

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

**Seventy-sixth Session
March 18, 2011**

The Joint Subcommittee on General Government of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Moises (Mo) Denis at 8:04 a.m. on Friday, March 18, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE SUBCOMMITTEE MEMBERS PRESENT:

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

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

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

STAFF MEMBERS PRESENT:

Jennifer Byers, Program Analyst
Michael J. Chapman, Principal Deputy Fiscal Analyst
Rex Goodman, Principal Deputy Fiscal Analyst
Julie Waller, Program Analyst
Madison Piazza, Committee Secretary

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OTHERS PRESENT:

Andrew Clinger, Director, Department of Administration
Daphne DeLeon, Administrator, Division of State Library and Archives,
Department of Cultural Affairs
Shawn Lecker-Pomaville, CEO, Nevada Volunteers
Karen Caterino, Administrator, Risk Management Division, Department of
Administration
William Chisel, CPA, Chief, Division of Internal Audits, Department of
Administration
Keith Wells, Administrator, State Motor Pool, Department of Administration
Bryan A. Nix, Senior Appeals Officer, Hearings Division, Department of
Administration
Terry Johnson, Director, Department of Business and Industry
Donald E. Jayne, Administrator, Division of Industrial Relations, Department of
Business and Industry
Steve Coffield, Chief Administration Officer, Occupational Safety and Health
Administration, Division of Industrial Relations, Department of Business
and Industry
K. Grant Reynolds, Information Technology Manager, Department of Business
and Industry
Joseph Nugent, Chief Administrative Officer, Nevada Safety Consultation and
Training Section, Department of Business and Industry
Robert Ostrovsky, Chairman, Advisory Counsel to the Division of Industrial
Relations

CHAIR DENIS:

We will open the hearing on the Department of Administration, budget account
(B/A) 101-1340.

FINANCE AND ADMINISTRATION

ADMINISTRATION

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

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ANDREW CLINGER (Director, Department of Administration):

We have previously provided a highlight of the budget and the enhancement units contained within it.

CHAIR DENIS:

Please give an overview of the deputy director.

MR. CLINGER:

The Department of Administration is bringing four agencies into the Department. These four agencies are the State Public Works Board which is merging with Buildings and Grounds, the Department of Personnel which will become our Human Resources Management Division and the State Library and Archives and the Department of Information Technology (DoIT) which will become our enterprise information technology (IT) services. With the addition of those four entities, we will have ten divisions under the Department. I am the director of the Department and I am also the Chief of the Budget Division. I have a deputy director over the Budget Division. With the additional divisions, I felt it was important to have a deputy director of agency services to deal with the management of those divisions.

CHAIR DENIS:

Will the deputy be responsible for all those divisions?

MR. CLINGER:

Yes.

CHAIR DENIS:

Decision unit E-904 transfers an IT professional from DoIT. Please explain this decision unit.

E-904 Trans from CIO (1373) to Budget & Planning (1340) — Page ADMIN-8

MR. CLINGER:

This position will become the chief of Research, Planning and Grants Management. We currently have a chief assistant position who is responsible for that area which will become part-time. The position is split between two individuals. One will become a business process analyst and the other will

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continue to do the position part-time. We needed an individual to manage that section on a full-time basis.

CHAIR DENIS:

Is this person coming over from DoIT?

MR. CLINGER:

Yes.

CHAIR DENIS:

What kind of grants management experience does the individual have?

MR. CLINGER:

I am not sure what her particular experience is relating directly to grants management.

CHAIR DENIS:

If the individual does not have the experience necessary, will she have to be trained?

MR. CLINGER:

This is an individual who has the capabilities of handling the grants management aspect of this position. She will be an asset to the Department.

The alternative that we originally discussed was creating a separate chief. There would be one chief for the grants management unit and one for research and planning. We are trying to keep costs down and decided that this function could fall under the existing position for research and planning.

CHAIR DENIS:

Does this individual have skills in the research and planning area?

MR. CLINGER:

Yes.

ASSEMBLYMAN KIRNER:

Do you have performance indicators for fiscal year (FY) 2011-2012?

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MR. CLINGER:

One performance indicator increases federal grant dollars to the State of Nevada. The Spending and Government Efficiency Commission (SAGE) reports a 3 percent increase in federal grants which would bring in approximately \$93 million annually in additional federal grants funds. There are also other grant opportunities, foundation funds and other funds to increase grants. Another performance indicator provides training to State agencies.

CHAIR DENIS:

Decision unit E-908 transfers a business process analyst position to DoIT. Why are you recommending this transfer?

E-908 Trans from Budget & Planning (1340) to EAS (1365) — Page ADMIN-9

MR. CLINGER:

The individual who is working part-time as the chief assistant is also working part-time as the management analyst. This individual has filled the role of a business process analyst for the Budget and Planning Division. He develops ad hoc reports and databases for us. He created a Web application for the justification-to-fill process which was previously paper oriented and strenuous. It is a position that deals with the Budget Division, but in a business process analyst function. The reason we are transferring the position to DoIT is because there are times during the interim when we are not so busy and he would be available to provide those same types of services to other State agencies.

CHAIR DENIS:

Are we discussing a specific individual who is transferring to DoIT?

MR. CLINGER:

The position is transferring and will be paid out of the DoIT budget, but he is physically staying within the Budget Division.

CHAIR DENIS:

Decision unit E-912 transfers an IT professional III to DoIT. What functions will this position perform if transferred?

E-912 Trans from Budget & Planning (1340) — Page ADMIN-10

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MR. CLINGER:

This position is currently within the Director's Office of the Department of Administration. This individual is the PC Local Area Network (LAN) tech for the Department. As part of the consolidation, we are moving all of the PC LAN techs to the new IT division.

CHAIR DENIS:

Decision unit E-250 is the addition of a new grants management unit. How will it operate?

E-250 Economic Working Environment — Page ADMIN-3

MR. CLINGER:

Three positions have been recommended. Those three positions are a grants and projects analyst III, a grants and projects analyst I and a management analyst IV. The intent of this unit is to find grant opportunities and to provide training to State agencies on grant writing and the resources available for grant opportunities. This unit will also write grants for smaller State agencies that do not have the personnel to do that.

CHAIR DENIS:

Why are these positions budgeted to start in July 2011 instead of October 2011?

MR. CLINGER:

As of June 30, 2011 the American Recovery and Reinvestment Act of 2009 (ARRA) funded positions will no longer be functioning. The grants management unit is scheduled for July 2011 so they will be able to pick up some of those duties. We felt it was important for these services to continue after June 30, 2011.

CHAIR DENIS:

Does the Budget Division have other performance indicators established for this new unit besides Performance Indicator 5, percentage of competitive grant funds that are new?

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MR. CLINGER:

Yes. We will be using the SAGE Commission's report which has identified about \$93 million as a potential target for additional grant funding.

CHAIR DENIS:

Do you direct agencies to use percentages instead of numbers when presenting their performance indicators?

MR. CLINGER:

We try to get agencies to focus on outcome measures rather than output measures. It is important to have both of those measures, but we try to get them to focus on the outcome measures more. There is not an emphasis on using percentages versus numbers.

CHAIR DENIS:

Please give us an update on the Nevada Broadband Task Force.

