

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Sixth Session
February 16, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:12 a.m. on Wednesday, February 16, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Marcus Conklin, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Ocegüera

COMMITTEE MEMBERS EXCUSED:

Assemblyman Tom Grady

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Erica Eng, Program Analyst
Carol Thomsen, Committee Secretary
Cynthia Wyett, Committee Assistant

Chairwoman Smith welcomed persons to the hearing and asked that all cell phones and computers be silenced. She reminded persons in the audience about the Nevada Electronic Legislative Information System (NELIS) currently in use by the Legislature, which provided electronic access to exhibits and budget accounts. The exhibits were also available to persons in the audience through NELIS.

Chairwoman Smith indicated that the Committee would commence with a review of the budget for the Commission on Ethics.

ELECTED OFFICIALS
COMMISSION ON ETHICS (101-1343)
BUDGET PAGE ELECTED-199

Caren Jenkins, Esq., Executive Director, Commission on Ethics (Commission), introduced herself to the Committee. Ms. Jenkins apologized to the Committee for failing to electronically submit her presentation, "Nevada Commission on Ethics Statistics, 2011 Legislative Session," ([Exhibit C](#)) for posting on NELIS prior to today's hearing.

Chairwoman Smith asked whether Ms. Jenkins had submitted written copies of her exhibit to secretarial staff. Ms. Jenkins reported that she had presented the secretary with copies of [Exhibit C](#) for distribution to the Committee.

Chairwoman Smith advised that staff had scanned and uploaded the exhibit and it was already available on NELIS. Ms. Jenkins indicated she had also provided a number of copies of the exhibit for the public.

Ms. Jenkins reported that the Commission was the second smallest budget in state government and had a five-person staff and an eight-member appointed Commission. She explained that four members were appointed by the Legislative Commission and four were appointed by the Governor, no more than four could be from any one political party, and no more than four could be from any one county. The Commission was a "balanced-as-possible" body of

individuals who conducted the work mandated by Chapter 281A of *Nevada Revised Statutes* (NRS).

Ms. Jenkins pointed out that NRS was the only jurisdiction that pertained to the Commission, which was not subject to the Open Meeting Law and was not a complaint source. The Commission was not a body that conducted any business other than holding administrative hearings—not criminal—with regard to those provisions called the “Nevada Ethics in Government Law,” and depicted by 17 statutory pages without annotations within NRS. According to Ms. Jenkins, those 17 pages of NRS outlined the jurisdiction of the Commission. Ms. Jenkins believed that the statute had become more accessible, better known, and better used by public officers, public employees, and the general public over time.

Ms. Jenkins stated that she had been the Executive Director of the Commission since September 2009. Prior to that, she had been appointed to the Commission by the Legislative Commission in fiscal year (FY) 2003-04, where she served until 2008 when she stepped down from her role as a member of the Commission to run for political office. Ms. Jenkins stated that she had lost her bid for office and had not rejoined the Commission at that time. When the position of Executive Director became available in 2009, Ms. Jenkins said because of her passion for ethics, she took a one-third cut in pay and left the private practice of law to once again join the Commission as the Executive Director.

Ms. Jenkins explained that her personal strengths included teaching at the fifth-grade level, making public presentations, and making statutes as understandable as possible to common persons, so that any member of the public would be able to understand the lines that were drawn for ethics in government. Prior to the outreach efforts by the Commission, Ms. Jenkins stated it was sometimes a mystery for those serving in public office to know what was required by the Nevada Ethics in Government Law. Ms. Jenkins said she had been making her statewide tour and conducting seminars and 90-minute training presentations throughout both the rural and urban areas of the state with great success.

Ms. Jenkins noted that the Commission had jurisdiction over all elected officials, appointed officials, and every public employee in the state, which included not only state employees, but county, city, and general improvement district employees, and every political subdivision in the state. Ms. Jenkins said the Commission was charged with maintaining and enhancing public trust. She believed the best way to meet that charge was to educate the public and public officers and employees about the line that had been drawn in statute

regarding ethics, so that if an individual crossed that line they would do so with their eyes open. Ms. Jenkins opined that when a person made choices, it should be with full knowledge of the consequences of those choices.

As a result of her tour, Ms. Jenkins stated that the public and public officers and employees were much more aware of the offerings of the Commission, one of which was the ability to file a first-party advisory Request for Opinion (RFO). Ms. Jenkins explained that a public officer or public employee of the State of Nevada could approach the Commission on a confidential basis to seek an opinion about a future action and whether that action would have implications under the Nevada Ethics in Government Law. After a confidential filing of the RFO, the Commission would respond in writing regarding possible outcomes of the anticipated action.

According to Ms. Jenkins, the RFOs had skyrocketed since she had undertaken her outreach and education effort. Furthermore, the public had become much more aware of the mandates of the Nevada Ethics in Government Law. Ms. Jenkins noted that filing of third-party RFOs had also dramatically increased.

Ms. Jenkins referenced [Exhibit C](#), page 1, which depicted the workload of the Commission. Ms. Jenkins pointed out that in FY 2007-08 the total number of advisory RFOs received by the Commission was 95. Over a six-month period from July 2010 to January 1, 2011, 69 RFOs had been filed and the expected total RFOs to be filed in fiscal year (FY) 2010-11 was 138. Ms. Jenkins indicated that represented a 45 percent increase in workload since FY 2007-08, and the Commission continued to conduct its business with the same five-member staff and within 10 percent of its FY 2007-08 budget. Ms. Jenkins opined that the Commission was “teetering on the edge” of being able to meet its statutorily required timelines and accomplish its statutorily required mission.

Also included in the exhibit, said Ms. Jenkins, was the number of days from the filing of an advisory RFO to the date of disposition. In FY 2007-08 the average number of days between the filing of an RFO and the disposition was 41 days, and in FY 2010-11 the average was 22 days. Ms. Jenkins stated that the Commission was attempting to be more responsive to the RFOs to assist public officers and public employees in making viable decisions.

Ms. Jenkins said NRS mandated that the disposition of an advisory RFO must be reached within 45 days, and she believed that for all intents and purposes the Commission was working within the mandates of NRS. However, 45 days was often not reasonable when the Commission was trying to make decisions

about whether there was a need to abstain or disclose or to take certain action. The least number of days the Commission had been able to issue an advisory opinion in FY 2010-11 was five days. Oftentimes, said Ms. Jenkins, the Commission was required to convene a telephonic meeting, which was less expensive. Typically, the Commission addressed advisory RFOs at its regularly scheduled monthly meeting, which had increased in length from one day to two days because of the volume of work that had to be accomplished. She pointed out that two-day meetings were a burden on the Commission's budget that had not existed in FY 2007-08.

