

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

**Seventy-Seventh Session
February 28, 2013**

The joint meeting of the Assembly Committee on Ways and Means and the Senate Committee on Finance was called to order by Chair Maggie Carlton at 8:08 a.m. on Thursday, February 28, 2013, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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 nelis.leg.state.nv.us/77th2013. 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 COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman William C. Horne, Vice Chair
Assemblyman Paul Aizley
Assemblyman David P. Bobzien
Assemblyman Andy Eisen
Assemblywoman Lucy Flores
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblyman Michael Sprinkle



SENATE COMMITTEE MEMBERS PRESENT:

Senator Debbie Smith, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Moises (Mo) Denis
Senator David R. Parks
Senator Pete Goicoechea
Senator Ben Kieckhefer
Senator Michael Roberson

COMMITTEE MEMBERS EXCUSED:

Assemblyman Paul Anderson
Assemblyman Steven Brooks

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Teri Sulli, Program Analyst
Anne Bowen, Committee Secretary
Cynthia Wyett, Committee Assistant

Catherine Cortez Masto, Attorney General, Office of the Attorney General, introduced Debra Crowley, Chief Financial Officer, Office of the Attorney General, and read the following statement into the record:

I am here today to provide an overview of the Office of the Attorney General. As I stated earlier, with me are several of my staff who can assist with some of the questions that the Committees may have pertaining to the business that my office does here in the State of Nevada.

We work hard to promote the stability, efficiency, and continued viability of our state. As the state's chief law enforcement officer, the Attorney General represents the people of Nevada before trial and appellate courts of Nevada and the United States in criminal and civil matters.

We also serve as legal counsel to state officers, state departments, and most state boards and commissions, and we assist the 17 district attorneys of the state.

My office is divided into five major areas as follows:

- The Administration Division
- The Bureau of Litigation
- The Bureau of Government Affairs
- The Bureau of Criminal Justice
- The Bureau of Consumer Protection

The Bureau of Litigation includes the Personnel Division, the Public Safety Division, and the Appellate Division.

The Bureau of Government Affairs includes the Gaming Division, the Transportation Division, the Business and Taxation Division, the Government and Natural Resources Division, Boards and Licensing Division, and the Health and Human Services Division. The Bureau of Government Affairs also represents all constitutional offices and the Department of Administration.

The Bureau of Criminal Justice includes the Fraud Unit, the Special Prosecutions Division, and the Medicaid Fraud Control Unit. This Bureau addresses Medicaid fraud, insurance/workers' Compensation fraud, securities fraud, criminal mortgage fraud, Habeas Corpus cases, and prosecution of public integrity cases as well as prison inmate issues.

For the past biennium, my Medicaid Fraud Control Unit has successfully investigated and prosecuted 25 criminal cases involving fraudulent activities by companies scamming the Medicaid system. In addition, the Medicaid fraud unit also participated in global settlements of false claim cases with numerous pharmaceutical manufacturers. In the process, they recovered \$3,369,942.01 for fiscal year (FY) 2011 and \$4,732,028.21 for FY 2012.

In the Workers Compensation Fraud Unit in 2011, we opened 142 cases and returned to the state \$177,465 in restitution costs and fees. In 2012, we filed 119 cases and returned \$462,101 to the state. In the Insurance Fraud Unit in 2011, we filed 67 cases

and had \$1,098,968 in restitution ordered. In 2012, we opened 84 cases and had \$584,905 returned to the state.

The Bureau of Consumer Protection addresses civil mortgage fraud, consumer protection, multistate litigation, antitrust, and utilities. My mortgage fraud task force investigates and prosecutes fraudulent loan modification companies. My office joined a multistate national foreclosure fraud settlement involving five of the largest mortgage servicers for foreclosure abuses. Nevada's estimated share of the funds from this settlement is \$1.3 billion, including \$57 million earmarked for housing counselors, legal aid services, and programs to ameliorate the foreclosure crisis in the state.

In addition, I received a separate settlement from a lawsuit against Bank of America for its fraudulent practices in the state which guaranteed \$750 million in relief to distressed homeowners and \$30 million earmarked for housing counselors, legal aid services, and programs to ameliorate the foreclosure crisis in the state.

On August 23, 2012, the Interim Finance Committee (IFC) gave a one-year approval for the Attorney General's Office to implement the "Home Again Nevada Homeowner Relief Program." The Home Again program is a three-year proposal to spend up to \$33 million of the settlement proceeds earmarked from the National Mortgage Settlement to assist those Nevada residents impacted by the mortgage and foreclosure crisis. Following IFC approval, the Attorney General's Office multistate unit, working with our partners, Financial Guidance Center, the HUD [U.S. Department of Housing and Urban Development] counseling consortium, and legal aid services, developed a plan to establish a central toll-free call center, essentially a "one-stop shop" where callers can be connected to a HUD counselor who will provide information and assistance regarding the National Mortgage Settlement as well as other state and federal housing assistance programs that may be available to them.

The infrastructure for the call center including a telephone system that manages and tracks demographic data and allows each HUD counseling agency to collect and report client data was completed in November of 2012. The Home Again program also includes funding to expand the staff capacity for HUD counseling

agencies statewide. A weeklong training and certification program for 31 counselors was also completed in November and a soft rollout of the program occurred in December of 2012. A Home Again logo, website, TV and radio ads, and print outreach materials were created in conjunction with the Home Again marketing team, BRAINtrust. An aggressive media, public relations, and outreach effort was mounted for the formal roll-out for the program in Las Vegas on January 7, 2013. On January 24, 2013, Home Again was introduced in the north at an event sponsored by the Reno/Sparks Association of Realtors. During these three weeks, the call center received over 4,000 calls for assistance.

The program is open to any Nevadan, but it is designed to help those seeking a loan modification, those who currently are underwater, those who have lost their homes to foreclosure, and those working toward home ownership. The purpose of the program is to ensure that consumers have available to them all the options that are provided under the national settlement, including the \$1.3 billion for modifying loans, the potential for refinancing, direct payments to borrowers, in addition to information regarding other underutilized homeowner assistance programs. Statistics have shown that those homeowners who utilize the assistance of free HUD housing counselors are twice as likely to obtain a loan modification as those who do not use this assistance. Settlement funds were also earmarked for legal aid services in Nevada. The legal aid services will provide needed legal assistance to homeowners in southern and northern Nevada, including the rural communities.