DAPHNE DELEON (Administrator, Division of State Library and Archives, Department of Cultural Affairs):

The ARRA funding coming from the Department of Commerce and the Department of Agriculture has all been awarded and is going to be completely implemented in the next 36 months. The earliest award we received was in February 2010 which was from the Las Vegas-Clark County Urban League. The infrastructure funding from the federal government is primarily from the Middle Mile of the fiber optic construction and a small amount from the construction of the Last Mile. Connect Nevada has mapped where providers are in the State. We are then going to map where the footprints are going to be enlarged based on these ARRA projects. We are going to see where there are pockets of unserved and underserved populations. One thing the Broadband Task Force has been discussing is being able to use the roughly \$3 million one-shot appropriation to provide Last Mile connection and leverage that with existing federal and State programs to increase those services to Nevada for retraining and distance education.

ASSEMBLYMAN CONKLIN:

Is that a General Fund appropriation?

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MS. DELEON:
Yes, it is.

SENATOR RHOADS:
In northeastern Nevada, people are not able to get Nevada television reception, but can get Utah and Idaho stations. Will this help those who live in northeastern Nevada?

MS. DELEON:
I am not sure about the television channels. If the television is fed through the broadband connection, then yes, it will help. There was a project funded by the U.S. Department of Agriculture in the northeastern part of the State which will increase the infrastructure there.

CHAIR DENIS:
Is broadband related to Internet access?

MS. DELEON:
The broadband connection enhances the speed at which people can download information. If television goes that way, it could also be opened up. The Federal Communications Commission is discussing certain amendments to the way services are being offered.

CHAIR DENIS:
Is the money coming in for broadband for the Last Mile all in rural areas?

MS. DELEON:
The ARRA funding is primarily rural, but it is also for the underserved populations. For example, the housing projects in Las Vegas are benefiting as well. There are different types of projects that are funded by federal government. Infrastructure is one. Community anchoring institutions, such as Lyon County School District and the Nevada State Library and Archives, have received grants. In partnership with the Carson City Library, Henderson District Library and the Cooperative Libraries Automated Network, which covers the rural libraries, we are going to be upgrading approximately 33 library sites.

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CHAIR DENIS:

We will now hear B/A 101-1301.

Special Appropriations — Budget Page ADMIN-12 (Volume I)
Budget Account 101-1301

MR. CLINGER:

This account is used to pass through State General Fund appropriations to other governmental entities and not-for-profit organizations. In this budget account we have decision unit E-175 which provides funding to Nevada Volunteers. There are appropriations of \$75,000 in each year of the 2011-2013 biennium.

E-175 Economic Development — Page ADMIN-12

CHAIR DENIS:

How is the funding going to be used and what will be accomplished with that funding?

SHAWN LECKER-POMAVILLE (CEO, Nevada Volunteers):

I have submitted my testimony ([Exhibit C](#)) and the 2011 Legislature Nevada Volunteers Biennial Report At-A-Glance ([Exhibit D](#)).

The mission of Nevada Volunteers is to strengthen Nevada through AmeriCorps and volunteerism. It is easy to justify this special appropriation. It provides the State a return on investment of \$65:\$1. For every State dollar, it leverages \$65 in private and federal funds. The pie chart shown on [Exhibit D](#) illustrates that the State's match of \$150,000 over the biennium will prevent Nevada from losing nearly \$8.5 million. This match is required by the federal government and ensures higher education funding of more than \$500,000 a year that can be earned by AmeriCorps members. At the same time, it rewards our citizens who serve with a subsistence-level living allowance, likely keeping even more Nevadans from being unemployed. AmeriCorps and volunteerism provide direct services to our State, services that include mentoring students, distributing food to senior citizens and connecting homeless teens to resources, to name a few. These are needs that are not being met and would fall back on the State to address if we lose the program.

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We know you have many tough decisions facing you, but we also know that Nevada Volunteers offers the State a real and cost-saving solution that addresses many of the gaps in the budget. As the pie chart on [Exhibit D](#) illustrates, AmeriCorps and Nevada Volunteers are far from being just a government-supported program. In Nevada, non-AmeriCorps match makes up more than half of our budget.

In addition to the direct AmeriCorps program funding, which is now at an all-time high of nearly \$2.5 million per year, each AmeriCorps member recruits an average of 30 volunteers. Together, the value of those services, AmeriCorps plus the volunteers they recruit, is over \$3.5 million a year which is an amount the State would otherwise be hard-pressed to provide.

What makes AmeriCorps and volunteerism so efficient and therefore valuable to the State? It is the people power it provides, people to serve in our nonprofits and public bodies across the State. People like Erick Alcantar, an AmeriCorps member whose statement was submitted ([Exhibit E](#)). Erick serves at Housing, Emergency Services, Life Skills and Prevention, commonly known as HELP, of Southern Nevada by providing wrap-around services to homeless families. He talks about the inspirational effect of giving service when he says “building community is an everyday task. I have developed a stronger sense of pride, to continually see the people of our cities, our communities and our families led on a positive path to well-being.”

Other examples of these direct benefits, so crucial in times of budget cuts, are the members who counsel children who are victims of domestic violence; tutors and mentors for over 2,000 students in Clark County and 800 students in Humboldt County; and the safety we can all feel when forest fire fuels are removed from over 600 acres of our public lands.

AmeriCorps members are provided a subsistence-level living allowance of just over \$1,000 per month on average, an amount which likely keeps most of them from being unemployed. They receive this living allowance in order to provide the concentrated service that nonprofits can count on. With Nevada suffering the worst unemployment rate in the Country, we want to keep a program that rewards citizens who serve with this modest income. After successful completion of their terms of service, AmeriCorps members are rewarded with a

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higher education award. This year, members serving in Nevada are eligible to receive more than \$500,000 in higher education awards, much of which can be expected to be spent in Nevada. These awards can be used to pay for college, graduate school, vocational training or to pay back student loans. With higher education experiencing serious cuts in their budget, this helps to address yet another gap.

It is about leveraging volunteering by infusing an ethic of service. More Nevadans are volunteering through a vast and far-reaching network of opportunities supported by the Nevada Volunteers commission. Last year, Nevada's 204 AmeriCorps members engaged another 7,000 volunteers for many projects from building homes, to preparing taxes for low-income seniors and recruiting volunteers for after school programs for at-risk youth.

These volunteer efforts help build the ties that bind us as Nevadans. They provide a positive means of giving back during a time of stressful economic, and attendant, life challenges. They directly fill gaps in service to our State. At \$150,000, AmeriCorps is a justifiable appropriation and something you can hang your hat on for multiple reasons. First, the return on investment is \$65:\$1. Second, the subsistence-level income in exchange for service, preventing more people from seeking unemployment benefits, while also providing them an award for higher education which helps create pathways to future employment. Third, it provides free volunteer services of more than \$1.1 million per year on top of the approximately \$2.5 million awarded to Nevada through AmeriCorps. Finally, Nevada Volunteers develops an ethic of service that finds more Nevadans stepping up to the plate to fill budget gaps by volunteering.

Nevada Volunteers is the voice and the authority on volunteerism in the State and we would like to continue serving and strengthening Nevada through AmeriCorps and volunteerism. We ask that you do all you can to uphold the commission, AmeriCorps and volunteering in Nevada.

CHAIR DENIS:
We will move to B/A 715-1352.