Continuing her presentation Ms. Jenkins indicated that page 1 of [Exhibit C](#) also disclosed that the days from filing to the disposition of a third-party, or public RFO had decreased from an average of 215 days to 106 days. She explained that the time frame commenced on the date the Commission received an RFO complaining about a public officer or public employee, which included the possibility of a hearing. The Commission could not further pare down that number of days because of the statutorily mandated due-process requirements. Ms. Jenkins indicated that the first action taken by the Commission upon receipt of an RFO was to determine whether the Commission had jurisdiction over the conduct that resulted in the complaint. She emphasized that a jurisdictional evaluation was always conducted within five days of receipt of an RFO.

After jurisdiction had been established, Ms. Jenkins said the Commission sent the RFO to the individual against whom the complaint had been filed requesting a response to the allegations. After the response was received, the Commission undertook an investigation, followed by review by a two-member panel that determined whether there was just and sufficient cause to go forward to a full hearing. Ms. Jenkins stated that if the complaint went forward to a full hearing, the Commission was required to subpoena witnesses, properly notice the hearing, hold the hearing, make a determination, and provide an outcome. She believed that the average turnaround of 106 days was very good, and she did not think the Commission could further reduce that time frame. Ms. Jenkins opined that the Commission was doing a very good job as far as the time from the date the third-party RFO was filed to the date of disposition.

Ms. Jenkins said the post-determination cases were a troubling statistic as indicated on page 1 of the exhibit. Those were cases where the Commission had made a determination about the advice to be given, or whether a violation of the Nevada Ethics in Government Law had taken place, but the Commission had not yet written the formal opinion. She noted that there was an error in the figures within the exhibit that indicated as of January 2011 the Commission was 16 opinions behind. Ms. Jenkins said the chart depicting

"Outstanding Commission Opinions" within the exhibit presented the correct figure of 46 outstanding Commission opinions. She pointed out that writing an opinion was a three-day uninterrupted process.

According to Ms. Jenkins, the Commission had one counsel and one investigator for the entire state, and those two positions simply were unable to keep up with the workload. Ms. Jenkins said the Commission had adopted a policy that it was more important to provide advice and/or resolution to an RFO as soon as possible than to spend the days writing the formal opinion. However, it was also very important to have the written opinion because otherwise the public would be unaware of the disposition of the RFO and, therefore, could not learn from the mistakes of others without that document.

Referring to page 1 of the exhibit, Ms. Jenkins said the statistic on that page entitled "Digest of Opinions and NRS Annotations," showed that no progress had been made on the update of the Digest of Opinions since the last update in 2002, and the last update to the Annotations of *Nevada Revised Statutes* (NRS) had been in 2004. Ms. Jenkins indicated that putting the public on notice of the interpretation and application of NRS Chapter 281A was critically important in providing guidance for future conduct and guidance to public officers who had to defend allegations. The public had to be updated on the current state of the law, which was currently not available.

Ms. Jenkins indicated that the Commission was the body that was statutorily required to create the opinion, create the Digest, and provide that information to the Legislative Counsel Bureau (LCB) to include in the Annotations to the NRS. She emphasized that the Commission simply did not have the personnel or time to complete those updates. Ms. Jenkins was aware that the Committee was hearing significant testimony from agencies about the lack of personnel to handle workloads, but the Commission's staff consisted of five persons; therefore, it suffered an adverse effect from position vacancies.

Ms. Jenkins explained that the Commission currently had one vacant legal research assistant position that she was loath to permanently fill at the present time. She explained that the vacant position was classified while the other four positions within the Commission were unclassified. When the position in question had been created, the person hired was a classified employee and wished to retain that classified status. Ms. Jenkins stated that the Commission now had one classified employee, with the other employees enjoying the benefits and flexibility of unclassified service, which she believed was an unfortunate inequity. Ms. Jenkins said an amendment would be proposed to the Commission's budget bill to change the vacant position from classified to

unclassified service. She would then fill the vacancy with a temporary employee until the budget and amendment passed, at which time a permanent employee would be hired.

Chairwoman Smith instructed Ms. Jenkins to work with the Committee's Legislative Counsel Bureau (LCB) Fiscal Analysis Division staff in drafting the budget amendment, and Ms. Jenkins replied that she would comply with that request.

Ms. Jenkins called the Subcommittee's attention to the two pages of [Exhibit C](#) that depicted the statistics pertaining to Requests for Opinion (RFO). Those pages also depicted a breakdown of the sources of RFO filings. The Commission on Ethics was funded in part by state government and in part by local governments. Ms. Jenkins explained that in Fiscal Year (FY) 2006-07 the actual number of RFOs that had been filed by local governments represented 60 percent of the Commission's workload, with the remaining 40 percent of the RFOs filed by state government. The change in that ratio was addressed by the 2009 Legislature, which approved a change in the state/county funding split for the Commission. As a result, said Ms. Jenkins, the entirety of the Commission's current budget was funded 65 percent by local government support and 35 percent by State General Fund support.

Ms. Jenkins indicated that she was currently reporting to the 2011 Legislature that 74 percent of the RFOs over the last biennium had been filed by local governments and 26 percent had been filed by state government. Therefore, the funding split for the Commission's budget for the upcoming biennium should be 74 percent from local governments and 26 percent from the State General Fund.

Referring to page 2 of the exhibit, Ms. Jenkins reported that in fiscal year (FY) 2007-08 the Commission's budget was \$655,027 and the current budget proposal was less than that amount. Ms. Jenkins stated that the current budget requested \$618,477 for FY 2011-12, which represented a 7.50 percent decrease in funding with a projected 84 percent increase in workload. The budget amount for FY 2012-13 was requested at \$625,906, a 6 percent budget reduction with a projected 126 percent increase in workload.

According to Ms. Jenkins, without the knowledge or permission of the Budget Division or the Fiscal Analysis Division, she had included the category, "What Would Make a Difference," (page 2, [Exhibit C](#)). She reminded the Committee that the State General Fund proposal for FY 2012-13 was \$156,626, which was over \$100,000 less than the budget request in FY 2007-08. Ms. Jenkins reported that what would make a difference and help

the Commission address its workload, allow it to continue to be responsive, and allow it to provide the public with the current state of the Nevada Ethics in Government Law was:

- One unclassified deputy commission counsel
- One unclassified senior investigator

Ms. Jenkins said the staff of the Commission currently included one investigator position, which was tasked with the investigation of over 100 cases throughout the state. She opined that one individual could not conduct more than a cursory investigation of that number of cases. The total cost for the requested positions would be \$179,947 per year added to the current recommendation in The Executive Budget. Ms. Jenkins said that represented a 20 percent budget increase from fiscal year (FY) 2007-08 to deal with what was projected to be an over 100 percent increase in workload. The Commission had space for the requested positions in its Carson City office because it had moved to a larger office for a significant reduction in rent on July 1, 2010. The only costs that would be added to the Commission's budget would be for salaries, furniture, computer, supplies, travel, and email for those positions.

