does the Victims of Crime Program still incur those expenditures?

MS. KEATING:

The Statewide Cost Allocation Plan and the Attorney General Cost Allocation Plan are cumulative numbers based on historical data and rollups. I have reviewed both budgets for the *Executive Budget* and both budgets, because of roll ups, have zero or negative numbers; therefore, no assessment has been made in this budget.

CHAIR MCCLAIN:

I hereby close the hearing on B/A 287-4895 and open the hearing on B/A 101-1017.

Deferred Compensation Committee – Budget Page ADMIN-21 (Volume I)
Budget Account 101-1017

BRIAN L. DAVIE (Chair, Committee on Deferred Compensation for State Employees):

I am employed as a legislative services officer for the LCB, and, as such, I am nonpartisan staff. I am before the Committee today as Chair of, and representing, the Committee on Deferred Compensation to provide information and encourage support for the budget of the Committee on Deferred Compensation. I have provided my testimony in writing for the record ([Exhibit F](#)).

I will provide an overview and status of the State Deferred Compensation Plan. I will highlight major changes in the budget. Ms. Keating will present the other traditional aspects of the budget.

I have provided your Committee with a document titled, "State of Nevada, Employees Deferred Compensation Plan, Budget Account 101-1017,

Presentation to the Senate Finance/Assembly Ways and Means Joint Subcommittee on General Government, February 15, 2007" ([Exhibit G](#)).

The Deferred Compensation Plan is a solid program that has been growing consistently in assets and participation over the past few years. We expect the trends to continue dependent on the strength of the nation's economy, barring any major downturns or negative adjustments in the stock market.

At the end of 2006, the Plan had nearly 10,000 participants and is approaching \$350 million in assets invested by Nevada's public employees. The two providers in the State Plan are the Hartford and the ING Financial Services. Page 1b of [Exhibit G](#) lists the breakdown of assets and participants between the two providers. The Committee on Deferred Compensation oversees activities of the providers and various issues related to the Plan.

One of the most important and time-consuming functions of the Committee at its quarterly meeting is to analyze the performance of every investment option offered by the two providers. Guided and facilitated by the Committee's professional investment consultant and Segal Advisers, we analyze the performance of every fund in the 17 categories. The Committee takes its responsibilities seriously and several funds have been replaced over the past few years, those that have demonstrated consistently poor performance over a period of time. Our goal is to ensure the Plan's investment options are the best in class providing optimum returns within each category for the participants.

Page 1 of [Exhibit G](#) addresses the proposal concerning the addition of an executive officer and an assistant to help manage and administer the Plan. The Committee voted unanimously to request the two positions be funded through an administrative charge on the providers, not through the General Fund.

Given the increased complexity of the investment world and the increase in size of the State's Plan, we believe the Plan needs professional management for the benefit of the participants.

Page 2 of [Exhibit G](#) lists many, but not all, of the functions currently performed by the Chair and members of the Committee on a part-time basis. It is a time-consuming management process on behalf of State employees. There is much more that could, and should, be done on behalf of State employees.

An annual survey of participants should be made to determine their needs and desires. We should be consulting more with other states and jurisdictions to be aware of best practices. The Committee should be working with local governments and other political subdivisions to promote the benefits and savings of participation in the State Plan. There should be increased communication with education of participants regarding the opportunities within the Plan.

Page 2 of [Exhibit G](#) lists a few of the benefits we expect from approval of the two positions.

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CHAIR MCCLAIN:

Please explain what you meant when you stated the funding would be through an administrative charge on the providers. To whom were you referring?

MR. DAVIE:

The providers are the Hartford and the ING Financial Services.

CHAIR MCCLAIN:

Will they pay to hire employees for the State Plan?

MR. DAVIE:

The providers currently pay for the costs of the Committee and the current administrative costs of the Program through contracts. We are required to go to bid every five years. With the approval of the two positions, we anticipate the administrative charges would become a part of the new contracts for the Plan.

CHAIR MCCLAIN:

Will the providers be willing to pay for the two positions?

MS. KEATING:

Absolutely, there are vendors chomping at the bit for this work. They make a fortune from the account through their fees. The goal of the RFP is to have the vendors put their lowest bids forward. The vendor whose services can be provided at the lowest fee will be chosen. There are 10 or 15 major companies in the United States that do this kind of business and I envision all of them bidding on our contract. A \$350 million Plan is a good asset. In addition, we have approximately 17 to 20 political partners included in the current contract. One function of the executive director position will be to visit those political partners.