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Administration – Insurance & Loss Prevention — Budget Page ADMIN-32
(Volume I)
Budget Account 715-1352

KAREN CATERINO (Administrator, Risk Management Division, Department of Administration):

I have submitted my presentation, "Budget 1352 – Overview Risk Management Division" ([Exhibit F](#)). The captive is going to be a limited purpose license mutual insurance company on the State's behalf as it is related to the rising costs of workers' compensation-risk transfer. We have limited availability of coverage due to our presumptive benefits for heart/lung/hepatitis/cancer (HLHC). While there are various types of captives, the one that we are looking at is a segregated, protected cell, captive facility. In the past when we looked at the aggregate cost of how we can collectively risk-finance long-term HLHC benefits, the issue that had always come up was the joint- and sub-reliability or pooling of risk. With the segregated captive we can collectively look at best practices as it relates to HLHC, as well as the combined leveraging of purchase powers as it relates to insurance without the joint- and sub-reliability issue. This is because the cells do not cross over and are completely segregated. For example, when building a condominium unit, each unit is decorated and painted differently with, no one dictating how it is done. This is basically how a segregated captive cell would work.

The benefit of that is it allows us to consolidate the costs of HLHC presumptive benefits. It allows us to work collectively together to deliver uniform best practices as it relates to the risk management and cost containment strategies. It allows us to deliver consistent and predictable application of the benefit for our public safety officers. It also allows us to combine the purchasing power as a whole when we go out to market, bearing in mind that it is a high-deductible reimbursement program. If any public entity participates in the program, they keep the insurance program the way they currently have it and it is literally a deductible-reimbursement model. The State will also have the opportunity to go directly to the reinsurance market for its insurance needs. We have excess liability for the Attorney General's office that we purchase and right now we go to the commercial market for that excess liability. A cell can be purchased within the captive so we can go to the reinsurance market which will bring

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down the cost of the premium. There is some flexibility within a captive structure that we currently do not have.

ASSEMBLYMAN CONKLIN:

There is concern that Clark County has been denying claims. Will this program allow for centralization of claims management? I have no problem with denying claims that should be denied, which is what the law is for, but denying those with life-threatening illnesses is not acceptable if the law states they should be given those benefits.

MS. CATERINO:

The proposed captive is a voluntary captive. Various public entities administer the benefit differently. My hope would be to participate together under a captive structure, voluntarily. They keep their same insurance program, perhaps looking to pool long-term. Initially it would be for everyone to come into the cell and have the actuary account for that benefit and account for it in the same manner. The next step is to get to one claims management third party administrator with everyone adopting the same best practices as it relates to the benefit. For example, when the Department of Public Safety is told that they have to correct predisposing risk factors, it is the same form and template for all public entities.

ASSEMBLYMAN CONKLIN:

Considering this is a voluntary program, have you received assurances from any of the municipalities, particularly Clark County, Henderson, Las Vegas or North Las Vegas?

MS. CATERINO:

I have received commitments from the City of Las Vegas and the City of Henderson. I have been in ongoing discussions with various public entities throughout the State, but those two have committed.

ASSEMBLYMAN CONKLIN:

What are the revised expenses to administer the captive?

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MS. CATERINO:

We would be renting four cells. The State would be renting two, the City of Las Vegas would rent one and the City of Henderson would rent one. The annual operating costs, initially proposed at \$90,000, have been reduced to \$71,000. That cost would be divided equally among the cells annually. The captive can be utilized for excess liability in addition to HLHC. As you add more cells, the operating costs will increase slightly, but they would be shared collectively by those that are in the cell. If there is a disadvantage to this, it would be the initial annual operating costs, but there are no other additional costs to decision unit E-737.

E-737 New Programs — Page ADMIN-36

ASSEMBLYMAN CONKLIN:

You mentioned four cells, but three cells were recommended in the captive insurance program.

MS. CATERINO:

The three cells would be the State, the City of Las Vegas and City of Henderson for the workers' compensation program for HLHC. The fourth cell would be the State of Nevada's excess liability policies as it relates to tort.

ASSEMBLYMAN CONKLIN:

There is a significant decrease in workers' compensation rates, the property and contents insurance rate and the auto comprehensive/collision rates. Is that a result of pulling out of the HLHC and those rates being applied elsewhere?

MS. CATERINO:

The claim costs that have been factored into the budget are offset on my current category 15 of the Base Budget. We are going to be paying the benefits for HLHC from category 15, so we are shifting that cost to category 17, which is cost neutral. The workers' compensation rate is decreasing from 2.73 percent to 1.55 percent. We have had aggressive marketing of our insurance plan in the past two years. I have met with 12 high-level executives with major insurers throughout the Country. Our current partnership with Chartis has been pleasant and they have come down on our insurance premium. We have had a reduction in the severity of claims. We have renegotiated our broker commission fees

from a commission structure to a fee-based structure. We have a new third-party administrator as well as a managed care organization. We have subsequent injury recovery funds of \$470,255 in 2009, \$935,073.84 in 2010 and \$580,038 in 2011. Considering that we will still incur a 4.2 percent increase in medical expenses as it relates to the Division of Industrial Relations fee schedule, and given that the National Council on Compensation Insurance reports growth and workers' compensation average medical continue to outpace the medical Consumer Price Index, this reduction is astonishing. That rate reduction is due to savings of approximately \$11 million that the Risk Management budget is giving back to the State.

Right now workers' compensation costs 3 percent or less of total State payroll. For the ten years we have been managing the program, our net incurred for workers' compensation is about \$114 million. We have paid out approximately \$85 million the past ten years. We have an estimated reserve liability of about \$36 million for our workers' compensation. In workers' compensation we do not have a Government Accounting Standards Board obligation to fund those reserves, we pay as we go. It is a State obligation that we will continue to incur the \$36 million and will continue to increase over time. Page 25 of [Exhibit F](#) has a State ranking of workers' compensation from Occupational Safety and Health Administration (OSHA) and Nevada is tied for second.

About one and one-half years ago, we added the Nevada System of Higher Education to the State's auto program. The increase in revenues helped to offset the costs of the program. Accidents are down due to fleet reductions, fewer employees and fewer miles driven. We were able to reduce the insurance rate from \$88 per vehicle per year to \$65 per vehicle per year.

The property rate has declined from \$.000121 per square foot to \$.00078 per square foot. The square footage amount is the direct cost to run the program and pay claims out of property. We have a rate lock guarantee on our property insurance program through FY 2011-2012 that has helped to keep costs down. We were able to increase our flood limits from about \$25 million to about \$50 million which is the same as our earthquake limits with no exclusions.

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We have had a soft market with insurance and it could harden. We have had a number of events throughout the world which could be cause for concern.

ASSEMBLYMAN CONKLIN:

Are you concerned with the reduced level of revenues in this account? What are the optimal reserve levels for workers' compensation and other insurance programs?

MS. CATERINO:

I am comfortable with the reserve level. We have ten years of claims experience. Even given the spike in workers' compensation in 2008 due to a number of catastrophic injuries, we were able to maintain a good program. We have reserves based on an actuarial study that was performed by our broker. Actuaries tend to be very conservative and they may require high reserves based on confidence levels. The Budget Office looks at what we have paid out over ten years, so we try to come to a number in between the two. I feel very comfortable with the reserve level.