Ms. Jenkins commented that the Commission was one of the agencies that operated on a "shoestring," budget based on her prior experience in the private sector. She shared the story of the replacement of the power cord for her PowerPoint projector that she purchased online from eBay to save money, which apparently was not allowed. She was instructed that all purchases had to be made through the state's Purchasing Division. Ms. Jenkins commented that the Commission would continue to work within the legislatively approved budget.

There was one dilemma that Ms. Jenkins said she could not "fix." As many legislators were aware, the Supreme Court had recently ruled on *Carrigan v. Commission on Ethics*, 236 P.3d 616 (2010), about the requirement that was imposed upon Sparks City Councilman Michael Carrigan by the Commission to abstain from a vote in 2005 pertaining to the development of a hotel/casino project known as the Lazy 8.

Ms. Jenkins indicated that the case went up on judicial review to the First Judicial District Court and then to the Supreme Court, which made its decision in July 2010. The Commission on Ethics wanted to take the aforementioned case to the United States Supreme Court to clarify a First Amendment constitutional issue. Ms. Jenkins said the Commission had approached the Board of Examiners and the Interim Finance Committee (IFC)

and requested \$4,300 to pay the expenses pertaining to the printing and filing of the writ.

Ms. Jenkins explained that the University of Virginia School of Law, would act as pro bono counsel for the Commission, at a significant savings to the state. The Commission would appear before the U.S. Supreme Court on the petition for writ of certiorari about whether requiring abstention of a voting member of a deliberative body was an imposition on the member's free speech. The U.S. Supreme Court granted the petition for writ of certiorari, and the Commission was scheduled to argue the case before that Court on April 27, 2011, at which time a standard about imposing an abstention requirement would be set for the nation.

According to Ms. Jenkins, the Nevada Supreme Court opinion indicated that strict scrutiny must be applied and any restriction on the free speech of that vote needed to be narrowly tailored to further a compelling government interest. Some jurisdictions indicated that a balancing test should be applied between the free speech rights of the person voting and the rights of the public to have integrity in the process, while other jurisdictions indicated that there simply had to be a rational basis to impose restrictions on speech. Ms. Jenkins said that was the reason for the interest in the case by the U.S. Supreme Court.

The Court felt that nationwide standards should be established about whether states were allowed to require persons to abstain from voting.

Ms. Jenkins voiced appreciation for Chairwoman Smith's assistance with the financial aspects of arguing the case before the U.S. Supreme Court via a bill draft request (BDR) that would allocate approximately \$12,600, half of which would be used for printing costs and filing fees, and the remaining half would be used to send two staff members to Washington, D.C. to argue the case. Ms. Jenkins indicated that the University of Virginia School of Law would then be the legal representation for the Commission, which she estimated to be a value of roughly \$450,000.

Ms. Jenkins explained that the Commission needed to fast-track the funding bill because the Commission was filing its merits brief on February 22, 2011. She asked the Committee to assist the Commission in funding its argument before the U.S. Supreme Court on behalf of the State of Nevada.

Chairwoman Smith indicated that when the bill was heard by the Committee, Ms. Jenkins would be asked to further elaborate on the issue; Ms. Jenkins again expressed her appreciation for the continued support of the Committee.

Ms. Jenkins hoped the Committee understood the following issues:

- The current and proposed state/local government funding split was based on the true statistics of the Requests for Opinion filed with the Commission.
- The caseload of the Commission had increased dramatically over the past few years.
- The Commission was 46 written opinions behind, and that number had recently grown because of a recent Commission meeting where one hearing and three advisory opinions had been decided.
- Without additional personnel, the Commission could not possibly address the current and proposed workload.

Ms. Jenkins said she had no solutions to those issues, particularly in the current economic situation, and she indicated that the Commission would continue to do its best with available resources. Both the commissioners and staff of the Commission were very dedicated public servants, and Ms. Jenkins stated she was proud to be among them.

The "Annual Report from the Commission on Ethics" was available on its website, along with an ethics manual for use by public officers and employees. Ms. Jenkins offered her services to the Legislature regarding measures that might come before the body regarding Chapter 281A of the *Nevada Revised Statutes*.

Chairwoman Smith asked whether there were further questions or public testimony pertaining to the Commission on Ethics and, there being none, closed the hearing.

Assemblyman Goicoechea asked the Committee to take a moment to recognize the rural Future Farmers of America (FFA) representatives who were present in the audience today and Chairwoman Smith welcomed those students to the Committee.

Chairwoman Smith indicated that the Committee would hear the budget for the State Treasurer's Office.

ELECTED OFFICIALS
TREASURER—STATE TREASURER (101-1080)
BUDGET PAGE ELECTED-139

Kate Marshall, State Treasurer, introduced herself to the Committee and stated that the Office of the State Treasurer included nine budget accounts.

She would present her budget as outlined in [Exhibit D](#), a Memorandum dated February 11, 2011, subject, Expanded Program Narrative. However, if there were issues of greater concern to the Committee, Ms. Marshall stated she would address those areas of concern first.

Ms. Marshall stated that even though she was the person appearing before the Committee to present the proposed budget, the State Treasurer's Office included 44 staff members and she wanted to thank her staff for their hard work. She noted that there had been no increase in staff at the Treasurer's Office, and the increased workload over the past two years had been handled by those same 44 staff members. Ms. Marshall introduced Steve George, Chief of Staff and Mark Winebarger, Chief Deputy Treasurer, to the Committee.

Ms. Marshall said the responsibilities of the Treasurer's Office included cash management, investment management, debt management, unclaimed property, college-saving-plan administration, the Millennium Scholarship Program, and the Prepaid Tuition Program. Over the upcoming biennium, 35 percent of the total operating costs of the Treasurer's Office would be provided by the General Fund.

According to Ms. Marshall, budget account (BA) 1080, State Treasurer, included investment, cash, and debt management, as well as administrative costs. The first decision unit, Enhancement (E) 250, requested \$20,000 in each year of the biennium to fund a subscription to credit rating services that would allow the Treasurer's Office to enhance its analysis of corporate issues and/or notes. Ms. Marshall advised the Committee that the subscription would increase interest earnings for the General Fund by a minimum of \$750,000 per year. She pointed out that the volatility of the current market required more extensive research in purchasing corporate notes. Without such a service, the Treasurer's Office would be unable to conduct the research, would fail to purchase the notes, and the General Fund would not realize the enhanced returns. Ms. Marshall explained that the anticipated \$750,000 increase was not included in The Executive Budget because the Office was awaiting approval of decision unit E250 by the Legislature.