In addition to our five major units, when asked, we provide legal opinions for local governments.

Domestic violence has been an ongoing issue throughout the nation and as economic stress increases, so do cases of violence in the home. My office has oversight of two committees addressing this issue: the Nevada Council for the Prevention of Domestic Violence with members from law enforcement, judiciary, prosecutors, visitors services, health care, and educational communities; and the Committee on Domestic Violence which has oversight of 28 batterers' treatment centers in Nevada.

We have instituted an automatic Victim Information and Notification Everyday (VINE) system where crime victims and other concerned citizens have around-the-clock access to custody information about offenders held in jail and will be notified if the offender is transferred, released, or escapes. At present, we have 16 county jails, the Department of Corrections, and one city jail (Mesquite) live with the statewide service. Clark County Detention Center is operating independently, but will be rolled in once the City of Las Vegas Department of Detention and Enforcement and Henderson are ready to join. We are also working with the Division of Parole and Probation and the State Board of Parole Commissioners which will join the system.

As part of our outreach to rural counties, we have received two domestic violence federal grants which allowed the formation of a collaborative partnership between the district attorneys in the assigned counties to prosecute domestic and sexual violence cases under the supervision of the district attorney who had jurisdictional authority.

My office has been working on the epidemic of sex trafficking in Nevada for quite some time. To that end, we have brought together public and private sector leaders to raise awareness of this epidemic. On January 9th, we held a statewide summit in Las Vegas to discuss how to advance enforcement responses and victim services. On February 20, I introduced Assembly Bill 67 to the joint meeting of the Assembly Committee on Judiciary and the Senate Committee on Judiciary to protect victims and effectively combat sex trafficking.

This crime thrives both nationally and internationally. In January, I was honored to be part of the U.S. delegation to the meeting of the United Nations Committee on the Rights of the Child and testified on the subject in Geneva, Switzerland.

During the past four years, I have signed memorandums of understanding with three Mexican states to address crimes such as human trafficking, weapons trafficking, money laundering, and narcotics smuggling. I also was invited to make a presentation on money laundering as part of the Conference of Western Attorneys General to the Argentinian government in Buenos Aires and to address the Woodrow Wilson Center's Mexico Institute on

the rule of law reform in Mexico. I am currently the chair of the Conference of Western Attorneys General and recently held a symposium on transnational crime for the Western Attorneys General.

Since 2008, I have worked against substance abuse. Through the Governor's Working Group on Methamphetamine Use, efforts to curtail meth abuse have been addressed through legislation, law enforcement, treatment, and prevention. The results have been beneficial to Nevada.

In this session, Assembly Bill 39 will implement Nevada's participation in the National Precursor Log Exchange, a real-time tracking system used by pharmacies to prevent sale of nonprescription pseudoephedrine for use in the manufacture of methamphetamine.

As provided by the *Nevada Constitution* and state law, the Attorney General is a member of several state boards that include the State Board of Examiners, Advisory Council for Prosecuting Attorneys, Board of Directors of the Department of Transportation, Board of State Prison Commissioners, State Board of Pardons Commissioners, Nevada Council for the Prevention of Domestic Violence, Advisory Commission on the Administration of Justice, Substance Abuse Working Group, the Executive Branch Audit Committee, and the Technological Crime Advisory Board.

As is clear from this recitation of duties, the breadth and depth of the legal issues that the Office of the Attorney General addresses on a daily, weekly, and yearly basis is substantial.

My staff is committed to getting the job done and spending the time and effort necessary to fulfill our charter as an efficient and effective office. I, and the State of Nevada, are truly fortunate to have such dedicated people serving the citizens.

As you will note, this is a lean budget, a budget which recognizes and is respectful of the difficult decisions this body must make. It is also realistic concerning the budget difficulties facing this state.

ELECTED OFFICIALS
ATTORNEY GENERAL
EXTRADITION COORDINATOR (101-1002)
BUDGET PAGE ELECTED-67

Debra Crowley, Chief Financial Officer, Office of the Attorney General, stated she would review each budget account and highlight the decision units requested in each budget. She noted her review would not cover basic maintenance items or adjustments that the Budget Division made.

Budget account (BA) 1002, Extradition Coordinator, monitored costs that related to the Uniform Criminal Extradition Act (UCEA) and supported the salary, benefits, travel, and operating expenses of 1.51 full-time-equivalent (FTE) positions. Ms. Crowley said BA 1002 was approximately 82 percent General Fund and 18 percent recovery funds. The decision unit requested in the budget was Enhancement (E) 225, a request to increase an existing position from a 0.51 FTE to a full-time position. This request was because of the increased workload in the division.

Decision units E-670, E-671 and E-672 were the proposed Governor-recommended reductions for salary, merit increases, and longevity. Decision unit, E-750, additional training, would be used to train other various state and local prosecuting and law enforcement agencies.

Assemblyman Horne said he was curious about the increase of workload because page 2 of [Exhibit C](#), "Expanded Program Narrative," showed that since 2008, extraditions had been steadily decreasing. Also, decision unit E-225 requested the increase of a part-time employee to full time. He noted that in 2009 there was a request for the elimination of a program officer 1 position, and now the workload was too heavy. Assemblyman Horne could not discern where the workload had increased.

Ms. Crowley acknowledged that the division had lost a position two sessions ago, and although extraditions were down, the amount of paperwork that was required to process extraditions had increased. She explained that when the program officer 1 position had been eliminated it was the intention to use other positions to help support the extradition unit. Because the extradition officer was often out of the office and also had to deal with out-of-state issues, she had delegated many duties to the administrative assistant position, and that position was picking up more hours and more duties. Ms. Crowley said one of the problems was the need to prioritize when extradition orders were received, requiring that some of the day-to-day workload was put on the back burner.