ASSEMBLYMAN CONKLIN:

Unlike other accounts where we may be able to pinstripe a reserve that makes practical sense in the long run, is this reserve amount something that needs to be flexible over time? Is the amount you have in this budget an acceptable amount in the upcoming biennium?

MS. CATERINO:

Yes. I am comfortable with where it is.

CHAIR DENIS:

What performance indicator changes do you have?

MS. CATERINO:

Performance indicators in the performance-based budget are accurate; however, the ones in the Nevada Executive Budget System are not. The performance measure budget indicators are where I want them to be except for the cost for property and contents insurance. The fund map had not been completed when those were uploaded. It shows the old rate of \$.000121 for property square

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footage, when it should show a decline to \$.00078 for FY 2011-2012 and FY 2012-2013.

CHAIR DENIS:

We will now hear B/A 101-1342. Please discuss the three positions you want to reclassify.

Administration – Division of Internal Audits — Budget Page ADMIN-39
(Volume I)
Budget Account 101-1342

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

We are reviewing the restructuring of our office. Most of those positions are lower level, so we want to decrease the number of supervisors. We are considering the reduction of the two supervision positions from executive branch auditor IV to executive branch auditor III. We are also considering reducing an audit supervisor II to an auditor III. We will still have adequate supervision for the financial management side which has the auditor III. We will also still have sufficient supervision on the executive branch audit side because we will still have one supervisor left with five auditors beneath them.

ASSEMBLYMAN AIZLEY:

I see an indication of a 10 percent savings. Where will the savings come from if the incumbents in these positions choose to remain in their positions at a retained pay rate?

MR. CLINGER:

We would like to work with Fiscal Division Staff on this because there is a retained rate under the *Nevada Administrative Code*. The budget currently reflects a savings of \$23,357 in FY 2011-2012 and \$30,881 in FY 2012-2013. Those savings will not occur because those individuals will be given the retained rate and I would like to work with Staff to correct that.

CHAIR DENIS:

We will move to B/A 711-1354. Please discuss the Motor Pool rates.

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Administration – Motor Pool — Budget Page ADMIN-45 (Volume I)
Budget Account 711-1354

KEITH WELLS (Administrator, State Motor Pool, Department of Administration):
I have submitted a presentation entitled “State Motor Pool Budget Account 1354” ([Exhibit G](#)). The rates took a significant reduction in the upcoming biennium. There were statewide cost reductions including insurance and depreciation. My budget will see savings in five different categories including personnel, travel and outside rentals. The cumulative savings allowed us to reduce our rates significantly. We also had high reserve levels which originated in FY 2009-2010 because fuel was at a historically low rate for us and travel was down. All that combined allowed our rate to drop significantly. Staff was concerned that the one-time savings in the reserve would require us to increase our rates in the future and they will, but it is marginal. The rest of the savings in the five categories will carry forward and ensure our rates stay competitive and reduced.

CHAIR DENIS:
What would be an adequate reserve in this account?

MR. WELLS:
Our reserve level right now is 75 days in FY 2011-2012 and 50 days in FY 2012-2013. I am comfortable with the reserve level.

SENATOR KIECKHEFER:
Did the decline in travel budgets for all State agencies have an impact on the rates?

MR. WELLS:
There is a reduction, but it creates savings. When there is less travel, there are fewer expenses. We have been adjusting our fleet as needed. If we do not need an asset, we sell it.

CHAIR DENIS:
Please explain decision unit E-275.

E-275 Best Use of Technology — Page ADMIN-47

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MR. WELLS:

I need to be able to interface with the State financial system, Advantage. I currently have a system designed by DoIT called FoxPro. This system is over ten years old and it is critical to my Division. To ensure that my revenue is collected every month, I need an updated system and DoIT is recommending that as well. The cost is approximately \$50,000, but will ensure that the automated billing is efficient, effective and that I quickly receive revenue.

CHAIR DENIS:

Are you going to have something designed or will you buy a product that is already built?

MR. WELLS:

We are going to have Aeris design it.

CHAIR DENIS:

Are you going to do sole source?

MR. WELLS:

Aeris would make the most sense because they are familiar with the Advantage system.

CHAIR DENIS:

Are you going to bid?

MR. WELLS:

We would prefer not to. The knowledge Aeris has of the State's financial system is beneficial in creating a system for us that would interface with Advantage.

CHAIR DENIS:

Have you decided on a proposal to develop the new system?

MR. WELLS:

No, we have not. We could do a Request for Proposal.

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CHAIR DENIS:

It is good policy to do that. We may still end up with Aeris, but it would be a good idea to see if there are products already built that meet your needs.

MR. WELLS:

We will perform our due diligence to find something that is effective, satisfies our needs in the long term and is easy to implement, well supported and cost-effective.

CHAIR DENIS:

Has the FoxPro version been consistent?

MR. WELLS:

It has done a great job for us, but when it does fail, it is hard to find someone to fix it.

ASSEMBLYMAN AIZLEY:

Are you going to be recording data per car usage on a particular event or agency usage on a monthly period?

MR. WELLS:

Our current fleet management system does that. This product is interfacing between the State Advantage system and my fleet management system. The current fleet management system tracks everything that we do. Every car and every cost associated with operating that vehicle is tracked. This is just moving the billing data so I can automatically move revenue from the Advantage system into my system.

ASSEMBLYMAN AIZLEY:

Are you using a per car per event record keeping system?

MR. WELLS:

Yes.

CHAIR DENIS:

They have a separate computer system that records that information and they are tying the automatic billing into their system.

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Decision unit E-607 reduces the vehicle fleet. Were the 64 vehicles returned because they were underutilized, or were there other reasons?

E-607 Staffing and Operating Reductions — Page ADMIN-48

MR. WELLS:

The driving force behind the returns is the budget reductions. The Board of Examiners approved a utilization policy which might have some effect on that. I do not know why the agencies are returning the vehicles, I just know that they are being returned.

MR. CLINGER:

A fleet committee was established through a letter of intent from the 2009 Legislature to look at utilization policies, home storage of vehicles and some other items. The fleet committee came up with a new utilization matrix that we used when putting the *Executive Budget* together. The reason for the 64 returned vehicles is a combination of agencies giving them up voluntarily and us looking at the new utilization policy and eliminating others.

CHAIR DENIS:

Performance Indicator 1 is the number of rental requests per year and in FY 2009-2010 you had 6,836. You projected 10,200 in FY 2009-2010 and then drop to 6,850 in FY 2011-2012 and FY 2012-2013. Why was there such a difference?

MR. WELLS:

That projection was built years ago and I did not want to manipulate that number. We thought that was an accurate representation of what was going to happen before the budget reductions. Fiscal year 2011-2012 and FY 2012-2013 are realistic numbers.

CHAIR DENIS:

We will move to B/A 711-1356.

Administration — Motor Pool Vehicle Purchase — Budget Page ADMIN-53
(Volume I)
Budget Account 711-1356

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Decision unit E-711 is a request for a new vehicle passenger van for services to the blind. Rather than purchasing a new van, does the Agency anticipate the return of other vans from agencies that could be reassigned to the Department of Employment, Training and Rehabilitation (DETR) that would satisfy its needs?