The Plan provides buying power for smaller political entities. A small county may only carry the buying power of perhaps \$100,000, whereas our Plan has the buying power of \$350 million.

The Committee periodically hires a company to conduct a compliance review concerning compliance with the Internal Revenue Service (IRS) regulations. It also ensures Committee members are performing their fiduciary duties. The larger the Plan, the better buying power it will have.

ASSEMBLYMAN HARDY:

Is the Office of the Treasurer a part of the Committee? The Office of the Treasurer allowed Boulder City to participate in the Plan.

MS. KEATING:

No, they are not. The funds are addressed in a separate statute and are invested in categories of the employee's choice. It is similar, and, at the same time, dissimilar to the Public Employees Retirement System (PERS). The PERS plan is a defined-benefits plan. The Deferred Compensation Plan is a defined-contribution plan, a different section of the IRS regulations.

The funds are invested through the vendors into the options chosen by the employees. The investment options are selected by the Committee with the assistance of Segal Advisors.

The members of the Committee all have full-time jobs. I, personally, am not qualified to choose investments or write a plan document.

ASSEMBLYMAN HARDY:

Would the executive director position make the literal minute-by-minute decisions instead of the investment group such as the group working with Boulder City to identify a window of opportunity for investment? Would the Committee review the decisions? How frequently would those decisions be reviewed?

MS. KEATING:

This Plan does not invest the funds of any local government. Local government funds are invested through whatever is defined by their statutes and the Office of the State Treasurer. The Plan encompasses employees of a member local government having funds withdrawn from their personal paychecks and invested. There would not be a situation such as Assemblyman Hardy described. The Plan funds are retirement savings, voluntarily withdrawn from employee paychecks under section 457 of the IRS Code. The employee decides which investment options they want. There is an option for employees to invest through a Charles Schwab self-directed brokerage account. The Plan allows options in 17 of 10,000 investment accounts. Any funds that are the property of a local government are invested through the Office of the State Treasurer.

ASSEMBLYMAN HARDY:

Who has the authority to change the investment chain at a moment's notice? Someone has to be responsible for the good investment. That is why the vendors want the contract for the Plan. They get a percentage of gains on each transaction. The request for new positions should be no problem for the vendor, considering the revenue the Plan will provide. Would the requested executive director position make those decisions, or would investment opportunity options be made by the Hartford and the ING Financial Services?

MS. KEATING:

The Plan document requires the Committee to make those decisions. That will not change. The Committee will continue to make decisions regarding the investment offers to be made available from which employees may choose.

CHAIR MCCLAIN:

Does the Committee make those choices based on what is being offered by the ING or the Hartford?

MS. KEATING:

That used to be the way the Plan functioned. In the 1980s, the Plan was truly based upon what the vendors offered. The size of the Plan did not allow for many options. Approximately six years ago, before the last RFP, we were approached by Barclay's Bank who said, "You now have enough money where you can start being in the driver's seat." When the last RFP was drafted, the Committee no longer allowed vendors to pick the investment options. We

consult with the Segal Advisors for that function. They search the options and advise which are the best "large cap, mid cap low-value" and other investment options. They approach the vendor and request specific options. The Committee chooses the best options and the participants make investment decisions within that range.

ASSEMBLYMAN HARDY:

Has a comparison been made between the up-to-date, by-the-minute options for the Office of the State Treasurer and the Deferred Compensation Plan, or other compensation plan investments, to determine if the plans are being handled effectively?

MS. KEATING:

The Committee has never compared its rate of return to that of the Office of the State Treasurer in my tenure. I am not aware of an option that would allow State employees to invest in the plan managed by the Office of the State Treasurer. We compare ourselves to the Morningstar benchmarks. The Committee maintains a Website, deferredcomp.state.nv.us. The benchmark comparisons are on the Website. Our investments are intended for the long term and may have a different goal than those of the Office of the State Treasurer.

MR. DAVIE:

The different categories are essentially mutual funds. One of the largest portions of investment for State employees is in a fixed account, otherwise known as a stable-value fund. It would be difficult to compare with other kinds of investments. Fixed accounts provide a guaranteed rate of interest during the course of a contract. Currently, the Hartford is offering a 4.5 percent return and the ING is offering 4 percent. Those are guaranteed rates. Approximately 40 percent of the \$350 million in worth is in fixed accounts.

ASSEMBLYMAN HARDY:

Is a Legislator a member of the pool of potential investors with the Deferred Compensation Plan? If so, is there a limit an employee can invest in the Plan?

MS. KEATING:

I believe members of the Legislature are participants. The limits are set by the IRS in the Section 457 standards. The limit is \$15,500 this year.