Ms. Marshall stated that decision units E600, E601, and E602, would provide a personnel cost savings of \$180,828 over the biennium. The Treasurer's Office would leave vacant a management analyst 2 position, and reduce to part-time two accounting assistant positions. That action would delay some of the processes and would put a strain on staff. Ms. Marshall asked that the positions not be eliminated because the remaining workforce would be tasked with additional duties as a result of those staff changes; however, the changes would remain in effect over the upcoming biennium.

Ms. Marshall said the Treasurer's Office had revised its salary cost-allocation plan for the upcoming biennium, and that revision would result in approximately \$1.5 million of funds being transferred to BA 1080 from other non-General Fund Treasurer's Office budget accounts. Additional budget cuts included 10 percent from travel, 88 percent from training, and a delay in purchasing office computers and servers past the Department of Information Technology's (DoIT) recommended five-year replacement schedule.

Ms. Marshall stated that decision unit Enhancement (E) 901 requested the transfer of administrative costs associated with the statewide e-payment system from the Department of Administration, Information Technology Division, BA 1320, to the Treasurer's Office, BA 1080, to align the activity to manage statewide e-payments with the appropriate agency. The funding requested to facilitate that transfer was \$57,350 over the biennium. Ms. Marshall explained that the Department of Administration had requested that the Treasurer's Office take over the credit card program in an effort to lessen the costs. Ms. Marshall said her staff also believed they could help lessen the costs, and therefore, the request to move that program to the Treasurer's Office was reflected in decision unit E901.

Chairwoman Smith noted that the program shift included some funding, but it did not appear that staff would be added to accommodate the program. The current budget proposal from the Treasurer's Office would reduce staff and Chairwoman Smith wondered how the Treasurer's Office would address the additional workload with a reduction in staff.

Ms. Marshall said there had been many discussions between the Department of Administration and the Treasurer's Office regarding the proposed transfer of the credit card program, and staff of the Treasurer's Office believed they could absorb the extra workload. In addition, a consultant had been hired by the Department of Administration, and its budget request included funding to issue a request for proposal (RFP) to continue that consultant position. Ms. Marshall stated that her staff believed they could actually reduce the time spent annually on the program by the consultant.

Chairwoman Smith asked for clarification regarding the role of the consultant versus the role of staff in the credit card program, and how that transfer would be facilitated. Ms. Marshall replied that Mr. Winebarger would address that question.

Mark Winebarger, Chief Deputy Treasurer, Office of the State Treasurer, explained that the \$57,350 included in the Treasurer's Office budget would be used to pay the consultant costs and did not address costs incurred by the

Treasurer's Office. The consultant worked with the actual vendor to ensure that the operation was running smoothly and also helped new agencies access the online program. Mr. Winebarger noted that the Treasurer's Office also helped new agencies reconcile their revenues by ensuring that accounting and financial records matched. The Treasurer's Office was also working with the Office of the State Controller to establish the automated reconciliation system, and the consultant had provided assistance with that endeavor.

According to Mr. Winebarger, the Department of Administration's proposed budget included a one-shot appropriation of \$100,000, which would be used for the development of the RFP because the contract with the current vendor would come due in approximately two years.

Chairwoman Smith asked whether it would cost the state \$100,000 to develop the RFP, and Mr. Winebarger replied that was correct. Chairwoman Smith indicated that additional information would be needed by the Committee regarding the transfer of the credit card program.

Ms. Marshall explained that the Treasurer's Office was parroting the information to the Committee that had been provided to it by the Department of Administration. Chairwoman Smith understood, but she reiterated that additional information would be needed. Ms. Marshall said she would ask the Department of Administration to provide an explanation because the \$57,350 was the Department's recommendation regarding the cost. Also, said Ms. Marshall, the Treasurer's Office was relying on the Department's recommendation to the Treasurer's Office about the program itself and the interaction of Treasurer's Office staff with the program.

Chairwoman Smith indicated that the Committee would also request that Legislative Counsel Bureau (LCB) Fiscal Analysis Division staff work with the Department of Administration and the Treasurer's Office to provide explanation about spending \$57,350 to actually hire a consultant at the same time as a one-shot appropriation of \$100,000 was requested to develop a new request for proposal (RFP) to continue the contract with a consultant.

Assemblywoman Mastroluca referred to the two accounting assistant positions that would be reduced to part-time over the biennium, and she asked whether Ms. Marshall was confident that the Treasurer's Office could keep pace with its workload with those reductions. Ms. Marshall replied that the reduction of the positions to part-time would definitely create a delay in services, but the Treasurer's Office would continue to accomplish its tasks.

Assemblywoman Mastroluca asked whether there were other General Fund operating costs that could be reduced within the Treasurer's Office budget that would allow the positions to remain full-time. Ms. Marshall replied that the Treasurer's Office had done its best to reduce General Fund costs across every budget category.

ELECTED OFFICIALS

TREASURER—HIGHER EDUCATION TUITION ADMINISTRATION (603-1081)

BUDGET PAGE ELECTED-148

Kate Marshall, State Treasurer, Office of the State Treasurer, stated that the Treasurer's Office was the designated administrator of budget account (BA) 1081, Higher Education Tuition Administration (Nevada Higher Education Prepaid Tuition Program) authorized by *Nevada Revised Statutes* (NRS) Chapter 353B.

Ms. Marshall commented that many prepaid tuition programs across the country had closed, but she was happy to report to the Committee that Nevada's Prepaid Tuition Program was funded at over 100 percent. It was a program for Nevadans and their children to attend college, and it qualified as an Internal Revenue code section 529 college savings plan.

Ms. Marshall reported that the Treasurer's Office conducted actuarial reviews of that program on an annual basis. The Nevada Prepaid Tuition Program was not backed by the full faith and credit of the state, rather contract holder fees and interest earnings had to meet the financial demands of the program. The primary mandate of the enacted legislation was to support the Nevada Higher Education Prepaid Tuition Trust Fund.

Ms. Marshall stated that over the past two years as the stock market declined, the Prepaid Tuition Program had become underfunded, and as mandated by the Legislature, the Treasurer's Office had transferred approximately \$5 million in program fee funds from budget account (BA) 1094, Endowment Account, to the Higher Education Trust Fund to bring the funding level up to 100 percent.

According to Ms. Marshall, because of the volatile nature of the stock market, and because so many college tuition plans were closing nationwide, the actuary recommended that the Treasurer's Office continue transferring funds from BA 1094 to the Prepaid Tuition Program over a period of ten years to bring the funding level up to 120 percent, thereby creating a buffer against future fluctuations in the stock market.