E-711 Equipment Replacement — Page ADMIN-54

MR. WELLS:

We will look at filling that request with a vehicle that is currently in our fleet if possible. The request is for DETR and I do not have many vans. I will need authority to purchase that vehicle if I do not have something to meet those needs in my fleet.

CHAIR DENIS:

Will you be submitting amendments to add the purchase of additional vehicles to the Motor Pool account for those agencies that have nonmanaged fleets, where new or replacement vehicles are recommended directly in their respective budget accounts included in the *Executive Budget*?

MR. WELLS:

Yes, we have already transmitted that amendment. You should have received it March 17, 2011.

CHAIR DENIS:

We will look for it. How long will it take to implement that?

MR. WELLS:

As each agency's vehicle comes up for replacement, we will review the agency's mission, the mission of the vehicle, whether it will be absorbed in my budget, if it is the right place to put it in my budget or if we should allow the agency to do it. That will take time, several biennia possibly, but that is the correct way to do it.

ASSEMBLYMAN AIZLEY:

Is your current replacement policy set at 100,000 miles?

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MR. WELLS:
Yes.

ASSEMBLYMAN AIZLEY:
Does that apply to all vehicles regardless of whether they are vans, hybrids or trucks?

MR. WELLS:
The fleet committee established a statewide replacement program. Every vehicle in the fleet has to be at least seven years old or have 100,000 miles before replacement. Internally in my Division, we have increased that. Sedans must be eight years old or have 100,000 miles and sport utility vehicles have to be eight years old or have 125,000 miles on them.

CHAIR DENIS:
Are there incidences in which vehicles may have fewer miles, but are used in a rougher manner that would require them to be replaced sooner than that?

MR. WELLS:
Absolutely. There are many vehicles replaced that are seven or eight years old with only 80,000 miles on them. A vehicle based in Las Vegas which is driven every day is in a hard environment because the heat and sun tears it apart, so that happens a lot. There are other vehicles that may have 120,000 miles because they drive back and forth from Elko every week.

CHAIR DENIS:
Are there some that could go 200,000 miles and still be operational?

MR. WELLS:
There are a lot of components such as resale value, customer satisfaction and the environment in which the vehicle is operating. Unlike personal vehicles, fleet vehicles start falling apart because multiple people drive them and the doors are opened more often.

CHAIR DENIS:
Budget account 101-1015 is the Hearings Division and we do not have any major items.

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Administration – Hearings Division — Budget Page ADMIN-69 (Volume I)
Budget Account 101-1015

BRYAN NIX (Senior Appeals Officer, Hearings Division, Department of Administration):
I would like to mention that I have submitted the “Hearings Division Fiscal Year 2010 Report” ([Exhibit H](#)).

CHAIR DENIS:
We will move on to B/A 287-4895.

Administration – Victims of Crime — Budget Page ADMIN-74 (Volume I)
Budget Account 287-4895

Please provide a report on the status of the various revenue sources in this account and whether the recommended revenue for the 2011-2013 biennium is reasonable.

MR. NIX:
I have submitted a memo entitled “Victims of Crime Program Coordinator’s 2010 Biennial Report” ([Exhibit I](#)). Our revenues have been affected by the economic downturn, but our budget and revenues appear to be hardening up a little more than last year. We have no reason to believe they will not be sufficient enough to pay our claims.

CHAIR DENIS:
Have you received any indication that your federal funding is going to be reduced?

MR. NIX:
The last indication we have from the National Association of Crime Victim Compensation Boards was that they still anticipate grants being funded at the 60 percent level that they have been for the last several years. It appears there are adequate funds in this category to meet all of the State’s needs. We do not know what may be acted on in the future.

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CHAIR DENIS:

Have you completed an analysis of what it would cost the State for an in-house claims-administration system, to provide the same services as the contractor?

MR. NIX:

We did a basic review of what it would do if we eliminated this contract. This company does our medical bill review and developed and monitors our claims administration software program, in addition to a variety of other tasks. If we were to eliminate that contract, we could staff up to the State level and hire the employees to perform these functions, with the exception of the software programs they have developed over the years. They developed Vocnet, the claims management system we use, which has allowed us to increase our responsiveness because it is paperless and Internet based. While Statute requires us to approve claims in 90 days, we approve them in 1 day. Last year we paid about \$36 million in medical bills and other bills with just under \$8 million in funding, largely because of the work that our contractor does. If we took that in-house our annual costs would be a little less with this contract, but the development of the software and the other programs we would need to do what we do now would not be there. You are looking at approximately \$2 million in development costs. If you decided to go with in-house staff rather than the contract, it would be a wash. We have the same number of staff we had 20 years ago. Because we have not increased our staff, we have not created any long-term liabilities which is the biggest long-term advantage under the setup we have now.

CHAIR DENIS:

You were paying \$6 million for four years and now it is down to \$4.5 million for the contract. That is \$95,000 per month since December 2008 and in addition to that there is a \$150 an hour charge for anything above the contract.

MR. NIX:

The contract amendment eliminated \$2.5 million off the end of that contract which would have allowed us some of those exigencies. We pay a flat rate of \$94,000 or \$95,000 a month which includes all the services they provide. The most important thing to consider is what we have accomplished with this contract. Our budget and contract combined amounts to approximately 4 percent of what we do in terms of assisting victims which is a small

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administrative cost. Even as a flat cost it is only 16 percent of our budget for administrative costs which is also a low cost especially considering we do it for the lowest amount in the Country.

CHAIR DENIS:

It sounds like you have done a quick analysis of this, but you should probably take an in-depth look and review the employee costs. Although you have not increased your staff for some time, but with this kind of money, over the long term, you should do a detailed analysis to determine whether true savings could be realized by performing the function in-house.

MR. NIX:

We have thought about it a lot over the years. As a result of the path we took years ago when we decided to do bill review and cost containment, Nevada is the first in the Country, with regard to victims of crime, to develop this type of cost-containment policies. We satisfied over \$36 million in victim medical bills and other claims with less than \$8 million from the State. No other state in the Nation does that. I do not know that we can improve upon this by saving a small amount of money on this contract.

MR. CLINGER:

This is a third-party administrator for the Victims of Crime Program and is no different from the way the Public Employees Benefit Program contracts out for a third-party administrator. It makes a lot of sense to continue with the contract; it is very efficient.

CHAIR DENIS:

I understand it works great, but if we do that over enough time, maybe we should review it and find out if there is a more efficient way of doing it. Maybe there could be savings.

MR. NIX:

I agree with you. I appreciate the extra eyes and we are always looking to see where we can improve upon what we do. What we have created over the last several years is an extraordinary system and I would love to share it with anyone who is interested. We have helped 100 percent of the claims for all the victims who have applied and were qualified for our programs; it is a remarkable

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system. We have paid their medical, counseling, relocation, lost wages, crime-scene cleanup, homicide costs and funerals. We cannot improve upon that. We are always looking to save money in the way we do it.

CHAIR DENIS:

We will now hear from the Department of Business and Industry.

TERRY JOHNSON (Director, Department of Business and Industry):

I will be presenting B/A 210-4680, B/A 210-4682 and B/A 210-4685.

