

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

**Seventy-Sixth Session
March 8, 2011**

The Assembly Committee on Ways and Means and the Senate Committee on Finance, Joint Subcommittee on General Government was called to order by Chair Marcus Conklin at 8:02 a.m. on Tuesday, March 8, 2011, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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).

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblyman Marcus Conklin, Chair
Assemblyman Paul Aizley, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman Tom Grady
Assemblyman Randy Kirner
Assemblyman John Ocegüera

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Moises (Mo) Denis, Chair
Senator Ben Kieckhefer
Senator David R. Parks
Senator Dean A. Rhoads

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Julie Waller, Program Analyst
Heidi Sakelarios, Program Analyst
Terri Sulli, Program Analyst
Jordan Butler, Committee Secretary
Cynthia Wyett, Committee Assistant

DEPARTMENT OF ADMINISTRATION

ADMINISTRATION – ADMINISTRATIVE SERVICES (716-1371)

BUDGET PAGE ADMIN-14

Evan Dale, Administrator, Administrative Services Division (ASD), Department of Administration, read from a prepared statement ([Exhibit C](#)) regarding budget account 1371. Mr. Dale said he would entertain questions from the Subcommittee on the account.

Chair Conklin asked what kind of efficiencies and cost savings the ASD anticipated with the recommended merger of the Department of Personnel, the Department of Information Technology (DoIT), the Division of State Library and Archives, and the State Public Works Board into the Department.

Mr. Dale responded that while the ASD's budget was recommended to increase with the merger, there would be cost savings with the agencies included in the merger.

Andrew Clinger, Director, Department of Administration, reported that the proposed merger would result in a \$1.8 million savings during the 2011-2013 biennium. Mr. Clinger said he would provide the Subcommittee with a handout detailing the anticipated savings.

Chair Conklin asked whether The Executive Budget was recommended to nearly double the number of ASD employees tasked with fiscal and payroll functions.

Mr. Clinger responded that there was a recommendation to transfer 16 positions from other agencies to the ASD. He confirmed that the positions would carry out fiscal and payroll functions.

Chair Conklin asked whether the transferred positions would provide services for the entire Department rather than for the agencies from which they would transfer.

Mr. Clinger answered that the transferred positions would provide services for the entire Department. He provided the example that DoIT currently had fiscal and payroll positions that only served DoIT, but the proposed merger would transfer those positions to the ASD and task them with fiscal and payroll responsibilities for the Department, the Office of the Governor, and the State Board of Examiners.

Chair Conklin asked Mr. Clinger whether he felt that the Department's management structure was sufficient to handle the proposed increase in staff.

Mr. Clinger assured the Subcommittee that based upon projections and research, the Department's management structure was sufficient to provide the current level of service to a larger Department.

Assemblyman Aizley asked how the ASD would assign agency costs if the agencies were reorganized and consolidated within the Department.

Mr. Dale said the ASD tracked agency costs by counting transactions associated with each agency and by recording staff work hours in each agency.

In response to Assemblyman Aizley, Mr. Dale said the ASD's cost-tracking records were available to individuals outside the ASD.

Senator Denis pointed to a recommendation to reclassify an accountant technician 3 position, an administrative assistant 3 position, and an administrative services officer 2 position. He asked whether the reclassified positions would be responsible for new tasks and, if so, whether they would receive training to complete those new tasks.

Mr. Dale said of the positions recommended to be transferred, a majority would perform tasks similar to their current tasks.

Senator Denis asked whether the reclassified positions would be able to successfully complete the new tasks assigned to them. He also asked whether the reclassified positions would be allowed a "ramp-up period of time" and, if so, whether that time would hamper the ASD's operations.

Mr. Dale said the ASD believed the recommended position transfers would experience a smooth transition into the ASD. Mr. Dale indicated that the biggest challenge of the merger would be in the ASD's contracting section, but he assured the Subcommittee that three of the five position transfers were very experienced. The contracting section was already receiving the appropriate attention to ensure its success.

Senator Denis asked whether Mr. Dale had spoken to the employees associated with the recommended merger. He also asked how the employees felt about the recommended merger.

Mr. Dale confirmed that he had personally spoken with all employees associated with the recommended merger. He reported that they were upbeat about the recommendation.

Mr. Clinger expanded on Mr. Dale's response, saying the Department and the ASD had made an effort to discuss the recommended merger with agency employees. The Department had hosted several town hall meetings with employees. The Department also created a website, <http://merger.nv.gov>, that provided employees with information on the merger. Mr. Clinger said the efforts sought to provide as much transparency as possible.

Senator Denis appreciated the Department's communication efforts.

Chair Conklin asked about the recommended merger and how agencies would cope with tasks, such as answering telephones, which were not formally assigned to employees.

Mr. Clinger answered that the Department had been collaborating with agency directors to identify potential problems and solutions associated with the recommended merger to ensure that agencies would maintain their current service levels.

Chair Conklin pointed to decision unit Enhancement (E) 606, a recommendation to eliminate an accountant technician 2 position. Chair Conklin said the position had been vacant since August 2010 and would result in a savings of approximately \$97,000 over the 2011-2013 biennium if eliminated. Chair Conklin asked Mr. Dale how the elimination would affect the ASD.

Mr. Dale indicated that because the position had been vacant since August 2010, the recommended elimination would allow the ASD to transfer a skilled and experienced employee to fulfill the position's responsibilities.

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 1371.

DEPARTMENT OF ADMINISTRATION
ADMINISTRATION – PURCHASING (718-1358)
BUDGET PAGE ADMIN-56

Greg Smith, Administrator, Purchasing Division, Department of Administration, came before the Subcommittee and introduced Kim Perondi, Assistant Chief Procurement Officer, Purchasing Division, Department of Administration.

Mr. Smith referred to a slide-show presentation ([Exhibit D](#)) that provided the Subcommittee with an overview of budget account 1358. Mr. Smith read from the presentation:

The Purchasing Division is responsible for the procurement of services, supplies, materials, and equipment for state agencies. Methods of procurement include purchase, contract, lease, lease-purchase, and rental agreements. Our mission is to procure items timely, cost effectively, and provide vendors equal opportunity to do business with the state. Supporting these functions are the Division's training programs, which, as a result of the 2001 Legislative Audit, includes a contracting certification program in addition to the Essentials of Purchasing, Statewide Financial System training, and the Contract Tracking and Entry System. The Division is also responsible for tracking and disposing of the state's personal property inventory, as well as the distribution of USDA [United States Department of Agriculture] Commodity Foods statewide.

Continuing to reference the slideshow presentation, Mr. Smith highlighted that the Purchasing Division's activities included bids for goods costing more than \$25,000, request for proposals (RFPs) for services costing more than \$100,000, purchase order management on purchases over \$4,999, contract negotiation and management, training, fixed asset and excess property management, and the Commodity Food Distribution Program.

Mr. Smith explained that budget account 1358 primarily dealt with purchasing assessment, "a statewide assessment to all budget accounts based on a four-year average spend on contracts established with the Purchasing Division's involvement." Mr. Smith noted that a third of the Division's revenue came from the State General Fund. The Division also received revenue through the service and handling fees collected through the sale of excess state and federal property.

Mr. Smith pointed to page 6 of [Exhibit D](#), a bar graph illustrating the Purchasing Division's budget for the last five fiscal years. Mr. Smith said the Purchasing Division had reduced its budget over the last three fiscal years per the Budget Division and the Office of the Governor. Mr. Smith indicated that the Purchasing Division's recommended budgets for fiscal year (FY) 2011-12 and FY 2012-13 were less than its FY 2006-07 budget.

Mr. Smith opened the discussion to questions from Subcommittee members.

Chair Conklin informed the Subcommittee that the Fiscal Analysis Division did not find contentions with the Purchasing Division's budget account 1362, the Commodity Food Distribution Program. The Subcommittee, therefore, would not be discussing that account.

Senator Denis asked Mr. Smith whether the Purchasing Division's decreasing budget affected its customer service levels and whether customers had been complaining about long wait-times.

Mr. Smith admitted that the Division's customer service had recently slowed, but he noted that the Division was adequately staffed. Mr. Smith explained that while the Division had lost six employees in the last three years, the State Board of Examiners had also decreased the Division's workload by raising its direct purchasing threshold from \$2,000 to \$5,000. Recently, a customer service survey of state agencies conducted by the Department of Administration determined that customers were positive about the Purchasing Division's customer service. Mr. Smith said he had not personally heard any customer complaints directed toward the Division.

Senator Denis requested that the Subcommittee be provided a copy of the Department of Administration's customer service survey.

In response to Senator Denis, Mr. Smith said the Division had lost four purchasing technician positions, leaving the Division with two purchasing

technician 1 positions and two purchasing technician 2 positions. Mr. Smith reported the Division increased the grade levels of the two purchasing technician 1 positions from grade 25 to grade 27 so they would have a broader ability to complete Division tasks.