Increasing the hours for the part-time administrative assistant position would help the extradition unit meet deadlines. Also, the extradition officer sometimes had to work overtime, and increasing the administrative assistant's hours would reduce the program officer's need for overtime.

Assemblyman Horne wondered why there was an increase in overtime for the program officer position if the number of extraditions was decreasing.

Wendy Livermore, Extradition Coordinator, Office of the Attorney General, explained that the program officer 1 position lost in 2009 was because of budget cuts. She said the work was still there, but the unit had tried to do its best over the last two sessions. The unit wanted to process work more efficiently, and that was the reason for the request to increase hours for the administrative assistant position.

Assemblyman Horne commented that the number of extraditions was still going down and asked whether there was something else that was increasing.

Ms. Livermore explained that the unit had been actively collecting funds owed to the state from persons discharged from the Division of Parole and Probation. The extradition unit was attempting to collect those debts before sending them to the Office of the State Controller. She said that was an area of the job that was not active four years ago.

Assemblyman Horne asked whether counties shared in the cost of extradition.

Ms. Livermore said the state reimbursed all local law enforcement for any felony extraditions. She added that if the absconder refused to waive extradition, there was a process shared with the Office of the Governor for the issuance of a requisition or a Governor's warrant of arrest. It was legal paperwork that had to be examined to ensure it met all the requirements necessary under the UCEA.

Assemblyman Horne asked whether the state had been unable at any time to make reimbursement for extradition to the counties, and Ms. Livermore responded that the state had always been able to meet that obligation.

In response to a question from Chair Carlton, Ms. Crowley stated the extradition unit had the flexibility to move funding from one year to another within the biennium.

Chair Carlton said she was surprised to learn about the extradition unit handling restitution and asked whether that was the appropriate placement.

Keith Munro, Assistant Attorney General, Office of the Attorney General, explained that extradition costs were assigned by a judge at the time of sentencing based on his or her discretion. Senate Bill 22, pending in the Legislature, attempted to clean up some of that language. Mr. Munro said the Office of the Attorney General had difficulty collecting extradition fees. Extraditions were an important asset that government provided, according to Mr. Munro.

Mr. Munro clarified that the extradition unit was partially funded based on extradition restitution collections.

Chair Carlton wondered whether the extradition unit expected to spend the entire fiscal year (FY) 2013 General Fund appropriation.

Mr. Munro said the funds were watched closely, and if funds were unused, they were used in future years.

Assemblyman Sprinkle asked whether an extradition had to be completed within a certain amount of time.

Mr. Munro said the process was based on the paperwork. For instance, someone could be charged with a crime, abscond to the state of Maine, and be there for many years, with an outstanding active warrant from Nevada. The absconder was charged, and Nevada would request extradition from the executive authority in the extraditing state. The absconder had the ability to challenge and fight extradition. Mr. Munro said that did not happen often, but the absconder was given due process and the ability to say "that is not me" or the offense was not extraditable.

Assemblyman Sprinkle asked how the unit arrived at a budget for a two-year biennium when it was not clear how long it would take to complete an extradition.

Mr. Munro replied that the budget was planned on a rolling average. The number of extraditions each year fluctuated, and if there was a decrease in extraditions, the money reverted to the General Fund.

In answer to a question from Assemblyman Horne, Ms. Livermore said workload deadlines were met even if it meant working overtime.

Chair Carlton closed the hearing on BA 1002.

Chair Carlton opened the hearing on budget account (BA) 101-1030, Administrative Fund.

ELECTED OFFICIALS
ATTORNEY GENERAL
ADMINISTRATIVE FUND (101-1030)
BUDGET PAGE ELECTED-72

Debra Crowley, Chief Financial Officer, Office of the Attorney General, presented budget account (BA) 1030, Administrative Fund.

Ms. Crowley stated BA 1030 employed 242.3 full-time-equivalent (FTE) staff and was supported by General Funds, assessments paid by non-General Fund agencies, tobacco settlement funds, Substance Abuse Prevention and Treatment Agency (SAPTA) funds, district court assessment fees, and other miscellaneous revenues.

The budget was built based on the fiscal year (FY) 2013 legislatively approved figures of approximately 48 percent General Funds, 50 percent Attorney General (AG) cost allocation, and 2 percent boards and commissions. Ms. Crowley said those percentages would probably change as the AG cost allocation plan (AGCAP) had not been finalized.

Chair Carlton noted there had been problems with the AGCAP, and the standard question for all agencies was when would the Committees be able to review the adjustments.

Jeff Mohlenkamp, Director, Department of Administration, explained that the Budget Division was working on the adjustments for the Office of the Attorney General and the most meaningful adjustments had been made. The Budget Division had been working with the Legislative Counsel Bureau (LCB) Fiscal Analysis Division to ensure agreement with the numbers. Mr. Mohlenkamp said he had informed LCB Fiscal Analysis staff that the statewide cost allocation plan and other adjustments to the internal service rates would also be available by March 13, 2013.

Ms. Crowley referred to decision unit Enhancement (E) 226, which eliminated two 0.25 full-time-equivalent (FTE) positions. The purpose of that decision unit was to use funding for temporary aide positions within the Tobacco Enforcement Unit that had not been fully employed. With this funding change, the money would move into the Tobacco Enforcement Unit account to increase funding for travel expenses.

Ms. Crowley said decision units E-500 and E-900 concerned the transfer of the construction law counsel (CLC) position from BA 1031 to BA 1030 and incorporating that move into the cost allocation plan.

Decision unit E-501 recommended transferring eight positions from the Consumer Advocate account, BA 1038, into the Administrative Fund.

Decision unit E-502 requested changing the funding source of one deputy attorney general from 50 percent Conference of Western Attorneys General (CWAG) funding and 50 percent General Fund to 100 percent General Fund. Ms. Crowley explained that two biennia ago the Office of the Attorney General had a contract with CWAG, and it agreed to pay for 50 percent of one deputy attorney general's salary. The contract had expired, but the position still existed, and the Office of the Attorney General wanted to replace the funding.