B&I – Industrial Relations — Budget Page B&I-114 (Volume II)
Budget Account 210-4680

B&I – Occupational Safety & Health Enforcement — Budget Page B&I-122
(Volume II)
Budget Account 210-4682

B&I – Safety Consultation and Training — Budget Page B&I-129 (Volume II)
Budget Account 210-4685

CHAIR DENIS:

How would the transfer of the IT positions impact the Division of Industrial Relations (DIR) with respect to the OSHA Net computer system?

MR. JOHNSON:

The centralization plan contemplates two positions moving from DIR to the centralized area. They would physically remain in DIR, but would also assist other divisions as needs dictate in the Department. We realize those resources are limited. We also have some priorities within DIR that we need to attend to.

CHAIR DENIS:

Since they are going to physically stay where they are, do you have any concern with the federal oversight?

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DONALD JAYNE (Administrator, Division of Industrial Relations, Department of Business and Industry):

There are specific requirements from the federal government as far as how we operate. By leaving the two individuals in southern Nevada embedded in the DIR offices, they will be deemed the administrators of that system. They are authorized administrators today and would continue that role. We would only have difficulty if we added someone new who was not approved by the federal government to operate within that system.

CHAIR DENIS:

Why are you going to change it if they are going to remain where they are, with the same job duties?

MR. JOHNSON:

The centralization plan contemplates building an IT unit. We are starting with these small steps and we will review that plan continually. Once the IT unit is built, this incremental step will be expanded to perhaps reclassify other positions. This will lead to a stronger, more viable IT shop within the Department.

CHAIR DENIS:

Do you have a time frame for building that IT unit?

MR. JOHNSON:

No, we would start off with what is proposed for this biennium. I would rather start off small and add to and refine the program over time. This will enable us to see where the needs are in the Department and modify the plan as we see what those needs are.

CHAIR DENIS:

How does the recommended centralization plan benefit DIR from a workflow and financial perspective?

MR. JOHNSON:

It will help the entire Department to have a centralized IT unit. There are limited resources in southern Nevada as it is and this will allow the Department to address its IT needs. This is the first step towards that objective.

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MR. JAYNE:

The benefits of this centralization plan need to be reviewed at a number of different levels. We are one of 14 divisions within the Department of Business and Industry and we all share the impacts differently. There are five people who are being transferred out of DIR's cost centers: three individuals from IT, one from human resources (HR) who is going to State Personnel and one other individual who supports the various personnel services and will be consolidated within the Department. This impact will be seen when the Department reallocates expenses because the allocations are based on head count.

CHAIR DENIS:

There appears to be a benefit to the Department, but it seems like there is a bigger sacrifice to DIR. How does this benefit DIR versus the overall picture?

MR. JAYNE:

There are additional costs because it is tabulated by a percentage of staff. Being one of the larger divisions in the Department, mathematically we will receive our share of the overhead. The overall good to the Department and the State of Nevada is that it is supporting long-term efficiencies and solutions for the government.

CHAIR DENIS:

Has DIR identified any concerns regarding the recommended transfer of its personnel analyst position to the Division of Human Resource Management which is seen through decision unit E-914?

E-914 Trans Personnel Analyst From Dir to Personnel — Page B&I-119

MR. JAYNE:

Our IT people will remain in place and the HR representative will become part of the Department of Personnel. The change I see, besides having them outside of my budget, is calling them because they are in a different location. They will still be our primary source of contact and they will continue to serve us.

CHAIR DENIS:

You do not have a concern with personnel?

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MR. JAYNE:
Not at this time.

CHAIR DENIS:
How do the new performance indicators provide a better measure of performance for the administration account?

MR. JAYNE:
I have submitted a handout pertaining to Performance Indicators ([Exhibit J](#)). I made a commitment during the 75th Session that DIR would review all the performance indicators. The entire Department embarked upon a program to conduct training and redo our performance indicators. We attempted to also provide you with the quantitative measures. We have not abandoned quantitative measures but have tried to use a way to measure those outcomes to more effectively show the success of those outcomes, not just the numeric count.

CHAIR DENIS:
We will move to B/A 210-4682, the Occupational Safety and Health Enforcement.

MR. JAYNE:
This budget is related to OSHA. The Division has 93 positions in the Base Budget and we are requesting continued funding for the 93 positions and their associated operating expenses. We have two enhancement units within this budget account requesting additional staffing. Much attention has been paid to OSHA, with several fatalities in the past few years. In 2009, we worked with the federal government and developed a special study of our operations to tell us what was wrong and to give us a blueprint of what needed to be fixed. The information from that study has mostly been dealt with; we are continuing to correct the items that this study found. A total of 57 key recommendations came from the special study. At this time, we have all but eight of them in a closed and monitoring position. Many things still need to be resolved and attention will have to be continually paid. Some of the elements in the enhancement unit tie back to the long-term training needs that were recognized in that special study.

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ASSEMBLYMAN CONKLIN:

What progress has DIR made in implementing corrective actions of the deficiencies identified in the federal OSHA special study? Have the number of workplace fatalities in the State decreased since the special study?

MR. JAYNE:

There were 57 recommendations, and all but 8 are in a resolved and monitoring standpoint. It is not just resolved to my satisfaction and to Mr. Coffield's satisfaction, but to the federal government's satisfaction as well. There are some recommendations that will take time and will be long-term challenges, such as the adequacy of our pay scale. Within the special study there were some questions regarding the training of our enforcement staff and our turnover rate. We spend approximately three to five years training an OSHA enforcement officer and that will cost about \$120,000. When the economy is better, we will lose them. This is another long-term challenge we have.

It is difficult for me to answer whether the enhancements we have created are taking effect because of the economy. For example, the construction industry is not booming and while we are seeing reductions in rates, that does not necessarily mean we are being effective, but rather that the economy is forcing those rates down. There are many factors that could be adding to the rate reductions, ranging from the enhancements and the training we have done, to the economy.

The State of Nevada has been a forerunner in the OSHA arena. The OSHA-10 and OSHA-30 training bill, that came out of last Session, was the first of its kind in the Country. It presented challenges and we are working our way through those challenges. There was also a Senate bill that directed us to talk to impacted families and we have been trying to do that.

ASSEMBLYMAN CONKLIN:

This budget requests nine additional staff. Do you have the space necessary to house that staff? What is your plan for providing training to these individuals so they do their job well? In meetings with industry leaders, we found that the industry makes a habit of hiring away our investigators, because they pay two to three times the amount that DIR pays. When the investigator shows up to a construction site, the investigator most likely ends up picking the brain of

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the safety officer instead of investigating and looking for compliance violations. How do you intend to resolve some of these issues?

MR. JAYNE:

The salary structure is a challenge. You are correct, when our enforcement officers are on a job, there is a good chance that the safety director is an ex-OSHA enforcement officer. The community of that skill set is relatively small. A broad group was used when we did a salary survey and we were deemed to be no worse than other agencies with similar problems. The universe we compete in is a focused one of safety professionals. We are a fine training ground for that skill set, but we still lose those people. We lose them to governmental entities, cities, counties, municipalities and major projects because the wages are better.

STEVE COFFIELD (Chief Administration Officer, Occupational Safety and Health Administration, Division of Industrial Relations, Department of Business and Industry):

When we request additional staff, our administrative services unit adds the cost of the office requirement, such as desks and other items. We have adequate space in our facility in Henderson to handle these new positions. We also included training in the budget to send our new staff to the OSHA Training Institute in Arlington Heights, Illinois. One of the enhancements we are asking for involves training, in addition to OSHA Training Institute, within Nevada OSHA. Other state plans have internal training as well. It is important for them to not only have a classroom education, but hands-on experience as well.