Chair Conklin pointed to decision unit Enhancement (E) 604, a recommendation to eliminate a purchasing technician position that had been vacant since August 2010. Chair Conklin asked whether the Division's staff had changed since August 2010.

Mr. Smith replied in the negative, saying the Division had almost a nonexistent turnover in staff.

Chair Conklin asked about the Division staff's tenure.

Mr. Smith remarked that one employee had recently retired from the Division who had worked there for more than 30 years. Mr. Smith surmised that more than half of the Division's staff had been working for the Division for more than 15 years. He said the Division was fortunate in that regard.

Chair Conklin noted that during the 2009-2010 interim, the Legislative Committee for the Fundamental Review of the Base Budgets of State Agencies provided recommendations for the Purchasing Division. One of the recommendations was to expand the Procurement (P) Card Program within the Division. Chair Conklin asked whether the Division planned to expand the Procurement Card Program for the 2011-2013 biennium and, if so, what cost savings the Division anticipated as a result of the expansion.

Mr. Smith referred to page 13 of [Exhibit D](#) to indicate that the Division used the Procurement Card Program as a new performance indicator. Mr. Smith said the Division created the Program in 1998 with Bank of America, but the Program languished for about a decade with only 13 or 14 state agencies participating. The Department of Transportation was the largest participant in the Program. The Purchasing Division had recently switched the Procurement Card Program from Bank of America to U.S. Bank, and Mr. Smith indicated that U.S. Bank has shown great interest in expanding the program to more state agencies. Although there had been concerns about government employees using purchasing cards in the past, there were now significant controls in place that assuaged those concerns.

In response to Chair Conklin, Mr. Smith said he could not currently provide the Subcommittee with specific potential savings figures for the Procurement Card Program because he had not yet met with U.S. Bank representatives to determine the figures. He said he would provide the Subcommittee with those figures once he met with representatives.

Ms. Perondi reported that the Division worked with the Division of Internal Audits to create policies and procedures for the Procurement Card Program. She said the policies and procedures were written to be as intuitive and convenient for state agencies as possible to encourage participation in the Program.

Chair Conklin said the Fundamental Review Committee's audit found that procedures for the Procurement Card Program had not been standardized or written. Chair Conklin asked whether the Division had addressed the audit's findings.

Ms. Perondi answered that the Division wrote a central manual for the procedures. She said that the Division's website was also upgraded to include the new procedures.

Mr. Smith added that the Division provided the central manual in the Division's response to the audit.

Chair Conklin asked for an update regarding the Electronic (E) Procurement program and the status of the Western States Contract Alliance (WSCA). Chair Conklin also asked whether the Purchasing Division planned to start a pilot Electronic Procurement program in the upcoming biennium.

Mr. Smith told the Subcommittee that for the last several years, he had been the chairman of WSCA, a collective of 15 western states. Mr. Smith said that unlike other WSCA states, the State of Nevada had not saved a few million dollars to implement WSCA's Electronic Procurement program. Mr. Smith intended to leverage Nevada's participation in WSCA to use WSCA resources and acquire a few Electronic Procurement program modules. By incorporating the Electronic Procurement program, Mr. Smith said contract compliance in the state would be better enforced.

Chair Conklin asked whether the Electronic Procurement program would bring cost savings to the Purchasing Division's budget.

Mr. Smith advised that it was too early to tell. Mr. Smith characterized Nevada's procurement process as reactive. He hoped that the Electronic Procurement program would bring more automation and efficiencies to the state's procurement process. Mr. Smith said if it pleased the Subcommittee, he would seek the advice of other Electronic Procurement program state participants to determine the potential cost savings for Nevada.

Chair Conklin noted that he was interested in knowing Nevada's potential cost savings by embracing the Electronic Procurement program.

Senator Denis remarked that in Mr. Smith's slide-show presentation, his performance indicators used percentages rather than dollar figures. Senator Denis expressed his dislike for percentages because they were vague.

Regarding contingency audits, Senator Denis asked Mr. Smith for the status of the multiple category audit contract.

Mr. Smith responded that the Purchasing Division had used Chartwell Advisory Group Ltd., a cost-recovery audit specialist, to audit the Division's three office supply companies: Staples, Metro Office Products, and OfficeMax. The Group found that the three companies, through a series of undercharging and overcharging errors, owed the Division approximately \$400,000 to \$450,000. Mr. Smith did not believe the errors were intentional. He added that Staples and Metro Office Products had already sent their refunds to the Division and OfficeMax's refund was on the way.

In response to Senator Denis, Mr. Smith said the Division was participating with the state of Utah's Request for Proposal. Mr. Smith indicated that the Division would use the contract derived from the RFP to have a list of audit specialists in various sectors within the next two or three months. He noted that the Division's partnership with the state of Utah allowed the Division to avoid paying an upfront fee for contingency audit services.

Senator Denis asked about the Purchasing Division's pilot reverse auction, whether the Division had conducted other reverse auctions and, if so, what cost savings were realized by the reverse auctions.

Mr. Smith answered that the Division conducted its first reverse auction five or six months ago and saved approximately \$15,000 compared with what the Division normally paid for goods. Mr. Smith explained that a reverse auction was where vendors bid prices downward as opposed to a traditional auction

where customers offered bids upward. He advised that reverse auctions saved money for the Division on goods, but with services, reverse auctions were not as effective.

In response to Senator Denis, Mr. Smith confirmed that the pilot reverse auction was successful.

Chair Conklin asked about other recommendations that the Legislative Committee for the Fundamental Review of the Base Budgets of State Agencies found in its audit of the Purchasing Division.

Mr. Smith noted that the Purchasing Division had recently undergone two audits, one by the Fundamental Review Committee, and one by the Division of Internal Audits. He said the two audits were valuable and educational.

Chair Conklin asked whether the Fundamental Review Committee approved the Purchasing Division's response to its audit.

Mr. Smith replied in the affirmative.

Chair Conklin asked whether the Purchasing Division revised its methodology to calculate its performance measures and, if so, whether the revised measures were included in The Executive Budget.

Mr. Smith remarked that the Division had revised the measures, but they were not included in The Executive Budget. He referred the Subcommittee to page 11 of [Exhibit D](#), which illustrated the measures included in The Executive Budget, and page 13, which illustrated the revised measures that would be used in the future. Mr. Smith added that the Division was looking forward to using the new measures because they would provide a more detailed assessment of the Division's performance.

Ms. Perondi expounded upon Mr. Smith's response, highlighting that the original performance measure, "Acquisition cost of goods purchased on behalf of our customers," was being replaced by, "Dollar value of purchases involving Purchasing." The Division would also no longer include the measure, "Number of customers trained in the public purchasing process."

Senator Kieckhefer asked how the Purchasing Division sold disposable state and federal property.

Mr. Smith explained that the Division had a reallocation program in which disposable property is reallocated to other state offices. Such reallocations were done in 75 percent to 80 percent of instances. If disposable property were not reallocated, they are auctioned at private auctions. The Division used TNT Auction, a private auction company, to host two auctions in Reno and two auctions in Las Vegas every year. The auctions were often in collaboration with other political subdivisions like Clark County, the City of Las Vegas, the City of Henderson, and so on. Mr. Smith advised that disposable property reallocated or auctioned at private auctions were often broken.

Chair Conklin asked whether the Division assessed a fee to state agencies who acquired disposable property.

Mr. Smith said there was no fee to state agencies. He added that as Administrator of the Division, Mr. Smith was granted the ability to donate disposable property to nonprofit organizations when it was in the state's best interest to do so.

Chair Conklin asked what would happen to the Purchasing Division's operations if one of its purchasing technicians were to resign or retire.

Mr. Smith told the Subcommittee that a similar situation had occurred when a grade 37 purchasing officer announced her retirement the previous week. Mr. Smith said he was working with the Director of the Department of Administration to replace the officer with an existing employee. Mr. Smith advised that in these kinds of situations, the Division always seemed to manage.

Senator Denis asked about the ramifications of reclassifying the Purchasing Division's employees.

Mr. Smith answered that although he reclassified two purchasing technicians from grade 25 to grade 27, he did not intend to engage in more reclassifications. Mr. Smith confirmed that reclassifications expanded employees' responsibilities during a time of several position vacancies and eliminations.

In response to Senator Denis, Mr. Smith stated that reclassifications boosted the Division's staff morale because increased salaries associated with reclassifications offset a current 4.6 percent furlough to all state employees.

Senator Denis asked about state agencies transferring office equipment to other state agencies without the Purchasing Division's involvement.

Mr. Smith said the Division's involvement in interagency equipment transfers was required. He added that such transfers occurred frequently.