CHAIR MCCLAIN:

It also depends on your age and other factors.

MS. KEATING:

There are catch-up provisions including whether the individual is older than 50, the number of years of service and whether retirement is planned within the next three years. The normal limits are 25 percent of income, not to exceed \$15,500 annually.

ASSEMBLYMAN HARDY:

Is there a time lapse between investment and vesting such as with the Pell Plan?

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MS. KEATING:

Members are vested with their first-dollar investment.

CHAIR MCCLAIN:

The Plan is deferred compensation through paycheck deduction. Taxes are due when a member withdraws funds from the account.

ASSEMBLYMAN HARDY:

It is still a better opportunity for growth than in the Pell Plan.

CHAIR MCCLAIN:

That is correct.

MS. KEATING:

Let me clarify, there are limitations for withdrawal from the accounts. A member must have a qualifying event to be authorized to make a withdrawal. There is no excise tax in a Section 457 withdrawal such as there is in a 401b withdrawal when the member is younger than fifty-nine and a half.

Recently, as a result of federal legislation, Section 457 investments can be rolled into the PERS Plan credits tax free. We are proud of the \$350 million worth of the plan given the number of rollovers that have occurred. We encourage members who are retiring not to roll their funds into Roth Individual Retirement Accounts (IRA). Investments in an IRA come with an instant fee and an instant loss of revenue. The IRA rules are somewhat different than Section 457 rules.

ASSEMBLYMAN GRADY:

When, and if, the executive director position is approved and the Plan is marketed to local governments, have you given any thought to changing the makeup of the Committee to include someone representing local governments?

MS. KEATING:

This goal began migrating to the Nevada Deferred Compensation Plan approximately five years ago as shown on page 1a of [Exhibit G](#). We plan to request a statutory change in the Committee membership when enough local governments have joined the Plan.

MR. DAVIE:

I will provide a list to staff of the 15 to 20 local governments that have opted into the Plan at this point. The providers are the entities currently contacting and working with local governments. Having an employee working for the Plan as a whole should be more effective in encouraging local governments to join. Elko County, the city of Elko, Carson City and Douglas County are some of the local government members. There are many entities, small and large, we should be encouraging to join the Plan.

ASSEMBLYWOMAN KOIVISTO:

I will declare, for the record, I am a participant in the State Deferred Compensation Plan. How did you decide on the salary ranges for the proposed positions? Where will they fall in the DOP salary-tier system?

MR. DAVIE:

The Deferred Compensation Committee has had the staffing issue under discussion for more than a year. Approximately one year ago, Ms. Laura Wallace, chief financial officer, PERS, was a member of the Committee. She initiated the staffing discussions. I do not have the background. The PERS is reluctant to house the proposed staff serving our Committee. Perhaps there is a conflict of interest. Ms. Wallace drafted the salary budget proposal assuming space and equipment would be provided somewhere in Carson City. We are recommending the positions be included in the unclassified service pay bill. Ms. Wallace researched salaries of comparable staff at the PERS and other executive officers for similar plans. All Committee members belong to the National Association of Governmental Deferred Compensation Administrators. The organization is comparable to the National Association of State Legislators. I recently posed a query on the Association list server asking about other plans that employ similar positions. I heard from 10 or 12 other jurisdictions. None had salaries below \$100,000 for their executive officers. The position requires someone with specific expertise in the investment world.

ASSEMBLYWOMAN KOIVISTO:

In what tier of the unclassified pay system will the position be placed?

MS. KEATING:

The position was not placed in a specific tier, but is comparable to the \$90,000 to \$100,000 range which is either Tier 3 or Tier 4. The Committee envisions conducting a national advertisement for the position to identify candidates with specific expertise in the field.

ASSEMBLYWOMAN KOIVISTO:

In your testimony, you stated there is an instant fee when funds are rolled over from this account to an IRA account. Is that because of IRS rules?

MS. KEATING:

I have yet to see a stockbroker or financial manager who works without charging a fee for their services. If a member withdrew their funds from the Section 457 Plan and placed it with Morgan Stanley Dean Witter or another brokerage house, a fee would be collected immediately. If the brokerage is large enough, a client might be allowed to have the fee charged off future interest earnings. Clearly everyone, including our vendors, charges a fee.

CHAIR BEERS:

I am trying to grasp why it is preferable to hire an employee rather than using the services of a vendor. Where is the divergence of interest, or is there a conflict of interest?