By way of background, Ms. Marshall stated that at the beginning of the fiscal crisis, the funding level in the Prepaid Tuition Program had been at 110 percent, but almost immediately the 10 percent vanished, and shortly thereafter, the funding level was at minus \$5 million. She stated that the Treasurer's Office brought the funding level back up to the current level of 104 percent.

To bring the funding level of the Prepaid Tuition Program to the recommended level of 120 percent, Ms. Marshall explained that the Board of Trustees of the College Savings Plans of Nevada accepted the recommendation of the actuary and mandated that a minimum of \$1.3 million would be transferred annually from BA 1094, Endowment Account, to the Prepaid Tuition Program. Ms. Marshall said that amount assumed that tuition rates within the Nevada System of Higher Education (NSHE) would increase by only 6 percent annually. However, said Ms. Marshall, should tuition rates continue to increase beyond that 6 percent, additional funding would be necessary for the Prepaid Tuition Program, either through stock market gains or through additional transfers from BA 1094, or a combination of both.

Ms. Marshall advised that the Treasurer's Office had not requested enhancements in BA 1081.

Assemblyman Kirner said he was familiar with 529 college tuition plans as he had opened such accounts for his grandchildren through New Hampshire's college tuition plan. He asked for further information about Nevada's investment plan.

Ms. Marshall advised that the Nevada Prepaid Tuition Program included five plans: (1) Upromise College Fund 529 Plan; (2) Vanguard 529 College Savings Plan; (3) the USAA College Savings Plan; (4) Putnam Investments, an advisor-sold plan; and (5) Columbia 529 plan, an advisor-sold plan. Ms. Marshall advised Assemblyman Kirner that he could very easily move his grandchildren's prepaid tuition plan over to a Nevada plan.

ELECTED OFFICIALS

TREASURER—MUNICIPAL BOND BANK REVENUE (745-1086)

TREASURER—MUNICIPAL BOND BANK DEBT SERVICE (395-1087)

BUDGET PAGES ELECTED-161 through 164

Kate Marshall, State Treasurer, Office of the State Treasurer, informed the Committee that budget account (BA) 1086, Municipal Bond Bank Revenue, and BA 1087, Municipal Bond Bank Debt Service, were accounts used to provide support of certain municipal projects through a bond bank, and both were

accounts through which the Treasurer's Office moved money. There were no enhancement decision units within those budget accounts.

ELECTED OFFICIALS

TREASURER–MILLENNIUM SCHOLARSHIP ADMINISTRATION (261-1088)

BUDGET PAGE ELECTED-165

Kate Marshall, State Treasurer, Office of the State Treasurer, explained that budget account (BA) 1088, Millennium Scholarship Administration, was created by the late Governor Kenny Guinn and approved by the 1999 Legislature. The two mandates of the Millennium Scholarship Program were to keep the "best and brightest" students in Nevada and to allow those students to attend college who otherwise might not have had the opportunity.

Ms. Marshall stated that based on an Attorney General's Opinion, the policies surrounding the Program were not established, or participated in, by the Treasurer's Office. The Treasurer's Office acted as the financial administrator of the Program, the Legislature established the rules and regulations for the Program, and the Nevada System of Higher Education (NSHE) executed those regulations. Ms. Marshall indicated that NSHE provided information regarding student eligibility to the Treasurer's Office, and the Office distributed the funds as required.

The Millennium Scholarship Program was funded from 40 percent of the tobacco settlement receipts. Ms. Marshall advised the Committee that the family of the late Governor Kenny Guinn has established a memorial for the Millennium Scholarship Program because it was such an important part of his legacy. The current balance of that memorial was approximately \$112,000. Ms. Marshall stated that Senator Kieckhefer was the sponsor of legislation at the behest of former First Lady Dema Guinn to dedicate a purpose for those donated funds.

In an effort to extend the financial viability of the Millennium Scholarship Program, Ms. Marshall explained that the Treasurer's Office had approached the Interim Finance Committee (IFC) and requested that the administrative costs be moved to the Endowment Account of the Nevada College Savings Trust Fund. That request was approved by IFC, and Ms. Marshall said the Treasurer's Office would request a continuation of that approval.

Chairwoman Smith asked Ms. Marshall to discuss tobacco Master Settlement Agreement (MSA) payments and projections, cash flow within the program, the Treasurer's Office projections for the viability of the program,

and the recommendations for the Millennium Scholarship Program in The Executive Budget.

Ms. Marshall stated that the projected fund balances assumed approval of the \$10 million one-shot appropriation and restoration of funding from the Unclaimed Property account, as recommended in The Executive Budget. The projected balanced also assumed the decision made by the 26th Special Session (2010) that would transfer \$5 million in funds to the General Fund in fiscal year (FY) 2010-11. Ms. Marshall advised that the \$5 million had not yet been transferred, but that transfer would occur on June 30, 2011, if no action was taken by the Legislature prior to that time.

Beginning in FY 2012-13, said Ms. Marshall, the transfer of \$7.6 million annually would be made from Unclaimed Property to the Millennium Scholarship Program. She explained that funding had been suspended over the past biennium because of the state's financial constraints. In addition, projected MSA revenue was included in the Millennium Scholarship Program, but Ms. Marshall stated it was very difficult to project funding from that revenue source because of litigation and other activity within the industry. The Treasurer's Office considered the projections and recommendations of MSA revenue made by the National Association of Attorneys General (NAAG) and Barclays, then lowered those recommendations by 10 percent and used those figures as projected revenue. Ms. Marshall said that method had always served the Treasurer's Office well, and the revenue received had always been greater than the amount projected until 2010, at which time she approached the Interim Finance Committee (IFC) to request additional funding.

The Treasurer's Office believed that shortfall occurred because the federal government enacted an additional excise tax on tobacco products that had substantially altered consumer purchasing behavior. Ms. Marshall believed that the effect of that behavioral change had been experienced at the time the federal excise tax was increased, and the tax would not create another discrete drop in consumer demand.

Mark, Winebarger, Chief Deputy Treasurer, Office of the State Treasurer, explained that the Treasurer's Office used projections from NAAG and Barclays to project tobacco Settlement Agreement revenue. He noted that the projections from Barclays were usually higher than those from NAAG, and therefore, the Treasurer's Office would decrease the NAAG projections by 2 percent or 3 percent, which would result in a projection that was approximately 10 percent lower than the projections from Barclays. Mr. Winebarger indicated that the Treasurer's Office wanted to remain conservative and did not want to find itself in the same position as it had over

the past year when the increased federal excise tax on tobacco products created a decline in revenues for the states.