Addressing Andrew Clinger, Director, Department of Administration, Chair Conklin voiced concern over The Executive Budget recommendations to reduce state employees' salaries and Public Employees' Benefits Program (PEBP) benefits. Chair Conklin opined that the recommendations, if passed, would incentivize employees to seek employment elsewhere. An exodus of experienced state employees, moreover, would burden state agencies with a glut of new employees who would initially operate at lower levels of efficiency and effectiveness.

Mr. Clinger responded to Chair Conklin's remarks, saying state agencies faced experience problems with retiring and soon-to-be-retiring employees even without The Executive Budget recommendations. Mr. Clinger indicated that his department had tried to structure The Executive Budget so that it would not motivate employees to seek employment elsewhere. The recommended 5 percent salary reduction to state employees, for instance, was similar to a 4.6 percent furlough state employees were already experiencing. Regarding the recommended health savings accounts, Mr. Clinger believed that in time, state employees would realize the long-term benefits of the recommended changes.

Chair Conklin reiterated his previous remarks. Chair Conklin said, "We can't kid ourselves that a 5 percent salary reduction is the same as a 4.6 percent furlough, because on a 4.6 furlough, you're not working when you're not getting paid. The salary reduction, you're not getting paid, but you're working. They are not the same. People see them differently, and it's going to incentivize people to behave differently."

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 1358.

DEPARTMENT OF ADMINISTRATION

JUDICIAL COLLEGE & COLLEGE OF JUVENILE & FAMILY JUSTICE (101-1302)
BUDGET PAGE ADMIN-229

Judge Bill Dressel, President, The National Judicial College (NJC), introduced himself to the Subcommittee.

Judge Deborah Schumacher, Trustee, Louis W. McHardy National Council of Juvenile and Family Court Judges (NCJFCJ), introduced herself to the Subcommittee.

Judge Michael Gibbons, a former trustee of the NCJFCJ, introduced himself to the Subcommittee.

Judge Dressel submitted an organizational profile ([Exhibit E](#)) and an impact statement ([Exhibit F](#)) on the NJC for the record.

Judge Dressel noted that the NJC was a 501(c)(3) organization and was nearly 50-years-old. He provided the Subcommittee with an overview of the NJC:

The services we provide are to a wide variety of judicial officers from the state, trial judges, your district, your justice court municipal, tribal judges, military, state and federal ministry of the law, and appellate. In addition to the impact on the economy from bringing in judges from around the country and the world that have come from a different program, the benefit of us here is to allow the judges in the State of Nevada to have access to the education that we provide without needing to travel. Some of the things that we have been taking on, and I think are really important to Nevada, is that we have been educating the adjudicators of water, which is really an important issue in the west, as well as the state trial of judges. Last year, all of the JAG [Judge Advocate General] officers from around the country came and spent six days here [Nevada], as well as, I indicated, the tribal and appellate judges.

Judge Dressel indicated that several of the NJC's trustees were from Nevada: Marybel Batjer of Las Vegas, John Frankovich of Reno, Kim Sinatra of Las Vegas, and Mark Tratos of Las Vegas.

Judge Dressel deemed the state's funding support of the NJC important because the NJC had a positive economic impact on the state. He added that

state funding also allowed the NJC to address areas such as capital cases, sentencing, sex offenders, and court issues around Medicare.

Regarding the NCJFCJ, Judge Schumacher submitted two fact sheets ([Exhibit G](#) and [Exhibit H](#)), a brochure of an upcoming NCJFCJ conference ([Exhibit I](#)), a pamphlet ([Exhibit J](#)), a summary of state funding support for the NCJFCJ in previous years ([Exhibit K](#)), and an expanded program narrative for budget account 1302 for the record ([Exhibit L](#)). Judge Schumacher also submitted written testimony ([Exhibit M](#)) in favor of continued state funding support for the NCJFCJ.

Judge Schumacher provided an overview of the NCJFCJ's mission:

The NCJFCJ provides education and technical assistance, research, and data with respect to juvenile justice, domestic violence, child abuse and neglect and other family law issues. Nevada law requires all new family judicial officers, judges, and masters to complete significant training at the National Council in their first year of service. The training that the National Council provides to Nevada judges in the family and juvenile areas is not provided by any other entity—not by the state bar, not by the Administrative Office of the Courts, or any other entity in our state.

Judge Schumacher advised that the NCJFCJ was a good investment for the State of Nevada because the University of Nevada, Reno (UNR), determined that the NCJFCJ had a state economic impact of \$19.5 million each year. The impact included the benefits of NCJFCJ staff employment and the conferences it held in Nevada. Judge Schumacher indicated that since 1999, the NCJFCJ had held 374 trainings in Nevada in which approximately 27,900 judges and other professionals participated.

Judge Schumacher said the NCJFCJ facilitated Washoe County's participation with the Child Victims Act Model Court, a collaborative effort of prosecutors, courts, and agencies involving child abuse and neglect cases. She said Kevin Schiller, Director of the Washoe County Department of Social Services, indicated that Washoe County's participation in the Model Court was a significant factor for being awarded a five-year federal grant to handle abuse and neglect cases.

Judge Schumacher said the most important characteristic of state funding support for the NCJFCJ was that the state allowed the NCJFCJ to use the

funds for economic development and financial aid. Federal grants, Judge Schumacher explained, could not be used for those purposes.

Judge Gibbons remarked that it was logical for NCJFCJ to receive state funding support because the State of Nevada mandated that judges attend the NJC and NCJFCJ's programs. He also reiterated the two institutions' economic impact to Nevada.

Judge Gibbons told the Subcommittee that the NCJFCJ played an active role in the following programs: Safe Haven, a supervised visitation program for domestic violence cases; Douglas County's Special Advocates For Elders, a program where volunteers work for the court in adult guardianship cases; and Court Appointed Special Advocates (CASA) for Children, a program where volunteers work for the court in child abuse or neglect cases. Judge Gibbons said these programs were viable substitutes to paying for additional social workers in the Division of Child and Family Services.

Judge Gibbons noted that the NJC and NCJFCJ fostered leadership among Nevada's judges.

Senator Denis asked how the recommended budget reductions would affect the NJC and NCJFCJ.

Judge Dressel said the recommended reductions would curtail the two institutions' programmatic efforts and their ability to seek funding through other sources.

Senator Denis pointed to *Nevada Revised Statutes* 1.470 and 1.480, which respectively created special revenue funds for the NJC and NCJFCJ. Senator Denis asked about the status of those funds and whether interest payments were being paid to the two institutions.

Judge Dressel reported that the two funds were created during Governor Richard Bryan's tenure. Under Governor Kenny Guinn's tenure, however, Governor Guinn recommended to incorporate the NJC and NCJFCJ into The Executive Budget as a direct appropriation. Judge Dressel said when the NJC and NCJFCJ received state funds, the funds were divided between the two institutions.

Chair Conklin called for public comment regarding budget account 1302.

Mary Mentaberry, the former executive director of the NCJFCJ, testified in support of continued state funding support for the NJC and NCJFCJ. Ms. Mentaberry informed the Subcommittee that the NJC, the Grant Sawyer Center for Justice Studies, and the NCJFCJ partnered to provide Master of Justice Management, Master of Judicial Studies, and Judicial Studies Doctoral programs at the University of Nevada, Reno. Ms. Mentaberry called the programs "excellent" and "unique to the country."

Dr. Jim Richardson, Interim Director, School of Social Research and Justice Studies at UNR, also testified in support of continued state funding support for the NJC and the NCJFCJ. Dr. Richardson reported that judges from 42 states participated in the School's graduate degree program. He added that the Master of Justice Management program, which was primarily a distance education program, had judges from 20 states participating in it.

In response to Senator Rhoads, Dr. Richardson reiterated that the graduate degree programs were the only ones offered in the country and perhaps the world. Regarding the Master of Justice Management program, Dr. Richardson believed it was the only program in the United States west of the Mississippi River.

Having no further business to come before the Subcommittee, Chair Conklin closed the discussion on budget account 1302.

DEPARTMENT OF BUSINESS & INDUSTRY
B&I – CONSUMER AFFAIRS (101-3811)
BUDGET PAGE B&I-22

Terry Johnson, Director, Department of Business and Industry, reminded the Subcommittee that the 75th Session (2009) suspended the Consumer Affairs Division. Mr. Johnson reported that bill draft request (BDR) 18-1190 intended to eliminate the Consumer Affairs Division along with the Consumer Affairs Recovery Fund. As such, there was not a recommended appropriation of funds for budget account 3811 and budget account 3807.

In response to Chair Conklin, Mr. Johnson confirmed that BDR 18-1190 proposed to permanently eliminate the Consumer Affairs Division.

Chair Conklin asked whether BDR 18-1190 also proposed to eliminate the Nevada Commission on Minority Affairs and the ombudsman position associated with the Commission.