MS. KEATING:

The NRS requires two vendors be offered through the Plan. The Committee believes there is a loss of economies of scale when we are forced to have two vendors. In [Exhibit G](#), you can see the Plan consists of a large vendor and a small vendor. We currently have an individual assigned to our accounts from each of the vendors and they market the Plan which causes competing interests. The vendors will promote their investment opportunities for their

interests. They do not always promote what is best for the client. Vendors are providers to the Plan and need to be managed.

CHAIR BEERS:

Is our Plan requirement for two vendors unusual?

MS. KEATING:

It probably is. There is legislative history that addresses the issue.

CHAIR BEERS:

Would a change in the law reduce the need for staff?

MS. KEATING:

I would not believe so. We still have a need to manage a \$350 million Plan with two vendors who adjudicate hardship withdrawals or eligibility for a catch-up provision, or day-to-day issues that must be addressed. Having two vendors restricts buying power from what would be expected with one vendor.

CHAIR BEERS:

What are the procedures in Washoe or Clark Counties?

MS. KEATING:

Each of those counties has one vendor.

CHAIR BEERS:

Does either county employ staff?

MS. KEATING:

Neither county is as large as the State Plan. They work through a volunteer committee attempting to manage their plans. Our Plan is larger and covers a large geographical area. Local governments cover a smaller area and have only one provider, making their management tasks much easier. Clark County only recently began using Segal Advisors for their plan. The committee in Washoe County has a 401a Plan as well as their 457 Plan. They follow the options offered by their vendors.

The State Plan has gone beyond that realm into the use of professional advisors to determine what is best for our participants.

CHAIR BEERS:

We will request our staff to conduct a survey to see what larger entities are doing with regard to paid staff and number of vendors.

CHAIR MCCLAIN:

I concur. The Hartford is the only vendor for Clark County. If I need to do something with my personal county 457 Plan, I do not talk to anyone at the county level.

MR. DAVIE:

Our Committee has held discussions concerning the use of only one vendor, but we are constrained by statute. I have reviewed the history of when the change was made. At the time, the Legislature wished to provide State employees with

a greater choice between two vendors and different plans. I have talked with other states. There are some states that have as many as five vendors, but the majority have only one.

Vendors state they could offer better plans if they were the sole vendor. Arguments can be made that multiple vendors offer competition and protect against a vendor that may lose credibility in the midst of a five-year contract.

MS. KEATING:

I will refer back to Assemblyman Grady's question concerning local governments. The goal, when local governments were allowed to join the State Plan, was to ultimately have an unbundled plan similar to the PERS. The PERS Plan administration chooses vendors and investment options and hires a record-keeping company. There would be no specific tie between the investment option and record keeping. The Plan would need to be at a \$500 million-asset level before that option pays for itself. The long-term goal is to reach that point and have a Committee consisting of all local government members and the State achieving an unbundled Plan.

ASSEMBLYMAN HARDY:

Will the RFP include the PERS and Public Employee Benefit Plan costs in the salary proposed for the positions? Was a contract employee considered, similar to an accountant with multiple clients? Would a contract employee who is not beholden to the State and who serves at the pleasure of the Committee be a better option?

MS. KEATING:

The proposed salary is a fully-loaded salary with traditional benefits. We did not specifically consider a contract employee. I am aware of other professional organizations that hire a contract employee to manage their organizations. Our intent was to hire an individual with specific investment experience. The cost of either employee would be approximately the same.

ASSEMBLYMAN HARDY:

I am not interested in a cheaper salary. I am interested in a complete package of a person who may not need to be a State employee. I saw no indication the person hired, who will be paid from other than General Funds, has benefits not allocated to the General Fund. Is the total salary \$100,000 or is it \$100,000 plus 23.5 percent, plus any other costs? Would it be less expensive to let a contract at \$123,000 and have an employee who could work from multiple locations? It is possible we may lose a State employee who receives a better offer from another entity while a contract employee could work for multiple entities.

MS. KEATING:

The salary included in the *Executive Budget* is the salary plus 23.5 percent for benefits. That amount would be available if a contract employee was hired instead. Segal Advisors currently makes many of the investment choices. We could research the contract option through our organization to see what is being done by other entities.

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CHAIR MCCLAIN:

After hearing the testimony of the responsibilities of the proposed position, I think it is probably wise to hire someone who is independent of the plans offered by the vendors.

CHAIR BEERS:

In the end, the costs are funded by the employees' contributions.

CHAIR MCCLAIN:

Seeing no further business before the Committee, we are adjourned at 10:18 a.m.

RESPECTFULLY SUBMITTED:

Cynthia Clampitt,
Committee Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE: _____

Senator Bob Beers, Chair

DATE: _____