Decision unit E-710, addressed replacement equipment. Ms. Crowley explained the decision unit was complying with the Division of Enterprise Information Technology Services (EITS) recommended replacement schedule. She said replacements were limited to approximately half of the equipment and software that needed to be replaced to stay within required budget limits.

Decision unit E-806 recommended 5 percent pay increases for the Office of Attorney General's chief of personnel and chief of investigations. The purpose of the request was to bring the positions in line with those of the same title within state service. The increase would ensure equal footing with other state agencies as the Office of the Attorney General attempted to recruit and retain employees.

Decision unit E-807 was the request for a 5 percent upgrade for the chief of information technology and also to reclassify the position from classified to unclassified. Ms. Crowley noted the change was an attempt to align the position with similar employees within the state with the same title, education, and experience.

Decision unit E-813 was a request to upgrade two deputy attorney general positions that focused on working with the Colorado River Commission (CRC). Ms. Crowley said the request came from the Colorado River Commission to compensate the attorneys for their specialized work.

Decision unit E-900 was a request to move the operating and salary expense of the one Position Control Number (PCN) that was in BA 1031 into BA 1030.

Decision unit E-901 was a request to transfer 8 PCNs from the Bureau of Consumer Advocate budget account (BA) 1038 into BA 1030 to incorporate the positions into the AG cost allocation plan.

Assemblyman Horne questioned the change in appropriations for the construction law counsel (CLC) position and asked whether it would be representing other agencies.

Mr. Munro stated that the CLC position was created several sessions ago because there had been lawsuits regarding the State Public Works Division that totaled millions of dollars. The State Public Works Board approached the Office of the Attorney General and requested a dedicated attorney position to work closely on the Board's decisions to avoid lawsuits involving millions. Mr. Munro said the request to move this position from the AG Special Fund to the AG Administrative Fund came from the Budget Division to ease the workload for the Division. The CLC position would continue to be focused on the State Public Works Division. There had been some work done by this position for the Buildings and Grounds Section, but the primary focus would continue to be preventing lawsuits involving public works projects.

Ms. Masto commented that the CLC position was created for a particular purpose which was to create expertise in construction law which was needed in Nevada because of the million dollar construction work performed by the State Public Works Division or the Department of Transportation (NDOT). When the position was created, it was from funding provided by the State Public Works Division in non-General Fund dollars. Ms. Masto said her concern was placing this position into the AG cost allocation plan (AGCAP) because non-General Fund dollars, that were originally earmarked for a particular agency, were being cost-allocated. She was not sure she understood the Budget Division's decision and whether it was appropriate.

Mr. Mohlenkamp stated there were other requests to move specialized deputy attorney generals outside of the AGCAP, and when that happened, administrative costs, which were part of the overall costs of the AGCAP, were not absorbed by other agencies. The Budget Division believed it would be more appropriate to have the allocation of the entire Attorney General's costs allocated out to those resources. Mr. Mohlenkamp emphasized there was no intention to have any dedicated resources removed. He reminded the Committees that staff was dedicated to NDOT, Department of Motor Vehicles, and various other agencies, but remained within the AGCAP: there was no desire to move away from that principle. Mr. Mohlenkamp commented that the

State Public Works Division and the Buildings and Grounds Section were part of the Department of Administration, and he did not want to lose those resources.

Assemblyman Horne said he was glad the Attorney General shared his concerns and requested it be revisited at a later time.

Chair Carlton stated she would like to discuss how the decision was made regarding salary increases. Typically, the Division of Human Resource Management (DHRM) looked into the request for an upgrade and performed an evaluation, but she understood the Office of the Attorney General compiled its own salary survey by looking a number of different salaries that might have been comparable positions on a couple of different websites. Chair Carlton said the concern she had was that everyone in the state deserved to make more money, and she was not sure whether the data received would justify the requested raises.

Ms. Masto said she appreciated Chair Carlton's comments, and she did not bring this matter before the Committees lightly. She said she had already considered the ramifications, not only to other state employees, but internally in the Office of the Attorney General. She was willing to work through the (DHRM) if that was what the Committees mandated, but she also appreciated the comments and said she had the same concern. Ms. Masto requested that Debra Crowley explain how the research and background was handled.

Ms. Crowley said the research had been completed by the chief of staff of the Office of the Attorney General. The chief of staff had checked the personnel roster of state employees and pulled out information regarding salaries for positions with similar titles and duties and compared those salaries to the salaries currently paid to the three positions. In all cases, the Attorney General's staff was underpaid. That data had been used to support the request. Ms. Crowley stated the 5 percent increase did not bring those positions up to the level of the majority of the positions with similar titles, but it provided a 5 percent increase in the current salary. In some cases, there was a 10 percent difference, but an incremental increase of 5 percent per year was considered adequate.

Senator Kieckhefer asked whether salaries were compared exclusively to state positions or also to other governmental positions outside of state government.

Ms. Crowley said she believed the comparison was only with other state personnel, and Senator Kieckhefer requested clarification.

Ms. Crowley stated the same process was used for the unclassified positions upgrades in decision unit E-813. The AG's information technology chief of staff was classified, and it had been requested to change the position to unclassified. In addition, comparisons to other information technology chiefs and their salaries showed that those positions were normally paid at a pay grade 44, and the current position was nowhere near that pay grade. Ms. Crowley said the data was collected, and a small incremental request of 5 percent brought the salary close to a comparable grade 44 in state service.

Chair Carlton asked whether there had been a study done to examine the duties, and Ms. Crowley said there was an informal comparison done internally.

Ms. Masto said because this was the budget process, the AG was being transparent and open bringing it before the Committees. If it was the pleasure of the Committees for the Attorney General to take another action such as going through the DHRM, she was more than happy to do so. But, Ms. Masto said, as the manager of a large organization, who had managed that organization for the last four years, where the agency had to revert funds and strip down to the bone, and work with employees who had not had salary increases or merit increases and had sustained Public Employees' Retirement System (PERS) cuts, it was demoralizing for all of them. To the extent that the AG could help some employees so that there was equity across the state, Ms. Masto was willing to do that. She said if she could fight for a pay increase and merit increases for all state employees, she would do that as well. Ms. Masto said it seemed as though state employees were always the first ones to "take the hit" among all government employees. At some point, there needed to be a discussion on how we were fighting for state employees to ensure the state had the level of expertise that it deserved and needed. The depth and breadth of everything done in state government touched everyone in the state.