Mr. Johnson responded that the bill draft request only referred to the Consumer Affairs Division, not the Nevada Commission on Minority Affairs. He added, however, that the ombudsman position with the Nevada Commission on Minority Affairs was recommended for elimination.

Senator Denis asked how the Department of Business and Industry planned to operate the Nevada Commission on Minority Affairs without an ombudsman.

Mr. Johnson said his staff would assist the Nevada Commission on Minority Affairs to conduct its meetings and activities.

Senator Denis voiced confusion over the recommendation related to the ombudsman position. Senator Denis said the Governor and the Governor's Chief of Staff assured Senator Denis a few weeks ago that the ombudsman would remain in The Executive Budget.

Senator Denis said Mr. Johnson had indicated that a public information officer would take over some responsibilities within the Department. Senator Denis asked whether there was a log that recorded the ombudsman's activities.

Mr. Johnson confirmed that the ombudsman's activities were recorded for 2008, 2009, and 2010. Mr. Johnson said he provided that information to the Subcommittee.

Senator Denis remarked that he had seen the log of the ombudsman's activities. He felt the log showed that the ombudsman had been busy taking phone calls and helping consumers. Senator Denis wondered how a public information officer would fulfill the ombudsman's responsibilities along with carrying-out the public information officer's other responsibilities within the Department. Senator Denis expressed additional concern that the current public information officer would not adequately fulfill the ombudsman's responsibilities because the officer's Spanish-speaking skills were currently subpar. [The Department's budget recommended that the officer participate in an immersion Spanish course.]

In response to Senator Denis, Mr. Johnson advised that his assistant and public information staff would work together to fulfill the ombudsman's services to consumers.

Senator Denis said he was leery of the recommendations for the ombudsman position. He emphasized that the ombudsman currently provided support to many minority communities in Nevada, not just Nevada's Spanish-speaking community. And although Mr. Johnson vowed to fulfill the ombudsman's responsibilities as best as the Department could, other areas within the Department were already taking on new responsibilities with reduced staffing levels. Senator Denis remarked that it was not the time for the state to impair consumer affairs services.

Andrew Clinger, Director, Department of Administration, assured the Subcommittee that Mr. Johnson and he would work to return the ombudsman position to the Department's budget.

Senator Denis advised that if the position was not returned entirely to the Department's budget, some revisions to the Office of the Attorney General's recommended budget may be able to fulfill some of the ombudsman's responsibilities because the Office already provided some consumer services.

Chair Conklin brought up the Fight Fraud website, a project of the Department's and Consumer Affairs Division's Fight Fraud Taskforce. Chair Conklin asked Mr. Johnson how consumers were informed of the Fight Fraud website's resources. He also asked how consumers without access to the Internet received consumer protection information.

Mr. Johnson replied that the Department's public information officer participated in the Fight Fraud Taskforce. Mr. Johnson indicated that for consumers without Internet access, the public information officer maintained media relations and issued press releases and bulletins through television, radio, and print publications.

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 3811.

DEPARTMENT OF BUSINESS & INDUSTRY
B&I – NV ATTORNEY FOR INJURED WORKERS (101-1013)
BUDGET PAGE B&I-49

Evan Beavers, Nevada Attorney for Injured Workers, Office of the Nevada Attorney for Injured Workers, Department of Business and Industry, submitted a performance indicator report ([Exhibit N](#)) of budget account 1013.

Mr. Beavers indicated that his Office was funded through a transfer from the Workers' Compensation and Safety Fund, which was administered by the Division of Industrial Relations. Mr. Beavers' position, along with the Office, were created by the *Nevada Revised Statutes*.

Mr. Beavers explained that when employees were injured at their workplace, they sought relief through their employers or through the Department of Health and Human Services. If the employees did not receive relief, they proceeded to the Hearings Division to air their grievances. And if employees did not receive relief from the Hearings Division, they could continue to the Hearing Division's Appeals office. At this point in the process, Mr. Beavers indicated, it became a formal proceeding. Then, at the request of the employees, Mr. Beavers' Office provided counsel for the employees. Mr. Beavers noted that the attorneys in his Office were authorized to represent injured employees through the District Courts of Nevada and the Supreme Court.

Mr. Beavers said his Office received approximately 1,500 cases per year from the Appeals office. He added that 33 percent of the Appeals office's cases were forwarded to Mr. Beavers' Office.

Regarding attorneys and caseloads, Mr. Beavers reported that his Office had eight Las Vegas attorneys and six Carson City attorneys, all of whom carried average caseloads of 80 to 85 cases per attorney. In the Las Vegas office, attorneys sometimes carried as many as 100 cases each. The legal secretaries in the Las Vegas office were sometimes responsible for 200 clients and cases at once.

Mr. Beavers told the Subcommittee that his Office was authorized to take advice calls from the public in accordance with the *Nevada Revised Statutes*. Mr. Beavers said three legal research assistants in Las Vegas and one legal research assistant in Carson City fielded approximately 11,000 phone calls each year.

Mr. Beavers remarked that his Office won slightly more than 50 percent of its cases. Regarding client awards, Mr. Beavers said, "The dollar value of our wins exceeds \$10 million although that depends on the case. Sometimes we just obtain payment for medical bills for our clients that may be merely \$500. Sometimes we receive awards for our clients in hundreds of thousands of dollars."

Mr. Beavers explained that his Office created a new performance measure that gauged clients' savings if they had to obtain private legal services at \$200 per hour. The performance measure indicated that the Office saved clients more than \$5 million each year in attorney fees.

Regarding budget account 1013, Mr. Beavers said the recommended budget for the 2011-2013 biennium was similar to the Office's 2009-2011 biennium budget except for some Enhancement (E) decision units. He emphasized the following decision units:

- E329, a recommendation to allocate \$4,120 to install a keyless entry security system and pass-through window in the reception area of the Carson City office.
- E331, a proposal to allocate \$90,939 for fiscal year (FY) 2011-12 and \$114,619 for FY 2012-13 for a new deputy attorney position in Las Vegas. Mr. Beavers said his Office was unable to continue its caseload without the assistance of an additional deputy attorney. He advised that the current caseload was overwhelming to the point that the more experienced attorneys were unable to mentor the younger attorneys.
- E712, a request to allocate \$11,515 for FY 2011-12 to replace the Office's telephone system. Mr. Beavers reported that the Office's telephone system was last updated in 2001.
- E710, a recommendation to allocate \$39,826 over the 2011-2013 biennium to replace computer hardware and software in accordance with the Department of Information Technology's replacement schedule. Mr. Beavers noted that his Office's computers had not been updated since 2006.

Having finished his overview, Mr. Beavers invited questions from the Subcommittee.

Chair Conklin asked whether the Office's reported caseload numbers, that the Las Vegas staff had an average caseload of 90 cases per attorney in FY 2008-09, were still accurate.

Mr. Beavers said the Las Vegas staff's average caseload had dipped below 100 cases per attorney in the last six months.

In response to Chair Conklin, Mr. Beavers said he would provide the Subcommittee with updated caseload statistics.

Chair Conklin noted that the Las Vegas office had many more cases than the Carson City office. Chair Conklin asked whether the Office had ever considered redistributing cases or attorney positions between the two offices in lieu of requesting a new deputy attorney position.

Mr. Beavers responded in the affirmative, saying there were two attorneys in the Carson City office who had been taking on casework from the Las Vegas office in the last two years. Mr. Beavers said the downside to this arrangement was that it was very costly to transport the two attorneys back and forth between Carson City and Las Vegas.

Pointing to the Office's average caseload numbers, which hit an apex in 2008 and declined in 2009 and 2010, Chair Conklin asked how Mr. Beavers' Office had managed the increases and decreases in caseloads without more funding.

Mr. Beavers answered that the Office had managed by assigning the two Carson City office attorneys with some of the Las Vegas office's casework. Mr. Beavers added that he had hired 3 attorneys in the last 20 months whose experience allowed them to carry bigger caseloads.

Senator Kieckhefer asked whether Mr. Beavers had considered permanently reassigning an attorney position from the Carson City office to the Las Vegas office.

Mr. Beavers said he had reassigned a legal research assistant position from the Carson City office to the Las Vegas office. Mr. Beavers said he had not reassigned an attorney position to the Las Vegas office, but he advised that it was a possibility.

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 1013.

DEPARTMENT OF BUSINESS & INDUSTRY
B&I – INSURANCE REGULATION (101-3813)
BUDGET PAGE B&I-57

Brett Barratt, Commissioner of Insurance, Division of Insurance, Department of Business and Industry, submitted a performance indicator report ([Exhibit O](#)) for budget account 3813, Insurance Regulation, for the record.

Mr. Barratt indicated that budget account 3813 was the Division's primary operating account. He reminded the Subcommittee that the 75th Legislature (2009) structured the Division to be self-sufficient. The account is funded through interagency transfers, assessments, and fees.