ASSEMBLYMAN CONKLIN:

If approved, how will the three bills, Assembly Bill (A.B.) 253, A.B. 254 and A.B. 255, assist DIR in improving its operations?

ASSEMBLY BILL 253: Makes various changes concerning fines and settlement agreements relating to occupational safety and health. (BDR 53-100)

ASSEMBLY BILL 254: Revises provisions relating to the issuance of a citation for certain occupational safety and health violations. (BDR 53-101)

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ASSEMBLY BILL 255: Revises procedures relating to certain accidents occurring in the course of employment. (BDR 53-102)

MR. JAYNE:

Assembly Bill 253 is very important because it addresses our ability to enforce a settlement offer and penalties. If a company commits to expending dollars on safety or commits to increasing personnel, such as hiring a safety manager, this bill gives us the ability to enforce and penalize as necessary.

Assembly Bill 254 addresses our ability to enforce citations in the workplace. This bill was a result of the Committee's request.

Assembly Bill 255 addresses the rights of families impacted by a fatal accident. We are not comfortable with language defining "accident," and are meeting with the stakeholders to see if we can compromise on the language used.

We participated in a series of meetings with the subcommittee created by the Legislature. When the special study and OSHA were reviewed, there were items that improved the safety of the workplace.

ASSEMBLYMAN CONKLIN:

Decision unit E-326 of B/A 210-4682 adds three safety specialist III positions, two in Henderson and one in Reno, and an administrative assistant III position in Henderson. Should these positions be approved, what is the timeline to reduce the inspection backlog?

E-326 Deliver Public Services Directly and Efficiently — Page B&I-125

MR. JAYNE:

The backlog is not only a result of not enough staff, but also an accumulation of years of aggressive building out. There has been a dramatic increase in objects, such as elevators, escalators and boilers. That increase has created a backlog and we now need to address staffing internally. We also need to continue to lean on our partners in the private sector.

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MR. COFFIELD:

These positions are needed because of the tremendous growth, primarily in Clark County, but also in northern Nevada. We have had difficulty with the retention of employees, because it is a highly specialized occupation. New hires typically have 30 years of experience with a union, but they do not want to retire and so they come to work for the State. Those hires are not looking for a long-term career. These additional positions will allow us to reduce the backlog and handle the substantially increased number of objects in the State.

MR. JAYNE:

This is unique. We cross over into two areas, the safety of employees in the workplace and the safety of citizens and the public as well.

ASSEMBLYMAN CONKLIN:

Part of the program you put in place requires the addition of an administrative assistant. Will the addition of this position help you catch up on the data entry backlog?

MR. COFFIELD:

Yes. Although we enter the information into the computer, we are still a paper-driven agency due to long-term record purposes. This position will manage that paper flow and the historical data.

ASSEMBLYMAN CONKLIN:

Is there a relationship between data input and fee collection? Are fees generated based on the data input after an inspection has been completed? If so, what do you anticipate that impact to be in this budget cycle?

MR. COFFIELD:

Four to five months ago, we were about \$500,000 behind in our fee collection. We received approval for overtime for our administrative staff so we could begin collecting those fees. This has enabled us to get nearly caught up.

ASSEMBLYMAN CONKLIN:

If the position is approved, what kind of timeline are you looking at to be completely caught up? Once you are caught up, will you still need the position on an ongoing basis?

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MR. COFFIELD:

We will still need the position due to the new establishments in Clark County, such as the City Center, Trump and Wynn properties. These properties have increased our workload and that workload is not going to slow down soon. This position will enable us to stay caught up.

ASSEMBLYMAN CONKLIN:

How long before you will be caught up?

MR. COFFIELD:

If the positions are approved and they are occupied by October 2011, then we should be caught up by the end of 2011.

MR. JAYNE:

The administrative assistant is not only needed to reduce the backlog, but also to maintain a current status. The objects have to be inspected on an annual basis, so that increase in the inspections will continue from year to year.

CHAIR DENIS:

Did we spend approximately \$300,000 on the mechanical object database system which is not doing what we need to it to do?

MR. JAYNE:

We have come to the Interim Finance Committee (IFC) with a request that we are concerned with the operational and functionality of the software we have brought in. It is of grave concern to us, and we were almost at the point of requesting funds to replace that software. At the request of the IFC, we have gone back to the vendor and are requiring them to give us a quote for what it would cost to fix the problem. We are still working with them; they are sending their most senior programming person to spend a week with us in southern Nevada at their expense. The purpose of this is for the vendor to review what type of enhancements may be required to improve the performance. It is taking seven-times longer to issue an inspection or certification. I will know better within the next few weeks whether Versa can resolve this problem. I do not have confidence in them, but I am willing to afford them the opportunity to explain to me what can be done with that software.

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CHAIR DENIS:

What was the cause of not getting what we wanted?

MR. JAYNE:

It is difficult for me to answer that with factual clarity. Versa was secured and started before my tenure with the Agency. Ultimately a preferred vendor was selected at a department level, because multiple divisions within the Department had software requirements. The system could not be tested and I believe this is where the issues arose. We have reviewed the legal remedies and have consulted with the Attorney General's office, but we do not see any legal actions that we can take. I think the State of Nevada needs to look at how we bid and secure contracts for computer software. We need to make sure we build in the appropriate contract language and test the system appropriately to avoid this situation in the future.

CHAIR DENIS:

There have been bigger projects in the past that have cost us much more money. I would have thought we would have figured out a system where this would not happen again.

ASSEMBLYMAN AIZLEY:

I am concerned about combining the IT staff, because the different agencies have different IT needs. Does this affect the selection of specific software when the IT staff are concerned with their own agencies?

MR. JAYNE:

Those individuals impacted in my division will remain embedded in my office. They will be in the same physical location, but the reporting structure will be different. The IT staff will now be interacting with each other and working together. I would have concerns if an individual from the OSHA office were picking out software for a completely different platform, but that is not the case.

CHAIR DENIS:

Has the process changed for getting new software, so this issue does not happen in the future?

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K. GRANT REYNOLDS (Information Technology Manager, Department of Business and Industry):

Moving forward with anything that I will be managing, we will have a structured methodology of how we implement these types of projects. We will have very clear requirements from the beginning. As we go through a project and have "question and answer" sessions, there will not be a sign off until it is acceptable and working and the user staff has an opportunity to see how their business processes are supported by the application.

CHAIR DENIS:

I hope that we have a procedure moving forward. If you were to transfer and a new person comes in, they need to know this process that you have put into place.

MR. JAYNE:

I agree that we need to have an established procedure for future employees.

CHAIR DENIS:

When will we have a cost estimate?

MR. REYNOLDS:

With the vendor's senior programmer coming next week, March 21-25, 2011, we should have an estimate of the cost to repair the system in approximately three weeks.

CHAIR DENIS:

What system was used to develop this application?

MR. REYNOLDS:

It is Oracle back end and Java front end.

CHAIR DENIS:

Have you implemented anything since the December 2010 meeting?