Ms. Masto stated the Colorado River Commission attorneys had been with the CRC since its inception and it was an important agency. Ms. Masto said this was a situation where two attorneys represented the CRC, not only on the electric power that comes from that river but also with respect to the water issues that are so important to this state. It was a unique and specialized area of law, and the agency came to Ms. Masto and said they had concerns about losing these attorneys to local government or private industry. The salary increase would come from funding from the CRC, not General Fund dollars.

Chair Carlton thanked the Attorney General and said she appreciated her passion, and it was nice to hear someone who was fighting for the employees.

Assemblyman Eisen referred to decision unit E-502 where the Conference of Western Attorney Generals (CWAG) was funding 50 percent of the salary for an attorney, and now the position would be supported completely by the General Fund. Dr. Eisen questioned why those funds were being replaced when there was no longer a reimbursement.

Ms. Masto explained that as the chair of the CWAG and because of the alliance with Mexico, she had been attempting to hire a bilingual attorney who could work with not only CWAG, but with the Mexican Attorney General to address sex trafficking, drug trafficking, and money laundering. Because of the unique relationship, CWAG was willing to fund part of the deputy attorney general position. It was funded 100 percent under the General Fund even though CWAG had agreed to fund 50 percent. Ms. Masto said it turned out that it was difficult to find a bilingual attorney, and when an attorney was hired, unfortunately, it did not work out. The attorney was not as fluent in Spanish as had been thought and he was let go. While the agency kept looking for a time, it never found another bilingual attorney. Ms. Masto said the AG was unable to fulfill this particular arrangement with CWAG, and she had to cancel the partnership. She said the agency was planning to continue the position as 100 percent funded by the General Fund.

Ms. Crowley added that originally this was an existing position that was 100 percent General Fund. When the Office of the Attorney General received the contract to work with CWAG, the contract and the funding had to be approved through IFC. Ms. Crowley said the attorney was employed for a short time, but any revenue received from CWAG was put into reserve and reverted to the General Fund. She said the position always existed, but the title and the duties had been changed to fulfill the contract agreement. Now that the contract was no longer in place, the Office of the Attorney General wanted to put the position back into the pool of other attorneys working with other agencies.

Assemblyman Eisen said to clarify, what was being considered was a change in the responsibilities of the position and that was what led to the request to change the funding source. He asked whether that was an accurate statement. Ms. Crowley stated that was correct.

Chair Carlton closed the hearing on BA 1030.

Chair Carlton opened the hearing of budget account (BA) 1031, Special Fund.

**ELECTED OFFICIALS
ATTORNEY GENERAL
SPECIAL FUND (101-1031)
BUDGET PAGE ELECTED-83**

Debra Crowley, Chief Financial Officer, Office of the Attorney General, presented budget account (BA) 1031, Special Fund.

Ms. Crowley said BA 1031 was established for payment of expenses directly related to investigation, preparation, prosecution, and defense of suits unknown at the time of budget preparation. The budget also covered any costs of litigation and related outside services necessary to Nevada's opposition efforts against the United States Department of Energy's proposed development of the Yucca Mountain high-level nuclear repository.

The existing budget funded the one construction law counsel position that was now proposed to move over to BA 1030, the Administrative Fund. Only decision unit Enhancement (E) 900 was requested in this budget account and that concerned the transfer of the construction law counsel position to BA 1030. The construction law counsel position would cost \$170,708 in fiscal year (FY) 2014 and \$172,613 in FY 2015.

Chair Carlton closed the hearing on BA 1031.

Chair Carlton opened the hearing on budget account (BA) 1033, Workers' Comp Fraud.

**ELECTED OFFICIALS
ATTORNEY GENERAL
WORKERS' COMP FRAUD (101-1033)
BUDGET PAGE ELECTED-88**

Debra Crowley, Chief Financial Officer, Office of the Attorney General, presented budget account (BA) 1033, Workers' Comp Fraud.

Ms. Crowley said BA 1033 monitored the costs related to both the Workers' Compensation Fraud Unit and the Insurance Fraud Unit. Currently, BA 1033 funded 27 Workers' Compensation Fraud Unit positions and 10 Insurance Fraud Unit positions. Funding was received from the Division of Industrial Relations to support the Workers' Compensation Fraud Unit employees. Any unspent Workers' Comp funds were reverted back to the Division of Industrial Relations at the end of every fiscal year. Ms. Crowley said

funding was received from the Division of Insurance for the Insurance Fraud Unit, and any unspent funds were balanced forward to the new year for additional expenses. She noted there was a small portion within the budget that was collected through recoveries and reimbursement for incidental items such as copies.

Decision unit Enhancement (E) 226 requested restoration of industrial insurance revenue collections to levels prior to the First Judicial District Court of the State of Nevada ruling. A bill draft request (BDR) had been submitted to support this request. Ms. Crowley said that was the only decision unit in BA 1033.

Senator Kieckhefer said if the BDR was going to require the assessment on companies that were not writing premiums, what level of interaction was the Office of the Attorney General going to have with those companies.

Brian Williams, Senior Deputy Attorney General, Workers' Compensation Fraud Unit, Bureau of Criminal Justice, Office of the Attorney General, said, in his opinion, it was the cost of doing business in Nevada. The insurance companies decided they were going to have a license to write insurance here: therefore, they retained the ability within any given year to write premiums in the state. Whether they chose to write premiums, or not, was their decision, but Mr. Williams believed that by having that license they could decide during the year to write premiums, and there was the potential for fraud on those premiums. For that reason, the Fraud Unit was asking that the insurance companies pay this assessment, which was something they had done in the past.