Mr. Barratt noted that the Division's recommended budget for the 2011-2013 biennium was similar to the Division's 2009-2011 biennium budget regarding personnel. For the 2011-2013 biennium budget, however, numerous Enhancement (E) decision units requested funds allocated for the replacement of computer equipment in accordance with the Department of Information Technology's replacement schedule.

As in the Division's 2009-2011 biennium budget, there was a \$100 appropriation from the State General Fund to provide access to the Interim Finance Committee Contingency Fund as needed.

Having finished his opening remarks, Mr. Barratt said he would entertain questions from Subcommittee members.

Chair Conklin urged Mr. Barratt to discuss the Division's recommended shift and consolidation of budget accounts and cost allocations.

Mr. Barratt said when he became Insurance Commissioner in summer 2010, he realized that the Division's staff was spending a lot of time cost-allocating the Division's many budget accounts. For example, budget account 3813 had many different revenue sources, of which budget account 3818, Captive Insurers, was one. Mr. Barratt indicated that these two accounts had many fund transfers that would be eliminated if they were consolidated into one account.

Mr. Barratt emphasized that the insurance industry was cyclical, forcing the Division to transfer funds among its budget accounts as needed. He said, "The primary purpose of consolidating into one account is to ease the accounting

difficulties and the time spent making these adjustments, which are only accurate for a certain period of time until our business efforts switch."

Mr. Barratt advised that the consolidation of the Division's budget accounts would also foster transparency. He said a single budget account of deposits and expenditures was easier for stakeholders to monitor.

Chair Conklin remarked that the Department of Wildlife had a single budget account prior to the 2009-2011 biennium to increase transparency, but the legislators in the 75th Session (2009) dismantled the single budget account into multiple budget accounts after realizing that the single budget account had not increased transparency. He noted that because the Division of Insurance had many revenue streams with different purposes, it would be more difficult to account for the revenue streams in a single budget account. He advised that the Division allocate funds to their respective accounts rather than transferring funds from a primary account to the subaccounts as needed.

Shawna DeRousse, Deputy Commissioner, Division of Insurance, Department of Business and Industry, insisted that the Division's staff was knowledgeable and competent to account for revenue streams and their purposes in a consolidated budget account.

Chair Conklin asked whether there were anticipated cost savings associated with the recommended consolidation of the Division's budget accounts.

Bill Maier, Administrative Services Officer, Director's Office, Department of Business and Industry, advised that the recommended consolidation of budget accounts was strictly an accounting issue. He said when the Division's budget accounts were initially created, the state's accounting system was unable to identify revenues and expenditures or split out reserves in a single budget account. The new Advantage System, however, had that ability. Regarding Chair Conklin's anecdote that the Department of Wildlife's consolidation did not increase transparency, Mr. Maier said the Division of Insurance was different because while the Division had different revenue streams, the revenue streams were all within the insurance industry. He added that the bill draft request seeking to consolidate the Division's budget accounts, bill draft request 57-1189, mandated that the Division would only use funds for their specific purposes.

Mr. Maier reported that under the Division's current structure of budget accounts, the Division spends a lot of time manually generating consolidated

statements. The recommended consolidation of budget accounts would allow the Division to generate consolidated statements automatically. The automatic consolidated statements would also be more accurate.

Mr. Maier noted that the Division of Environmental Protection already used the accounting methodology that the Division of Insurance hoped to use if its account consolidation was approved.

Chair Conklin voiced his confusion over Mr. Maier's testimony regarding the recommended consolidation. He wondered why the Division could not generate reports for each of the Division's individual accounts and then compile the reports to form a consolidated report. Chair Conklin said while revenue streams could be tracked in a single budget account, determining the source of excess reserves would be overly complicated.

Assemblyman Aizley asked whether the Division would be able to generate reports for each of the Division's agencies if the Division's budget accounts were consolidated.

Mr. Maier replied in the affirmative.

Mr. Maier expanded upon his previous explanation, saying that the Division's problem was in calculating transfers from administrative and overhead costs to the Division's individual budget accounts. By consolidating the budget accounts, the Division's staff would not have to calculate the transfers manually. It would also allow the Division to create weekly consolidated reports to monitor the agencies' fee revenues.

Chair Conklin opined that despite the Division of Insurance's accounting snafus, the Division of Environmental Protection sufficiently managed its eight budget accounts and multiple revenue streams.

Mr. Maier said the Division of Environmental Protection received multiple streams from different sources. On the contrary, the Division of Insurance had one source, the insurance industry, providing multiple streams. Mr. Maier explained that if the Division of Insurance's budget accounts were consolidated, the Office of the State Controller would not need to sift through the Division's individual accounts and eliminate the transfers and pass-throughs as a part of its Comprehensive Annual Financial Report.

Shifting the discussion to the Division of Insurance's level of reserves, Chair Conklin noted that The Executive Budget recommended reserve levels of approximately \$1 million for fiscal year (FY) 2011-12. Chair Conklin asked why it was only recommended to have approximately a \$314,000 level of reserves for FY 2012-13.

Ms. DeRousse indicated that the Division generally tried to maintain 45 to 75 days of reserves.

Chair Conklin remarked that 45 to 75 days of reserves did not translate into approximately \$314,000.

Regarding FY 2012-13 reserves, Ms. DeRousse said, "The use of the reserve to fund the [Division's] accounts going forward into the next two years utilized more of the account than we would have otherwise wished."

Chair Conklin requested that the Division and Mr. Maier work with the Fiscal Analysis Division to better understand the recommended level of reserves for FY 2012-13.

Chair Conklin referred to the recommendation to centralize some Department of Business and Industry operations by transferring five positions from the Division of Insurance to the Department's administration account, budget account 4681. Chair Conklin asked how Division employees and the insurance industry would benefit from such centralization.

Mr. Maier indicated that the centralization would encourage further collaboration among Department agencies, making the Department's operations more efficient.

Chair Conklin said of the five positions recommended to be transferred, four positions would be physically relocated to the Department's central office. Chair Conklin asked whether those employees, if transferred, would be wholly dedicated to the Division of Insurance.

Mr. Maier answered that the four employees would continue to support the Division of Insurance, but they would also provide services to the Department in areas like accounts receivable, work programs, contracts, and vouchers.

Chair Conklin pointed to furniture that was purchased for the Division when it relocated offices in FY 2009-10. Chair Conklin asked whether the new furniture

would also be transferred with the four position transfers to the Department's central office.

Mr. Barratt reported that the Division's new furniture was composed of modular desks and cubicles. He said it was likely that the Department would need to purchase new furniture for the position transfers.

In response to Chair Conklin, Mr. Barratt said the new furniture would potentially be unused.

Chair Conklin asked whether the Department had spoken with the insurance industry regarding the position transfers.

Mr. Maier confirmed that the former Director of the Department had spoken with insurance industry representatives. According to the former Director, the representatives were supportive of the recommendation.

Chair Conklin asked why the cost allocation from the Division to the Department was recommended to increase by approximately \$1.6 million during the 2011-2013 biennium.

Mr. Maier said the cost allocation was based upon two factors: the percentage of general funds received by the Division and the number of Division positions. Mr. Maier indicated that the recommended budget did not adjust the cost allocation methodology from previous budgets.

Chair Conklin expressed his puzzlement by Mr. Maier's testimony. He said a \$1.6 million increase in cost allocation to the Department was counterintuitive to the Division's shrinking level of reserves. Chair Conklin added that the recommended position transfers to the Department should also not cause a cost allocation increase. Chair Conklin remarked that he also did not understand why the State General Fund was relevant to the \$1.6 million cost allocation because the Division was not funded by the State General Fund.

Mr. Maier reiterated that the recommended budget did not adjust the cost allocation process. He said the cost allocation to the Department was based on budgetary needs for the Department, and it was then distributed to Department agencies based upon the agencies' full-time equivalent position figures.

Chair Conklin requested that Department staff or Mr. Maier collaborate with the Fiscal Analysis Division to analyze the \$1.6 million increase in cost allocation to

the Department. Chair Conklin said this information would be useful to the Subcommittee and to insurance industry representatives.

Addressing Mr. Barratt, Chair Conklin referred to a Letter of Intent issued by the Assembly Committee on Ways and Means and the Senate Committee on Finance Committee following the 75th Session (2009). The letter expressed concern that the Division would not collect administration fee revenues as budgeted by the Division's FY 2010-11 budget. The FY 2010-11 budget projected administration revenue fees of \$4.58 million, and thus far in FY 2010-11 the Division had collected \$3.03 million. Chair Conklin asked whether the Division expected to meet the administration fee revenue projections for FY 2010-11.

Mr. Barratt said he did not currently have administration fee revenue figures, but he would provide those figures to the Subcommittee as soon as possible.