MR. REYNOLDS:

Some enhancements have been done to their testing environment. The exercise they are doing right now is reviewing how the Agency is using it. They are

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looking at reconfiguring the system itself to better fit their workflow and business needs. They are also considering software customizations to fit their business requirements better.

CHAIR DENIS:

Since the system is not working, how are you currently accomplishing your work?

MR. JAYNE:

We are getting the job done, but not as efficiently as we could. This is the same issue as the backlog. We have brought in temporary employees and are working overtime to get the job done.

CHAIR DENIS:

How do the new performance indicators provide a better measurement of OSHA's performance than the replaced indicators?

MR. COFFIELD:

We found that the majority of the performance indicators were output indicators. The entire Department went through training in the summer of 2010 to update them. Page 2 of [Exhibit J](#) shows OSHA's performance indicators. Performance Indicator 1 is the serious, repeat or willful citations issued which judges how well we do our job.

Performance Indicator 2 is the percentage of inspections with no violations found. When we had our brain drain, the percentage with no violations began to increase exponentially because our remaining employees' knowledge base and skill set were not adequate enough to address all the issues that may have been present on a job site. We want to manage that on a monthly basis, so we know where to focus our training.

Performance Indicator 3 is the percentage of citation penalties retained. The intent is not to put companies out of business, but at the same time it is a very difficult business cycle right now.

Performance Indicator 4 is inspections per compliance officer. The federal OSHA said that we were generating a lot of inspections between 2005 and 2009, but

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we needed to have better outcomes. We have to find a balance. We do not want to give them an excessively high number because these are not just safety inspections, but are actual legal processes. We assign a monetary penalty and then the employer has a due process and they either have to go through an informal conference or go to the OSHA review board. If the inspector has not done a good job of documenting the elements that we have to prove then they are not going to win the case.

CHAIR DENIS:

If you are trying to meet a goal, how do you know the inspectors will not falsify the report to meet that goal?

MR. COFFIELD:

Inspectors have the ability to check on their own performance in our database. They sit down weekly with their supervisors and go over their performance and areas that are considered weak. If they need additional training, we will assign a more experienced inspector to go out with them. We tell them to not worry about their goals. I want them to do a quality inspection and if that takes three weeks to complete, that is all right. For example, an inspection of the MGM Grand cannot be completed in three days; it will take several weeks and then an additional couple of weeks to write the report. Our focus for the inspectors is to stay productively busy and to be as thorough as they can, so we can remove harmful agents that the employees may be exposed to.

MR. JAYNE:

We routinely measure ourselves against federal averages. If there is an individual who is not within the average, we will ask why he is not performing. I do not want a situation where we have inspectors thinking they have to write citations, but we do need to measure it. We will always have a numeric count because we need to know how many they are doing.

CHAIR DENIS:

We will now move on to B/A 210-4685, Safety Consultation and Training Section (SCATS).

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MR. JAYNE:

We have 27 employees within this budget account and we are requesting the continued funding for those positions and their operating and travel expenses. The primary focus of SCATS is to provide loss control type services. We have both trainers and consultants in this Division. They consult businesses and help them resolve hazards before they are a problem. It is different from enforcement. If enforcement officers were to encounter SCATS on a job site, they would back off because the consultative services are working with them.

CHAIR DENIS:

How does SCATS currently conduct research of hazards, controls and health concerns? How often would the reference books be replaced?

JOSEPH NUGENT (Chief Administrative Officer, Nevada Safety Consultation and Training Section, Department of Business and Industry):

We currently use a *Patty's Industrial Hygiene* reference manual which was published in 1994. I am trying to upgrade so that all chemicals that came in between 1994 and today are listed in there. We will share this manual with Nevada OSHA to give the industrial hygienists conducting inspections the proper preparation. Industrial hygienists need to prepare for the chemicals they are going to be in contact with and they need to research exotic chemicals that might be present as well. The system that we have in place is using the Internet and hope we find the information we need. We could buy a software program which is Internet based, but it would limit who could access it so the hard copy is better.

CHAIR DENIS:

How often is that hard copy updated?

MR. NUGENT:

Since 1994, I do not know, but we are buying the latest copy which is from December 2010.

CHAIR DENIS:

Please discuss your new performance indicators.

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MR. NUGENT:

Page 3 of [Exhibit J](#) describes our new performance indicators. Performance Indicator 1 is having 90 percent of safety and health surveys conducted on high hazard and/or small business. In accordance with federal requirements, we must report this performance indicator on a quarterly basis. It allows us to concentrate on those companies that are deemed to be hazardous or that are start-up businesses where we can be more beneficial. We use percentages as measurements because we could raise our number up as high as we want, but a percentage is a good representation of this indicator. I am looking for quality rather than quantity.

CHAIR DENIS:

The other new performance indicators are the percentages of serious hazards verified and corrected timely and the customer satisfaction rating.

MR. NUGENT:

If we find a hazard, we negotiate with the employer for the amount of time to abate the hazard. If the hazard is not abated within the agreed upon amount of time, we are required by federal law to turn that item over to Nevada OSHA for investigation and follow-up. Employers need to correct 100 percent of the hazardous situations and we need to be held to that standard.

Performance Indicator 3 is the customer satisfaction rating. We could go out and do a terrible consult, but get credit for it. This performance indicator allows every employer using our services to rate our services as useful.

CHAIR DENIS:

Is there any public comment?

ROBERT OSTROVSKY (Chairman, Advisory Counsel to the Division of Industrial Relations):

We meet regularly with the staff of OSHA and the DIR regulatory agency. We discuss all of the injuries, accidents and fatalities; they are all reviewed by committee members. We would like to stand in support of the increase in inspectors, particularly when it comes to objects. It is not just employees who are exposed to these objects, but every visitor and citizen in this State are

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exposed as well. It is very important that we have extra inspectors looking at the objects beyond our own employees.

Timing inspections are important and we like the assistance of that division. This is basically an enterprise agency; we pay for the services we receive and not from the General Fund. This Agency receives all of its money from assessments on employers, by tracking the workers' compensation premiums. We are willing to pay for those services because they are very important.

We do have a concern with the consolidation of IT and other personnel functions at the department level rather than at a division level. Because we are an enterprise fund, we are concerned we are supporting agencies which have nothing to do with workers safety. We intend to have a meeting next week to discuss those issues. The DIR wants to assure us that what we get globally in services will be beneficial to us, that it will be worth paying for and that we will get more than our money's worth. We are concerned about that.

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CHAIR DENIS:

Seeing no further business, this meeting is adjourned at 10:37 a.m.

RESPECTFULLY SUBMITTED:

Madison Piazza,
Committee Secretary

APPROVED BY:

Senator Moises (Mo) Denis, Chair

DATE: _____

Assemblyman Marcus L. Conklin, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Shawn Lecker-Pomaville	Testimony
	D	Shawn Lecker-Pomaville	2011 Legislature Nevada Volunteers Biennial Report At-A-Glance
	E	Shawn Lecker-Pomaville	Letter from Erick Alcantar
	F	Karen Caterino	Budget 1352 – Overview Risk Management Division
	G	Keith Wells	State Motor Pool Budget Account 1354
	H	Bryan Nix	Hearings Division Fiscal Year 2010 Report
	I	Bryan Nix	Victims of Crime Coordinator's 2010 Biennial Report
	J	Donald Jayne	Performance Indicators