Ms. Marshall said under the aforementioned assumptions, and under the assumptions provided to the Treasurer's Office by the Western Interstate Commission for Higher Education (WICHE) about student eligibility, there appeared to be a continuing cash-flow problem. She explained that the Millennium Scholarship Program would be "in the hole" after the Treasurer's Office issued the spring payments in February 2011, but additional revenue would be received in April 2012 from the tobacco Settlement. The timing of payments created a cash-flow problem, but not an ending-balance problem.

Chairwoman Smith noted that the issue, which had proven problematic for the Nevada System of Higher Education (NSHE), had been discussed by the Interim Finance Committee (IFC) in the past year. The NSHE was facing its own budget issues, and the Legislature endeavored to mitigate some of those problems. Chairwoman Smith asked for specifics regarding the cash-flow problem and whether the problem had been discussed with NSHE.

Ms. Marshall stated that NSHE, the Department of Administration, the Treasurer's Office, and the Board of Trustees of the College Savings Plans of Nevada, had devised a method by which NSHE received a revenue advance from the General Fund and when the tobacco Settlement revenue was received by the Treasurer's Office, that advance was repaid to the General Fund. Ms. Marshall believed that solution had successfully addressed the funding liquidity issue for NSHE.

Ms. Marshall said assuming continuance of the \$10 million in revenue recommended in The Executive Budget and assuming continuance of the \$7.6 million in revenue from Unclaimed Property, the Millennium Scholarship Program would remain solvent through fiscal year (FY) 2017. Ms. Marshall pointed out that the recommendation to transfer \$5 million to the General Fund by the end of FY 2010-11 was subject to review by the Legislature, which could allow those funds to remain within the Program.

As an aside, Ms. Marshall informed the Committee that a memorial wall was being constructed at the University of Nevada, Las Vegas, (UNLV) dedicated to the late Governor Kenny Guinn and the Millennium Scholarship Program.

Assemblyman Hambrick questioned the use of revenue projections from NAAG and Barclays to project tobacco Settlement funding. He felt there could be additional decreases in tobacco sales revenue because individuals were being

pressured to quit smoking. Assemblyman Hambrick would like to see the Treasurer's Office decrease the projections from NAAG and Barclays more than the current 2 percent to 3 percent, perhaps by as much as 12 percent. He believed the federal government would continue to impose excise taxes on tobacco products, which would again disrupt consumer behavior.

Ms. Marshall said the Treasurer's Office could not predict future federal action regarding tobacco products, and her statement was that the economic effect of the most recent federal excise tax had already occurred. She concurred that enactment of an additional federal excise tax would again affect the behavior of consumers of tobacco products. Ms. Marshall agreed that projecting revenue was very difficult, and in fact, over the years the MSA revenue received by the state had continued to decrease. Ms. Marshall stated that the Treasurer's Office was willing to work with Legislative Counsel Bureau (LCB), Fiscal Analysis Division staff, to change those projections and determine the effect those changes would have on the viability of the Millennium Scholarship Program. She emphasized that the rules and regulations of the Millennium Scholarship Program were the purview of the Legislature.

Chairwoman Smith asked Mr. Combs to clarify the issue for the Committee.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, LCB, advised that in the past the Fiscal Analysis Division had been very heavily involved in the effort to make projections regarding MSA receipts, not only for the Treasurer's Office, but also for the Fund for a Healthy Nevada. Mr. Combs indicated that the Division typically used information from sources such as Moody's and IHS Global Insight, and would then apply a 10 percent reduction in those projections based on the nonparticipating manufacturer's adjustment. The Division believed those companies did a very good job of forecasting the projected decrease in cigarette smoking and predicting the inflation adjustment for the Master Settlement Agreement (MSA) from year to year. However, said Mr. Combs, the Division did not think those companies took into account the degree of the nonparticipating manufacturer's reduction, which was the reason the Division projected revenue 10 percent below those projections.

Mark Winebarger stated that the National Association of Attorneys General (NAAG) provided three projections based on different scenarios regarding how much would be withheld for the nonparticipating manufacturer's reduction. The Treasurer's Office usually selected the second or "middle" projection that anticipated partial withholding by the tobacco companies and further reduced that percentage to arrive at its projection.

ELECTED OFFICIALS

TREASURER-NEVADA COLLEGE SAVINGS TRUST (101-1092)

TREASURER-ENDOWMENT ACCOUNT (101-1094)

BUDGET PAGES ELECTED-172-190

Kate Marshall, State Treasurer, Office of the State Treasurer, indicated that use of the funding in budget account (BA) 1092, Nevada College Savings Trust, and BA 1094, Endowment Account, was determined by the Board of Trustees of the College Savings Plans of Nevada (Board). Because the funding involved marketing, she asked Ms. Duddleston to address the Committee regarding those budget accounts.

Karen Duddleston, Senior Deputy Treasurer, Office of the State Treasurer, explained that the College Savings Program offered federal Internal Revenue Code, Section 529 educational savings plans. The Treasurer's Office offered five 529 college savings plans and she stated that the USAA 529 College Savings Plan, sponsored by the State of Nevada, had been the number one performer in the nation for the past three years. Also in the top ten plans was Nevada's Vanguard 529 College Savings Plan. Ms. Duddleston explained that Nevada's plans were unique because they were available nationwide at a time when many states offered 529 college plans to in-state residents only. Approximately five years ago, less than 2 percent of the college plan customers were from Nevada. The Treasurer's Office had made a real effort to increase participation by Nevadans in college savings plans and that percentage had increased to 4 percent.

Over the past year, said Ms. Duddleston, one of the major initiatives of the Treasurer's Office had been to begin renegotiating some of the college plan contracts that had been in place for long periods of time. The goal was to improve Nevada's revenue position in those contracts and to provide additional benefits to Nevada citizens and to the college savings programs through increased services and reduced fees.

Ms. Duddleston pointed out that over the past year the Treasurer's Office had renegotiated the Upromise direct program management contract that had provided no revenue or services to the state. The Treasurer's Office was able to renegotiate the contract to include an increased marketing commitment from the Upromise College Fund of \$400,000 annually, an in-state field representative who would be located within the state, and a \$35,000 direct matching grant for use by low- or moderate-income Nevada families. Ms. Duddleston explained that the grant would allow Nevada families to establish a fund that would be matched by the Treasurer's Office up

to \$300 per year in college savings per child. Also negotiated were three reductions in fees paid by contract owners over the past 18 months.

With that increased marketing commitment, said Ms. Duddleston, the Treasurer's Office had seen dramatic results, such as an 8 percent increase in in-state accounts, and an increase of 27 percent in the total assets under management. She noted that the Treasurer's Office was now managing over \$7 billion in nationwide college savings revenue.