Senator Kieckhefer requested clarification that the funding of the Fraud Unit was not actually based on the cost for each individual investigation, but was spread out across all insurance companies regardless of whether the Fraud Unit was investigating them.

Mr. Williams said that was correct. Each insurance company paid an assessment which was not large. The lowest assessment was \$500, and with the number of insurance companies paying the assessment, it fully funded the Fraud Unit.

Senator Kieckhefer remarked that from a cost basis it appeared to the Legislative Counsel Bureau (LCB) Fiscal Analysis staff that the Insurance Fraud Unit was underfunded in this budget account and was being supplemented by the Workers' Comp assessments. He asked whether that was accurate.

Catherine Cortez Masto, Attorney General (AG), Office of the Attorney General, said that was an issue that the AG had been dealing with since 2007. In previous legislative sessions the insurance industry had requested an increase in fees so that the Insurance Fraud Unit could hire more investigators and prosecutors because the industry had been very concerned about the level of investigations and prosecutions regarding insurance fraud.

Chair Carlton asked whether there would be a budget amendment to address the shortfall.

Jeff Mohlenkamp, Director, Department of Administration, stated he was still coming up to speed on this issue, but he understood that if the BDR passed, the Unit would have the needed revenues. If the BDR did not pass, there would be a need to ensure adequate resources. He said the Budget Division would be happy to work with LCB Fiscal staff and make adjustments as needed.

In response to a question from Chair Carlton regarding an estimate of cost, Mr. Mohlenkamp said he had heard the figure \$275,000. He said he was not sure how accurate that was, but he would make sure the Fraud Unit was adequately funded.

Chair Carlton closed the hearing on BA 1033.

Chair Carlton opened the hearing on budget account (BA) 1036, Crime Prevention.

ELECTED OFFICIALS
ATTORNEY GENERAL
CRIME PREVENTION (101-1036)
BUDGET PAGE ELECTED-93

Debra Crowley, Chief Financial Officer, Office of the Attorney General, presented budget account (BA) 1036, Crime Prevention.

Ms. Crowley informed the Committees that BA 1036 monitored costs related to the Office of the Advocate for Missing and Exploited Children. The budget supported three full-time-equivalent (FTE) positions. Funding was received approximately 83 percent from General Fund and 17 percent from licensing fees collected.

Decision unit Enhancement (E) 710 requested replacement equipment based upon the Division of Enterprise Information Technology Services (EITS) approved replacement schedule to replace software and hardware.

Decision unit E-720 concerned new equipment and requested one motor pool vehicle. Ms. Crowley said that vehicle would be used specifically by the one investigator in BA 1036.

Chair Carlton closed the hearing on BA 1036.

Chair Carlton opened the hearing on budget account (BA) 1037, Medicaid Fraud.

ELECTED OFFICIALS
ATTORNEY GENERAL
MEDICAID FRAUD (101-1037)
BUDGET PAGE ELECTED-97

Debra Crowley, Chief Financial Officer, Office of the Attorney General, presented budget account (BA) 1037, Medicaid Fraud.

Ms. Crowley explained that BA 1037 supported the payroll and operating expenses for the Medicaid Fraud Control Unit (MFCU) and currently received a federal grant for the Senior Medicare Patrol (SMP) program. The budget account employed 17 Medicaid Fraud Control Unit employees. The MFCU received approximately 75 percent federal funds and 25 percent recovery funds. The SMP program received funding from the federal Administration on Aging through the SMP grant. The grant was passed through to the Aging and Disability Services Division, Department of Health and Human Resources, which was performing the duties of the SMP program. Ms. Crowley said her understanding was that beginning in fiscal year (FY) 2014, the Aging and Disability Services Division had applied directly to the Department of Administration to manage the SMP grant, and it would no longer be within the budget of the Office of the Attorney General.

Decision unit Enhancement (E) 710 requested replacement of software and hardware according to the approved replacement schedule of the Division of Enterprise Information Technology Services (EITS).

Decision unit E-720 requested two higher-end scanners for the MFCU. Ms. Crowley said the federal government had approved the purchase and this action would incorporate it into the state's budget. The capacity of the existing

equipment was insufficient to handle the volume of paper that had to be scanned.

Senator Kieckhefer asked whether the funding levels currently in place were going to be sufficient to meet the cost-recovery needs required by the Affordable Care Act (ACA).

Catherine Cortez Masto, Attorney General, Office of the Attorney General, commented that ACA was new territory for everyone. She said five attorneys from existing positions had been assigned to represent the Silver State Health Insurance Exchange in addition to what would occur with the ACA. The Office of the Attorney General would have to consider not only how to represent the ACA, but also the Exchange and the Commissioner of Insurance, in addition to protecting the interests of the state and ensuring that everyone was complying with the new laws. Ms. Masto said it was new realm for the Office, and a unit of attorneys had been created to collaborate and begin training for the task. She had already contacted Martha Coakley, Attorney General of Massachusetts, and training had been arranged for the next national association meeting to address this new and evolving area of the law.

Mark Kemberling, Chief Deputy Attorney General, Medicaid Fraud Control Unit, Office of the Attorney General said he believed his unit was "ahead of the curve."

Senator Kieckhefer asked whether he was correct that the Medicaid Fraud Control Unit was in charge of only what was referred for investigatory purposes.

Mr. Kemberling replied that perhaps 20 percent to 30 percent of cases that were finalized were obtained independently.

Chair Carlton closed the hearing on BA 1037.

Chair Carlton opened the hearing on budget account (BA) 1038, Consumer Advocate.

ELECTED OFFICIALS
ATTORNEY GENERAL
CONSUMER ADVOCATE (330-1038)
BUDGET PAGE ELECTED-103

Debra Crowley, Chief Financial Officer, Office of the Attorney General, presented budget account (BA) 1038, Consumer Advocate, which covered the Bureau of Consumer Protection.

Ms. Crowley referred to decision unit Enhancement (E) 805, which monitored costs relating to the Bureau of Consumer Protection. This budget account was primarily General Fund and regulatory assessments.