Chair Conklin referred to a second Letter of Intent issued after the 75th Session (2009). The letter requested the Division of Insurance to report the cost of administering the Self Insured Workers' Compensation program for FY 2009-10 based on actual time and effort reports by staff funded through this account, budget account 3813. Chair Conklin said in the event that the Division determined that the Division of Industrial Relations was paying more than necessary to administer the Self Insured Workers' Compensation program, the Letter of Intent instructed the Division to revise the cost allocation methodology for the 2011-2013 biennium.

Chair Conklin said while the Division reduced the costs associated with the Self Insured Workers' Compensation program, the Division did not provide the Subcommittee with the cost for FY 2009-10. Chair Conklin asked whether the Division had calculated the cost and, if so, why the Division did not provide a report of the cost to the Subcommittee.

Mr. Barratt indicated that the Division did not have actual cost figures for the Self Insured Workers' Compensation program and the costs associated with the program from budget account 3813. Mr. Barratt said if it pleased the Subcommittee, he would provide estimated cost figures for the program.

Chair Conklin asked how the Division's estimated cost figures were calculated for the 2011-2013 biennium if the Division did not have actual cost figures for FY 2009-10.

Mr. Barratt replied that the estimated cost figures were based on the time and resources dedicated to support the program.

In response to Chair Conklin, Mr. Barratt said the figures were estimates because they were tracked by the hour, not by job.

Chair Conklin asked what prompted the reductions to the costs associated with the Self Insured Workers' Compensation rate reviews and administrative costs for that program in the Division's recommended budget. He also asked how the amount of the reduction was determined.

Mr. Barratt said the elimination of an actuary position from the Self Insured Workers' Compensation program lowered the program's cost.

Chair Conklin asked whether Mr. Barratt was suggesting that the reduced costs to the program was because of a position elimination, not because the Division completed an evaluation of the program's cost.

Mr. Barratt responded that the reduction in costs to the program was because of a combination of the position elimination and a program evaluation.

In response to Chair Conklin, Mr. Barratt said the Division would work with the Fiscal Analysis Division to better answer Chair Conklin's inquiries.

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 3813.

DEPARTMENT OF BUSINESS & INDUSTRY
B&I – INSURANCE EXAMINERS (223-3817)
BUDGET PAGE B&I-76

Senator Denis asked whether the Division of Insurance believed it would be able to complete 425 desk audits identified during fiscal year (FY) 2010-11.

Brett Barratt, Commissioner of Insurance, Division of Insurance, Department of Business and Industry, responded in the affirmative. Mr. Barratt said of the 851 insurance companies identified for a desk audit, the Division had initiated desk audits on 619 insurance companies.

Senator Denis asked how many insurance companies were required to pay the Insurance Premium Tax and how many were currently paying the tax.

Senator Denis also asked whether all insurance companies would undergo audits.

Mr. Barratt reported that there were approximately 2,300 insurance companies licensed in the State of Nevada. All of those insurance companies were subject to audits. Mr. Barratt explained that the Division identified and audited the largest writers of premium insurance in Nevada. The Division planned to audit 1,300 insurance companies, which represented approximately 90 percent of insurance premiums paid in the State of Nevada. The Division was able to audit the other 1,000 insurance companies, but there were diminishing returns associated with auditing smaller companies.

In response to Senator Denis, Mr. Barratt said the Division would complete its desk audits during FY 2010-11 and FY 2011-12.

Senator Denis noted that there were discrepancies between the performance indicators included in the Governor's recommended budget, the Expanded Program Narrative, and FY 2009-10 work program documents. Senator Denis asked what methodology the Division used to predict the number of desk audits it would complete each year.

Mike Lynch, Deputy Commissioner, Division of Insurance, Department of Business and Industry, said the Division identified 851 insurance companies that were writing more than \$10,000 in premiums and were worth auditing. Mr. Lynch said the Division had initially planned to audit 200 to 250 insurance companies per year, but it was currently exceeding those goals because the Desk Audit program was virtually an automated system. Mr. Lynch added that the Division was also auditing the companies by company group. For example, the Division would audit a company group such as the American International Group, Inc. (AIG), a group that may have ten companies, and while seven companies may be writing premiums in the State of the Nevada, the Division would also audit the remaining three companies to confirm that they were not writing premiums. Continuing with the example, although the three AIG companies were not writing premiums, they would still be included in the 851 companies identified for audits.

Senator Denis asked why the Division did not include the Desk Audit program's performance indicators projections for FY 2012-13.

Mr. Lynch said pursuant to Assembly Bill No. 6 of the 26th Special Session (2010), the Desk Audit program was only set to run for two fiscal years, FY 2010-11 and FY 2011-12.

Mr. Barratt expounded, saying the program document outlining the Desk Audit program indicated that an evaluation would determine whether the program would continue after its two-year run. Mr. Barratt said depending on the program's effectiveness and how many companies it audits, the program could be extended beyond FY 2011-12.

Mr. Barratt explained the Desk Audit program's operations:

The way that this Desk Audit program is set up is that the insurers actually pay for the examination. It's a desk audit; it's a very efficient system. Unlike our normal examinations, we do not mark up the exam cost 50 percent to make it as efficient as possible for both our office and for the insurers. At this point, our revenues are exceeding our expenses slightly, so at the end of the program, depending on exactly where we are, we are contemplating submitting a rebate to insurance companies if our revenues exceed our expenses. The purpose of the program, of course, is to bring in tax dollars. We don't want to be in the red running the program; on the other hand, we don't want to make a lot of money off of it. We would like to be just at zero, but we want to err on the side of caution.

Chair Conklin asked what would happen to the Desk Audit program's employees if the program ceased operations at the end of FY 2011-12.

Mr. Barratt said he hoped the Desk Audit program's employees would be able to fill other positions within the Division.

In response to Chair Conklin, Mr. Barratt noted that the Desk Audit program's positions were slated for elimination at the program's end.

Chair Conklin indicated that the Desk Audit program had projected to receive \$10 million in Insurance Premium Tax revenue in FY 2010-11. The program had currently collected approximately \$1.5 million of \$1.7 million in underreported revenue. Chair Conklin asked whether the program would collect the projected revenue of \$10 million by the end of the fiscal year.

Mr. Barratt said an optimistic estimate was that the Desk Audit program would collect approximately \$3 million by the end of FY 2010-11.

Chair Conklin asked whether Mr. Barratt had any recommended changes to the Desk Audit program during the 2011-2013 biennium.

Mr. Barratt advised that he did not have any recommendations.

Mr. Lynch pointed out that the Desk Audit program had been auditing the insurers' last seven years of premium writing. He added that other examinations now included Insurance Premium Tax reconciliations. The Desk Audit program's effectiveness had also been encouraging more self-reporting of taxes from the insurance industry.

Chair Conklin asked what percentage of insurers in the last seven years had the Desk Audit program investigated.

Mr. Lynch remarked that the program would audit 35 percent of insurers, which translated into more than 90 percent of the market share.

Mr. Barratt said there were many large insurers that were licensed in the State of Nevada but did not provide premium insurance, which was why 35 percent of insurers could control 90 percent of the market.

Regarding financial examinations, Senator Denis said the Division projected to initiate 40 examinations in FY 2009-10 but actually initiated 89. In FY 2010-11, the Division projected to initiate 50 examinations but actually initiated 4. Senator Denis asked why the Division experienced such a decrease from projected examinations initiated to actual examinations initiated in FY 2010-11.

Mr. Lynch explained that the Division had an accelerated process to conduct financial examinations in FY 2009-10. When Mr. Lynch began his tenure at the Division, there was a backlog of 234 examinations from a previous program called the *Nevada Revised Statutes* Title 57 Premium Tax Examinations program. The Division had conducted the backlogged examinations, but then the Division needed to catch up with its statutory examination schedule. Mr. Lynch characterized FY 2010-11 as a lull for conducting financial examinations, but he insisted that the Division would eventually catch up and maintain a steady rate.

In response to Senator Denis, Mr. Lynch said he was unsure when the Division would catch up with its examinations. Mr. Lynch said although the Division now had more professional, experienced examination staff, he said the Division would not be caught up in the near future.

Chair Conklin asked whether the Division would be able to transfer \$700,000 to the State General Fund for FY 2010-11 as approved during the 26th Special Session (2010).

Shawna DeRousse, Deputy Commissioner, Division of Insurance, Department of Business and Industry, confirmed that the Division was committed to making a \$700,000 transfer to the State General Fund for FY 2010-11.

Chair Conklin said the recommended budget showed that if the examination fee equaled the examiner's daily rate plus travel expenses, exam fee revenue appeared to be lower than the exam expenditure category for budgeting purposes. Considering Mr. Barratt had testified that the Division's examination revenue exceeded examination expenditures, Chair Conklin asked for clarification.