Ms. Duddleston said the total number of new accounts nationwide over the past year had increased by 42 percent. She pointed out that Nevada's plans were well-respected nationwide, and while other state college plans were remaining the same or were declining, Nevada's college plans were significantly growing. The budget proved that the marketing worked, and the Board of Trustees of the College Savings Plans of Nevada was conscious of the type of marketing conducted by the Treasurer's Office. She stated that [Exhibit E](#), "Marketing Efforts for 529 College Savings Plans and Nevada Prepaid Tuition Program, 2011," depicted the type of ads displayed at McCarran Airport in Las Vegas, on buses, and at shopping malls. Ms. Duddleston said the Treasurer's Office promoted college savings in general through all of its college plans. However, the only marketing commitment at the present time was for the Upromise College Fund.

According to Ms. Duddleston, the request in decision unit Enhancement (E) 250 would increase the marketing campaign to allow review of each of Nevada's college savings plans. The goal of the Treasurer's Office was to help Nevada families prepare to send their children to college. The second enhancement, said Ms. Duddleston, was decision unit E252 which would support a "financial fitness" program. Across the country, many legislators were mandating state Treasurer's Offices to put together "financial fitness" education programs for parents that identified whether parents were prepared to send their children to college, whether parents were able to manage college savings in their budgets, and how parents could access the programs and tools that would allow them to incorporate college savings plans into their budgets. There were nationwide programs where public and private partners had established a website that provided outreach and education information about the available tools and various college savings programs that were available to the public. Ms. Duddleston explained that banks and financial institutions, community associations, educators, and schools were partnering in undertaking "financial fitness" outreach and education programs. Those programs were realizing increases of 10 percent to 15 percent in family use of the programs and an increase in children from those families attending college.

Therefore, said Ms. Duddleston, the Board of Trustees of the College Savings Plans of Nevada wanted to start a “financial fitness” program beginning with no-cost open seminars for families interested in college saving programs that offered assistance in preparing for those costs while their children were still young. The Treasurer’s Office would partner with the Department of Education and the state’s schools on those seminars and would work with the schools on bringing curriculum to Nevada that was financially based.

Chairwoman Smith offered congratulations to the Treasurer’s Office for the national first place ranking of Nevada’s USAA 529 College Savings Plan. She asked whether there were further questions from the Committee regarding BA 1092 and BA 1094, and there being none, Chairwoman Smith asked Ms. Marshall to address BA 3815.

ELECTED OFFICIALS

TREASURER–UNCLAIMED PROPERTY (101-3815)

BUDGET PAGE ELECTED-191

Kate Marshall, State Treasurer, Office of the State Treasurer, indicated that the last budget for review was budget account (BA) 3815, Unclaimed Property. She advised the Committee that she had unclaimed property claim forms for legislators and elected officials alike. Chairwoman Smith said she was aware that she had unclaimed property and would like to know how to relinquish ownership of that property. Ms. Marshall explained that when the Treasurer’s Office downloaded a claim form, that property was dropped from the system. But if that claim form was not acted upon, the property would be placed back into the system and transferred to the General Fund. Chairwoman Smith asked that Ms. Marshall take that action regarding her unclaimed property.

Assemblywoman Carlton said she had attempted to file a claim for unclaimed property, but she had not been successful because she could not prove she was “Maggie Carlton.” She explained that her identification (ID) matched her legal name of “Margaret Ann Carlton,” but her campaign had been for “Senator Maggie Carlton.” She was in possession of a Senate ID, but that was not recognized because it did not have an expiration date, and her driver’s license did not match the Senate ID. Assemblywoman Carlton finally approached the person who had sent the check to her campaign and asked that person to reclaim the property. She pointed out that there were some technical “glitches” in the system when it came to filing a claim for unclaimed property.

Ms. Marshall stated that she was very proud of her staff. She pointed out that the Treasurer’s Office had checks and balances in place within unclaimed property because oftentimes persons attempted to hack into the system and file

false claims. Persons often lied, cheated, and claimed to be heirs of the person to whom the property belonged. Ms. Marshall stated the Treasurer's Office worked very diligently to protect unclaimed property for the claimant. She explained that at times situations would arise such as her filing of a claim for unclaimed property that resulted in her being asked to provide notarized proof of identification, even though she was well-known to her staff. Ms. Marshall offered to assist Assemblywoman Carlton in claiming her property.

Assemblywoman Carlton said it was not just the fact that she had been unable to secure her unclaimed property it was also a matter of the time involved in attempting to complete the filing process. She commented that the check was not worth the multiple hours and multiple trips she had made to the Treasurer's Office. Assemblywoman Carlton reiterated that she believed there was definitely a "glitch" in the area of unclaimed property.

Steve George, Chief of Staff, Office of the State Treasurer, said he would research the issue further for Assemblywoman Carlton and would advise her of his findings. He pointed out that unclaimed property could be released via the owner's Social Security number.

Continuing her presentation, Ms. Marshall indicated that the Treasurer's Office had transferred \$66 million to the General Fund in fiscal year (FY) 2010. The goal of the Treasurer's Office under the "claims paid" performance indicator was to return \$25 million in unclaimed property to the people of Nevada, but during FY 2010-11 only \$20 million had been returned. That performance indicator was below projection because one of the most significant unclaimed property holders in the state had transferred unclaimed property to the Treasurer's Office with unknown names and unknown addresses, and the owners of much of that property could not be located. Ms. Marshall said that property would, therefore, be transferred to the General Fund.

Another problem in locating owners of unclaimed property had arisen as a result of the housing crisis throughout Nevada that caused persons to relocate because of foreclosures and unemployment. Ms. Marshall said it had become more difficult to locate persons, which had contributed to the decrease under the "claims paid" performance indicator.

Ms. Marshall indicated that the Treasurer's Office had been attempting to start a Voluntary Disclosure Agreement (VDA) program so that businesses would become aware of the statutes surrounding unclaimed property, and could voluntarily self-audit and transfer their unclaimed property to the Treasurer's Office. The Treasurer's Office would then review and analyze the self-audit to ensure that it had been correctly completed. The Treasurer's Office

would waive penalties and fees mandated by statute if businesses came forward voluntarily.

Ms. Marshall said the VDA program would provide the businesses sufficient time to determine how to become compliant with the statutes. The VDA would also relieve Treasurer's Office staff of a significant amount of work in the audit process, and the program would dovetail with the results of an audit conducted by the Legislative Counsel Bureau (LCB) Audit Division. The LCB audit suggested that Treasurer's Office auditors should focus on high-end or large-company audits, which took a significant number of staff and a great deal of time.