Decision unit E-805 requested the reclassification of one AG criminal investigator 2 position to an AG criminal investigator supervisor, and one AG criminal investigator 1 position to an AG criminal investigator 2 position.

The second decision unit (E-901) had been discussed in BA 1030 and concerned the transfer of eight Position Control Numbers (PCN) positions from the Bureau of Consumer Protection Unit, BA 1038, to the Administrative Fund budget, BA 1030.

Assemblyman Bobzien said he wanted to discuss the reserve level for the Utility Consumer Advocate Unit and the mill assessment that had been proposed. He noted there was statutory authority to go up to a 0.75 mill assessment [on revenue of certain utilities], but nonetheless that was quite a large amount of money that was collected, and the first question to talk about was the appropriate reserve level.

It seemed to Assemblyman Bobzien that the duties of the Utility Consumer Advocate Unit had been narrowly applied to the public interest—consumer rates specifically. He wondered whether there were performance metrics for this unit to provide an idea of the success of the Unit. He also asked about times when the public interest that was represented before the Public Utilities Commission of Nevada, also incorporated environmental and economic development interests.

Eric Witkoski, Chief Deputy Attorney General, Consumer's Advocate, Bureau of Consumer Protection, Office of the Attorney General, said he would attempt to answer all of Assemblyman Bobzien's questions in order.

Mr. Witkoski, referring to the mill assessment, said the reserve fluctuated, but it was something the Office had been trying to reduce. He said that every year in May the mill assessment was set by considering a forecast and estimated needs. Also, the assessment was based on the revenues of the utilities, and those fluctuated depending on the various rates. For electric utilities and gas utilities there was a general rate and a commodity rate. The general rate might go up, but for the last couple of years, the energy rate had gone down to almost historic lows. The Bureau had been tentative on adjusting the mill assessment because of uncertainty regarding revenues, but Mr. Witkoski anticipated revisiting the subject in anticipation of reducing the reserve.

Mr. Witkoski commented that the Bureau did not track performance metrics. The Bureau had an idea of what and how it was doing, but did not publicly share those numbers.

With respect to scope, Mr. Witkoski said the Bureau was primarily concerned with the rates. *Nevada Revised Statutes* (NRS) 704.120, stated that the rates were supposed to be "just and reasonable," and that was what concerned the Bureau.

Assemblyman Sprinkle referred to decision unit E-805, the reclassification of the criminal investigator positions, and said he noticed that two years ago this body enacted an all new class specifically related to the criminal investigator positions. He wondered what duties and responsibilities had changed to warrant a new classification of the positions and what process was used to determine the need for this reclassification.

Ms. Crowley said her understanding was that the criminal investigator 2 position was an underfill. It originally had been a supervisory position, and the reclassification would bring that position up to standard. Regarding the criminal investigator 1 position, Ms. Crowley believed a desk study had been done to upgrade the position to a criminal investigator 2.

Assemblyman Sprinkle requested that Ms. Crowley provide more information about how the reclassification of the criminal investigator positions was determined.

ELECTED OFFICIALS
ATTORNEY GENERAL
VIOLENCE AGAINST WOMEN GRANTS (101-1040)
BUDGET PAGE ELECTED-109

**ELECTED OFFICIALS
ATTORNEY GENERAL
COUNCIL FOR PROSECUTING ATTORNEYS (101-1041)
BUDGET PAGE ELECTED-114**

**ELECTED OFFICIALS
ATTORNEY GENERAL
VICTIMS OF DOMESTIC VIOLENCE (101-1042)
BUDGET PAGE ELECTED-119**

**ELECTED OFFICIALS
ATTORNEY GENERAL
ATTORNEY GENERAL TORT CLAIM FUND (715-1348)
BUDGET PAGE ELECTED-129**

Chair Carlton stated that unless members of the Committees had questions regarding budget account (BA) 1040, Violence Against Women Grants; BA 1041, Council for Prosecuting Attorneys; BA 1042, Victims of Domestic Violence; and BA 1348, Attorney General Tort Claim Fund, the hearing would move on to the final budget accounts for the Office of the Attorney General.

Assemblywoman Flores noted that there were only a few positions in BA 1038 that related to consumer protection, and she asked what the workload had been for those positions.

Ms. Masto replied that the Bureau of Consumer Protection (BCP) was unique. When the BCP was originally created it was put under the Consumer's Advocate which worked with utilities. Ms. Masto said she and Eric Witkoski, the Consumer's Advocate, had over the last six years built the BCP to create a true fraud unit, which addressed consumer protection.

Ms. Masto maintained that there would always be fraud, and while she would love to have investigators and prosecutors to address the problem and do more educational outreach, the agency was living within its means. The Consumer's Advocate performed some of the [consumer protection] work as well as the fraud unit, which was in the Bureau of Criminal Litigation. Ms. Masto said her staff worked together to address potential fraud. The loss of the Consumer Affairs Division (CAD), which was under the Department of Business and Industry (B&I), was a loss to the state, as CAD was the gatekeeper for consumer information. When CAD had observed a pattern of malpractice or fraud it would send the information to the Office of the Attorney General to investigate and prosecute.

Assemblywoman Flores asked how consumers could locate someone to help them when information was so decentralized.

Ms. Masto said consumers could always call the Office of the Attorney General for assistance, and if her staff was able to help, it would. She said it was unfortunate that Nevada was missing the services that CAD had previously provided. For instance, if a consumer was defrauded by a business for a low dollar amount, and the consumer wanted to file a complaint and possibly get money back, CAD used to provide that service. Because CAD no longer existed, consumers no longer had any recourse for complaints. The Office of the Attorney General did not do that type of work: it looked for patterns and practices of fraud under the Deceptive Trade Practices Act and investigated and prosecuted.

In response to a question from Assemblyman Aizley about the addition of eight full-time-equivalents (FTEs) and the elimination of eight FTEs, Ms. Crowley said it was the transfer of existing positions from BA 1038 to the Administrative Fund, BA 1030.

Chair Carlton closed the hearing on BA 1038.

Chair Carlton opened the hearing on budget account (BA) 1045, National Settlement Administration.