Ms. DeRousse explained that revenue was separated into two line items: General Ledger 3730, examination fee revenues; and General Ledger 3735, administrative fee revenues, which was a 50 percent markup of assessed examination fees. The two revenues combined exceeded examination expenditures.

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 3817.

DEPARTMENT OF BUSINESS & INDUSTRY
CAPTIVE INSURERS (101-3818)
BUDGET PAGE B&I-82

Chair Conklin reported that a backlog of captive insurer examinations had hurt the State of Nevada's accreditation in September 2008. After having its accreditation restored in June 2009, the Division appeared to be falling behind again in conducting examinations. Chair Conklin asked how the Division was tackling its backlog of captive insurer examinations.

Brett Barratt, Commissioner of Insurance, Division of Insurance, Department of Business and Industry, indicated that the National Association of Insurance

Commissioners (NAIC) reviewed and approved the Division's captive insurer examination system in June 2010. The Division was scheduled for an NAIC review in 2012.

Regarding the backlog of captive insurer examinations, Mr. Barratt explained that there were two types of statutorily-required examinations: examinations on multiple-state insurers that are also domiciled in Nevada and examinations on captive insurers that domiciled only in Nevada. The Division was current with examinations that the NAIC considered in its reviews. Mr. Barratt advised, however, that the Division was indeed falling behind in the examinations not considered by the NAIC because the Division was still adding employees to its examination and financial analyst staff.

In response to Chair Conklin, Mike Lynch, Deputy Commissioner, Division of Insurance, Department of Business and Industry, confirmed that there were 125 captive insurers domiciled in the state. Of those insurers, 36 insurers were considered a Risk Retention Group (RRG). The RRG group is reviewed by the NAIC.

In response to Chair Conklin, Mr. Lynch said the *Nevada Revised Statutes* mandated that the Division examined captive insurers no less than every three years but no more than every five years. Of the captive insurers considered by the NAIC, the NAIC required that they were to be examined no less than every five years.

Chair Conklin voiced concern that while the Division should be examining the RRG group at a rate of approximately seven insurers a year, the Division had only initiated two examinations in the current fiscal year.

Mr. Lynch advised that there were six examinations pending for initiation. He said the Division was making the examination process more transparent by allowing insurers to choose which examination firms would conduct their examinations. Mr. Lynch added that the risk-focused approach to RRG insurers was enforced nationwide effective January 1, 2011. Mr. Lynch said the Division waited to initiate examinations until that date to allow RRG insurers to choose their examination firms.

Mr. Lynch emphasized that the Division was meticulous in ensuring that insurers considered by the NAIC were examined on schedule.

Chair Conklin asked how many examinations would be initiated during the 2011-2013 biennium.

Mr. Lynch responded that the Division would initiate approximately 240 examinations during fiscal year (FY) 2011-12 and FY 2012-13. Of those 240 examinations, 60 examinations would be initiated on insurers considered by the NAIC.

Chair Conklin asked whether the Division had performance indicators that addressed the timeliness of examination initiations.

Mr. Lynch confirmed that the Division had revised its performance indicators. Regarding an indicator that provided the number of examinations conducted as required by statute each year, the Division revised the indicator to measure the number of examinations conducted in 18-month periods. Mr. Lynch noted that the revision was more accurate because the examination process for an insurer could take up to 18 months to complete.

Senator Denis asked why there was an increase in the projected revenue from the Insurance Premium Tax paid by captive insurers in between the time the Governor's recommended budget was developed and the Expanded Program Narratives were submitted.

Mr. Lynch said in 2010, the Captive Tax had generated approximately \$790,000, an increase from what was projected. As of March 7, 2011, the Division had collected approximately \$60,000 in additional revenues. Mr. Lynch advised that more captive insurers were coming to Nevada for business. The Division expected Insurance Premium Tax revenue to continue to increase.

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 101-3818.

DEPARTMENT OF BUSINESS & INDUSTRY
NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (101-3828)
BUDGET PAGE B&I-98

Chair Conklin said the budget recommended increasing the level of reserves in budget account 101-3828 to \$21,995 in each year of the 2011-2013 biennium. The recommended increase would translate the level of reserves into approximately seven years of the account's anticipated expenditures. Chair Conklin requested that the Division of Insurance work with

the Fiscal Analysis Division to substantiate this and other recommendations for the account.

DEPARTMENT OF BUSINESS & INDUSTRY
FINANCIAL INSTITUTIONS (101-3835)
BUDGET PAGE B&I-216

George Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry, submitted the Division's performance indicator report ([Exhibit P](#)) for the record.

Mr. Burns provided an overview of the Division:

The Financial Institutions Division's purpose is to maintain financial institution systems for the citizens of Nevada. It is safe, sound, protects consumers, defends the overall public interest, and promotes economic development through the efficient, effective, and equitable licensing examination and supervision of depository, fiduciary, and nondepository institutions. We license and regulate over 14 types of licensees . . . Our major programs include the supervision of banks, credit unions, savings and loans, thrifts, retail, trust companies, family trust companies, as well as nondepository businesses such as check cashers, deferred deposit lenders, title lenders, collection agencies, development corporations, corporations for economic revitalization, money transmitters, installment lenders, and debt managers.

Mr. Burns indicated that budget account 3835 was self-funded through existing licensing fees and industry assessments. The only State General Fund appropriation to the account was a \$100 appropriation to provide access to the Interim Finance Committee Contingency Fund as needed.

Mr. Burns said there were no recommendations for new programs or major modifications to existing programs for the 2011-2013 biennium.

Chair Conklin reported that The Executive Budget recommended establishing a centralized licensing unit in the Department of Business and Industry's Administration account, budget account 4681, which would be jointly funded by the Division and the Division of Mortgage Lending. Chair Conklin asked what kind of efficiencies and cost savings the divisions anticipated from a centralized licensing unit.

Mr. Burns answered that the recommended licensing unit would boost efficiencies. A Division management analyst would be transferred to the Department to provide services for both the Division and the Department. Mr. Burn said the transfer of five administrative positions from the Division to the Department would absorb the loss of some licensing capacity in other divisions because of recommended position eliminations in those divisions.

Chair Conklin asked whether the Division of Financial Institutions would have reduced cost allocations because some Division employees would be supporting other areas within the Department.

Mr. Burns denied that the Division's cost allocation would be reduced. He said because it was recommended to eliminate positions in other divisions, employees in the recommended licensing unit would assume the eliminated positions' responsibilities.

Bill Maier, Administrative Services Officer, Director's Office, Department of Business & Industry, said there would be a direct charge to the Division for the recommended centralized licensing unit. The Division's expenditures for the positions would remain the same. Mr. Maier advised that while the centralized licensing unit would not affect the Division's cost allocation, the Division's cost allocation would be adjusted based upon full-time equivalent figures.

In response to Chair Conklin, Susan Injayan, Management Analyst, Division of Financial Institutions, Department of Business and Industry, confirmed that there were five administrative positions recommended for transfer to a centralized licensing unit. Ms. Injayan said the positions were currently providing licensing services.

Chair Conklin opined that the transfer of five administrative positions to a centralized licensing unit would neither benefit the Division nor financial institutions because it would not result in a cost reduction.

Chair Conklin asked Mr. Burns whether one administrative assistant would provide adequate support to the remaining 33 other positions within the Division.

Mr. Burns advised that one administrative assistant in the Division's Las Vegas office was providing sufficient support. Regarding the Carson City office,

Mr. Burns said the office's administrative positions had shared administrative assistant responsibilities.

Chair Conklin asked how the centralized licensing unit's activities would interact with the licensing certification and enforcement system the Division implemented during the 2009-2011 biennium and the Nationwide Mortgage Licensing System used by the Division of Mortgage Lending.

Mr. Burns said the Division was currently using the Versa Management System for licensing. The Division of Mortgage Lending was currently using the National Mortgage Licensing System, which was different from Versa. Mr. Burns advised that cross-training would be required in the recommended centralized licensing unit to achieve operating efficiencies.

Chair Conklin asked whether the Department or the Division of Financial Institutions had spoken with industry representatives regarding the recommended centralized licensing unit.

Mr. Maier indicated that he was unaware of discussions among the Department, the Division, and industry representatives.

Terry Johnson, Director, Department of Business and Industry, noted that there were discussions with the Department and industry representatives when the proposal for a centralized licensing unit was being developed.

Mr. Johnson emphasized that a centralized licensing unit would create efficiencies for the Department. He said the recommendation, if approved, would also foster greater accountability and consistency regarding the presentation of documents and information. Mr. Johnson insisted that the centralization of the Division of Financial Institutions and the Division of Mortgage Lending could be successful.

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 3835.

DEPARTMENT OF BUSINESS & INDUSTRY
MORTGAGE LENDING (101-3910)
BUDGET PAGE B&I-231

Nancy Corbin, Acting Commissioner, Division of Mortgage Lending, Department of Business and Industry, submitted a performance indicator report ([Exhibit Q](#)) for the Division of Mortgage Lending.