According to Ms. Marshall, in the pilot phase of the VDA program in fiscal year (FY) 2010-11, the Treasurer's Office was able to contribute an additional \$8.6 million to the General Fund. The current budget proposal, as depicted in [Exhibit F](#), "NDP-19 Unclaimed Property Division, Management Analyst III," included the request for a position dedicated to the VDA program. Ms. Marshall explained that in the first seven months of FY 2010-11, while still in the pilot phase, the Treasurer's Office had transferred an additional \$1.9 million to the General Fund because of the VDA program. With approval of that position, Ms. Marshall said she would increase the projections in Unclaimed Property by a minimum of \$1 million. She commented that the position would more than pay for itself. Ms. Marshall believed the program would be worthwhile to the business community of Nevada, the people of Nevada to whom property was returned, and the General Fund.

In addition, said Ms. Marshall, decision unit Enhancement (E) 252 requested the money to fund the cost of Nevada's participation in the National Association of Unclaimed Property Administrators (NAUPA) national unclaimed property website, missingmoney.com.

Chairwoman Smith asked for clarification regarding the request for a management analyst 3 position and how that position would aid the Treasurer's Office in meeting its performance indicators.

Ms. Marshall stated at the present time the performance indicators projected the completion of 55 audits annually. The report from the LCB Audit Division recommended that the Treasurer's Office focus primarily on large-company audits. Ms. Marshall said that focus would create a trade-off because if the Treasurer's Office conducted more large-company audits there would be fewer overall audits conducted. However, the proposal to bring the Voluntary Disclosure Agreement (VDA) program online with a full-time dedicated position would increase the number of voluntary disclosure self-audits.

Ms. Marshall indicated that the projection, based on the VDA pilot program, was that the Treasurer's Office could conduct approximately 150 audits annually under that program. She further explained that the VDA audits differed from those currently conducted by the Treasurer's Office. The VDA program would also allow the Treasurer's Office to focus its audit staff on large-company audits, which were the audits referred to in the performance indicators. She noted that the program would result in an overall increase in the total number of audits, while the number of large-company audits would decrease.

Chairwoman Smith asked whether that information was reflected in the performance indicators. Ms. Marshall said that the performance indicators had not changed pending approval of the request for the position. The current performance indicator projected completion of 55 audits per year, as it had in the past. However, that number probably could not be met if the focus of the Treasurer's Office was on large-company audits. Ms. Marshall reiterated that following the recommendations from the LCB audit would result in a trade-off. The Treasurer's Office hoped that the request for the VDA staff position would be approved, and at that time Ms. Marshall said she would provide new performance indicators.

Chairwoman Smith stated that would be appreciated, and she asked that Ms. Marshall work with LCB Fiscal Analysis Division staff to create new performance indicators based on approval of the new positions.

Steve George, Chief of Staff, stated that in fiscal year (FY) 2010-11 the Treasurer's Office had set its own internal goals or performance indicators to determine how the VDA program would function over the pilot year. As suggested by Chairwoman Smith, upon approval of the requested position, the Treasurer's Office would set new parameters regarding the audit function.

Continuing her presentation regarding decision unit Enhancement (E) 252, Ms. Marshall explained that participation in the national missingmoney.com website would allow individuals and businesses from Nevada to conduct searches for unclaimed property on a single internet location. She explained that Nevada had participated in the NAUPA website in the past without cost, but recently NAUPA had enacted an annual fee of \$5,300. To put the request in perspective, Ms. Marshall explained that over 500,000 searches had been completed by Nevadans using the missingmoney.com website over the past year, and approximately 3,200 claims had been filed as a result of those searches. Staff of the Treasurer's Office believed that the missingmoney.com website was a valuable tool for Nevadans.

Ms. Marshall explained that costs for audit services and securities custodial services traditionally had been paid from the Abandoned Property trust account, budget account (BA) 6150, and had not been included in this budget account. At the request of the Legislative Counsel Bureau (LCB) Fiscal Analysis Division staff, those costs were moved to BA 3815, which had been done via Interim Finance Committee approval for fiscal year (FY) 2010-11. The budget request for the 2011-2013 biennium included those costs in BA 3815.

Chairwoman Smith asked whether that request had been based on recommendations from the LCB audit, and Ms. Marshall replied it was a separate issue.

According to Ms. Marshall, there had been a significant increase in the amount of money transferred to the General Fund by the Treasurer's Office and a significant increase in the number of claims processed. For example, in FY 2010-11, the Treasurer's Office processed approximately 12,000 claims, and for the first seven months of FY 2010-11 it had processed 10,000 claims, without the need for additional staff. Ms. Marshall explained that even though there had been a 40 percent increase in workload, the implementation of the Fast-Track claim process had allowed a claimant with proper identification, and who was owed less than \$2,500, to process that claim electronically. Ms. Marshall stated that 30 percent of the total claims were currently being processed electronically via the Fast-Track process. The Treasurer's Office estimated a savings of more than 200 hours of staff time per year as a result of that process.

Ms. Marshall said that completed her budget presentation and she would be happy to answer questions.

Chairwoman Smith asked Ms. Marshall to comment on whether the changes made as a result of the LCB audit had improved the operations of Unclaimed Property.

Ms. Marshall stated that most of the recommendations from the LCB audit were completed prior to issuance of the official report. She appreciated the efforts of LCB auditors and believed it was a win-win situation that assisted the Treasurer's Office in improving its operations.

Chairwoman Smith asked whether Ms. Marshall believed that the audit had improved collections. Ms. Marshall replied that it had absolutely improved collections, and she felt there was always room for improvement. She pointed out that the Treasurer's Office continued to look for efficiencies and improvements. The only recommendation that had not been fully addressed

was the aforementioned issue regarding the audits. Also, said Ms. Marshall, she had disagreed with one audit recommendation that the Treasurer's Office continue to sell stock during the fiscal crisis. Ms. Marshall said she made the decision to put a hold on stock sales, and that action had resulted in the state earning \$5 million.

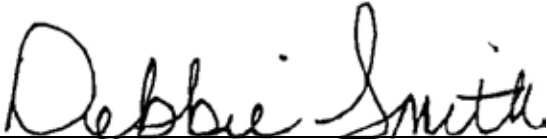
Chairwoman Smith asked whether there were further questions to come before the Committee regarding BA 3815, Unclaimed Property, and there being none, the hearing was closed. Chairwoman Smith opened public testimony, and there were no persons who wished to address the Committee.

With no further business to come before the Committee, Chairwoman Smith adjourned the hearing at 9:51 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:



Assemblywoman Debbie Smith, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: February 16, 2011

Time of Meeting: 8:12 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
	C	Caren Jenkins, Ethics Commission	Budget presentation
	D	Kate Marshall, State Treasurer	Budget presentation
	E	Karen Duddleston, State Treasurer	College Savings Plans of Nevada
	F	Kate Marshall, State Treasurer	Budget presentation/ Unclaimed Property