Ms. Corbin introduced Vicki Cummins, Administrative Services Officer, Division of Mortgage Lending, Department of Business and Industry, to the Subcommittee.

Regarding budget account 3910, Ms. Corbin indicated that the recommended budget for fiscal year (FY) 2011-12 was approximately \$3.8 million, an 18 percent reduction from the FY 2010-11 work program year budget. It was recommended to appropriate approximately \$3.6 million to the Division for FY 2012-13, an approximate 4 percent reduction from the Governor's recommended budget for FY 2011-12.

Ms. Corbin reported that the Division's budget would fund 23 positions and associated costs. Seven position eliminations were reflected in decision unit Enhancement (E) 606 and E620. However, to balance the Division's 2011-2013 biennium budget, the Interim Finance Committee authorized these eliminations on February 3, 2011, which resulted in an increase of \$842,208 to the Division's reserve category for the 2011-2013 biennium. Ms. Corbin noted that a declining licensee base and level of reserves led to the eliminations. The eliminations would be effective June 1, 2011.

Ms. Corbin emphasized E325 and E326, decision units which recommended a one-time increase of \$201,835 in FY 2011-12 in relation to the Division's implementation of the Nationwide Mortgage Licensing System that revolved around the changing of renewal dates for licensing types mandated by the Secure and Fair Enforcement (SAFE) Mortgage Licensing Act.

E710 was a request to replace one desktop and one laptop in each fiscal year of the 2011-2013 biennium. Ms. Corbin reported that the Division's computer hardware was at least seven years old, two years more than the Department of Information Technology's replacement schedule.

Ms. Corbin explained that in the 75th Session (2009), the Assembly Committee on Ways and Means and the Senate Committee on Finance issued a Letter of

Intent expressing concern that the Division would not have an adequate number of examiner positions to conduct its statutorily required examinations. Ms. Corbin boasted that her Division had conducted all required annual and follow-up examinations for the last two fiscal years. Despite the recommendation to eliminate two more examiner positions, Ms. Corbin was confident in her Division's ability to continue conducting all examinations because the Division's compliance audit investigators were playing a larger role in conducting smaller-scale examinations. The investigators were also handling industry complaints.

Having finished her opening remarks, Ms. Corbin said she would entertain questions from Subcommittee members.

Chair Conklin asked that with recent position eliminations and the recommended centralization of licensing and fiscal functions, what the potential risks were if the Division did not meet its statutory requirement regarding examinations.

Ms. Corbin believed there was a very small risk that the Division would not meet its statutory requirement. She said eight examiners had performed 587 examinations: more than 400 were annual examinations, and 108 were follow-up examinations. She reiterated that the Division was training and using compliance audit investigators to help conduct examinations.

Chair Conklin asked whether the Division planned to raise its agency renewal fee to increase revenue.

Ms. Corbin answered that while there was a statutory limit of \$170 per year on the agency renewal fee, the fee had been \$100 since 2006 because of the Division's large level of reserves. The Division intended to maintain the fee at \$100.

Chair Conklin asked whether the Division's current projection to perform 100 percent of examinations for FY 2011-12 and FY 2012-13 seemed reasonable in light of staff reductions.

Ms. Corbin confirmed that the projected performance indicators seemed reasonable. The Division had reformed its operations following a 2007 Legislative Counsel Bureau audit, and Ms. Corbin insisted that the Division would continue to operate at its current level.

Senator Denis said that the Division projected a reserve level of \$1,669,945 at the end of FY 2010-11. Senator Denis asked whether the projection was realistic. He also asked Ms. Corbin to discuss the Division's level of reserves for the 2011-2013 biennium.

Ms. Corbin advised that the Division was closely monitoring its revenue and reserve levels. She said the Division was having difficulties collecting examination fees from 645F licensees, loan-modification-type companies. The Division was also trying to determine what other reductions the Division could make to preserve its fiscal health.

Senator Denis asked for the status of Nevada's mortgage lending industry.

Ms. Corbin said the industry had been difficult to manage. She reported that the Division's licensee base peaked in 2006. Since 2006, the number of mortgage brokers had decreased by approximately 80 percent, mortgage bankers had decreased by 64 percent, escrow agencies had decreased by 50 percent, and agents had decreased by 80 percent. Regarding loan modifications, there were 49 offices initially licensed, but there were currently 26 companies operating 27 offices. There were currently 176 associated loan-modification licensees, a reduction from 346 licensees. Ms. Corbin said the overall licensee base had recently bottomed-out and had remained steady in the last several months.

Senator Denis asked how the suspension of the Consumer Affairs Division in the 75th Session (2009) had affected the Division of Mortgage Lending.

Ms. Corbin remarked that the responsibilities of registering credit service organizations had transferred to the Division of Mortgage Lending. Ms. Corbin noted that the Division had registered 26 organizations. But the task of enforcing rules governing credit service organizations had fallen to the Office of the Attorney General. Ms. Corbin said the Office of the Attorney General, not the Division, would have statistics on enforcement.

Senator Denis requested clarification, asking whether the Division registered 26 credit service organizations over the 2009-2011 biennium.

Vick Cummins Administrative Services Officer, Division of Mortgage Lending, Department of Business and Industry, said there were 26 organizations currently registered, but she did not know the historical data on those registrations. Ms. Cummins said she would provide the Subcommittee with that data.

Chair Conklin asked whether the Division would propose a fee increase on credit service organizations.

Ms. Corbin said the Division would not propose a fee increase.

Having no further questions from the Subcommittee, Chair Conklin closed the discussion on budget account 3910.

Chair Conklin called for public comment.

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Nancyann Leeder, former Nevada Attorney for Injured Workers (NAIW), testified in opposition to the recommended NAIW budget. She submitted written testimony ([Exhibit R](#)).

Having no further business to come before the Subcommittee, Chair Conklin adjourned the meeting at 11:32 a.m.

RESPECTFULLY SUBMITTED:

Jordan Butler
Committee Secretary

APPROVED BY:



Assemblyman Marcus Conklin, Chair

DATE: 06/16/2011

Senator Mo Denis, Chair

DATE: _____

EXHIBITS

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

Date: March 8, 2011

Time of Meeting: 8:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Evan Dale, Administrator, Administrative Services Division, Department of Administration	Prepared testimony regarding budget account 716-1371, Administrative Services.
	D	Greg Smith, Administrator, Purchasing Division, Department of Administration	A slideshow presentation providing an overview of budget accounts 718-1358 and 101-1362.
	E	Judge Bill Dressel, President, The National Judicial College	An organizational profile of The National Judicial College.
	F	Judge Bill Dressel, President, The National Judicial College	An impact statement of The National Judicial College.
	G	Judge Deborah Schumacher, Trustee, National Council of Juvenile and Family Court Judges	A fact sheet on the National Council of Juvenile and Family Court Judges.
	H	Judge Deborah Schumacher, Trustee, National Council of Juvenile and Family Court Judges	An additional fact sheet on the National Council of Juvenile and Family Court Judges.
	I	Judge Deborah Schumacher, Trustee, National Council of Juvenile and Family Court Judges	A brochure of an upcoming conference hosted by the National Council of Juvenile and Family Court Judges.
	J	Judge Deborah Schumacher,	A pamphlet on the

		Trustee, National Council of Juvenile and Family Court Judges	National Council of Juvenile and Family Court Judges.
	K	Judge Deborah Schumacher, Trustee, National Council of Juvenile and Family Court Judges	A summary of state funding support for the National Council of Juvenile and Family Court Judges.
	L	Judge Deborah Schumacher, Trustee, National Council of Juvenile and Family Court Judges	An expanded narrative for budget account 101-1302, the National Council of Juvenile and Family Court Judges.
	M	Judge Deborah Schumacher, Trustee, National Council of Juvenile and Family Court Judges	Written testimony in favor of retaining state funding support for the National Council of Juvenile and Family Court Judges.
	N	Evan Beavers, Nevada Attorney for Injured Workers, Office of the Nevada Attorney for Injured Workers	Performance indicator report of budget account 101-1013, Office of the Nevada Attorney for Injured Workers.
	O	Brett Barratt, Insurance Commissioner, Division of Insurance, Department of Business and Industry	Performance indicator report of budget account 101-3813, Insurance Regulation.
	P	George Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry	Performance indicator report of budget account 101-3835, Financial Institutions.
	Q	Nancy Corbin, Acting Commissioner, Division of Mortgage Lending, Department of Business and Industry	Performance indicator report of budget account 101-3910, Mortgage Lending.
	R	Nancyann Leeder, former Nevada Attorney for Injured Workers	Testimony in opposition to budget account 101-1013, Nevada Attorney for Injured Workers.