ELECTED OFFICIALS
ATTORNEY GENERAL
NATIONAL SETTLEMENT ADMINISTRATION (340-1045)
BUDGET PAGE ELECTED-124

Debra Crowley, Chief Financial Officer, Office of the Attorney General, presented budget account (BA) 1045, National Settlement Administration.

Ms. Crowley stated BA 1045 was created in fiscal year (FY) 2012 to administer the revenue generated from settlement awards [related to mortgage fraud] to the State of Nevada and was currently employing three full-time-equivalents (FTEs). Decision unit Enhancement (E) 225 requested allocating funds to the Department of Business and Industry (B&I) for a housing index program, real estate and mortgage fraud enforcement activities, and a housing-related consumer affairs program and to assist with diminishing licensing revenues in the Division of Mortgage Lending account.

Ms. Crowley said decision unit E-226 requested funding for the “Home Means Nevada” Home Retention Program within the Department of Business and Industry (B&I).

Decision unit E-227 would fund a financial analyst. Currently the position was a contracted position and E-227 would make it a full-time position.

Assemblyman Hickey thanked the Office of the Attorney General for the enormous amount of work that was done on the national mortgage settlement. He said the biggest concern in the Interim Finance Committee (IFC) was about the large amounts of money available and how that money would help homeowners. Assemblyman Hickey knew the Office of the Attorney General had the ability through the advisory board that had been established to more or less determine how the settlement monies were being distributed. While Assemblyman Hickey realized that some funds were going to the B&I account, he wondered whether there was precedent and whether it was in statute. He believed the Legislature appropriated money, and he asked what role the advisory council played and how the monies would be spent.

Catherine Cortez Masto, Attorney General, Office of the Attorney General maintained that the advisory council was just that—advisory. It was clearly the Legislature’s province to disperse the money. Ms. Masto said her goal was to assemble key stakeholders throughout the state, who were familiar with the mortgage crisis, to make recommendations to the Legislature and the Governor. She said there was nothing set in stone, and the advisory council was to make recommendations, and it was up to the Legislature to accept those recommendations or not.

Assemblyman Hickey thanked the Attorney General for her answer and said he knew the Assembly Committee on Ways and Means Subcommittee on General Government would be reviewing the recommendations and the proposed B&I programs. He asked whether Ms. Masto would comment on the B&I proposal and her involvement in crafting that proposal.

Ms. Masto commented that as with any other entity that approached the Office of the Attorney General regarding the use of mortgage settlement funds, B&I had the idea and the concept and put the program together. Then, the advisory council would make a recommendation and present that recommendation to the Legislature.

Chair Carlton stated that her concerns related to oversight of the funds. She said she did not know whether the program B&I was recommending had advanced to the oversight function yet, and if not, that was an acceptable answer.

Ms. Masto remarked that was a valid question and was the same question that she would have for anyone that was recommending a program for the use of these funds. She added that she had been open to any type of structure to oversee the appropriate use of the mortgage settlement funds.

Chair Carlton noted that the funds were channeled through the Office of the Attorney General to other programs and wondered whether the Office had the authority needed to retrieve those funds if problems were encountered

Ms. Masto said what had been done was to consider the settlement funds as a form of grant-funding to those organizations based on the required intent for the use of the funds. Language had been built into the contracts to ensure that the funds would return to the state if not used appropriately or not used in the intended fashion. She further stated that she would be happy to have involvement from the Legislature regarding oversight of the funds.

Chair Carlton commented that in the "grant world" you had to be very careful about the list of deliverables that needed to be accomplished within the timelines and also ensure there were clawback provisions. She requested a status report on what had been accomplished by the housing call center and the financial guidance center and also what legal services had done since the money was authorized in August of 2012.

Michele Johnson, President/CEO, Financial Guidance Center (FGC), stated the FGC was the administrator and oversight organization for the Home Again program. The FGC had launched a call center, and the most recent statistics as of February 26, 2013, showed the FGC had answered 6,403 phone calls, statewide. The majority of the calls came from Clark County, Washoe County, Lyon County, and Nye County. Ms. Johnson said with the outreach and media, in January, the first month of the operation, FGC had earned free media at a value of over \$350,000. There were 152 public relations stories and 69 million plus media impressions [an estimate of combined media audience exposure] all at no cost.

Assemblyman Hickey requested an accounting of the monies in the mortgage settlement fund, how they had been spent, and under what authority. He said it would help with policy and funding decisions in the course of this session.

Ms. Masto requested clarification whether Assemblyman Hickey was requesting accounting for this particular program or the total amount of money that came into the state as the result of the National Mortgage Settlement.

Assemblyman Hickey said he would be interested in seeing the accounting for the total amount of the National Mortgage Settlement funds received by Nevada. Ms. Masto agreed to provide that accounting.

Chair Carlton asked the Attorney General to explain the need for the new unclassified financial analyst position.

Ms. Masto explained that funding had been requested for a financial analyst position for the criminal Mortgage Fraud Unit. She said the types of fraud related to the mortgage crisis were complex, white collar crimes which required someone with financial analysis background to help investigators and prosecutors decipher evidence. The Office of the Attorney General had initially received approval from the IFC and hired an independent contractor to fulfill the duties, with the intention of requesting that the Legislature create a full-time position.

Chair Carlton said if she understood correctly the position would be eliminated when the money ran out, and Ms. Masto said that was correct.

Assemblyman Aizley asked Ms. Johnson whether there were any principal reductions for mortgage holders with new settlements.

Ms. Johnson replied that there was insufficient money to make homeowners whole, although there were programs that benefitted them. She explained that the National Mortgage Settlement funds, or the portion of it FGC was administering, ensured that all homeowners had access to all the different funds that were available. Hardest Hit funds [administered by a nonprofit supporting the state Housing Division] were used for principal reductions and principal curtailment with \$7.2 million dispersed in January and with \$8.5 million anticipated for February. Hardest Hit funds provided another \$42.6 million that was committed. Ms. Johnson said with the National Mortgage Settlement, lenders often dealt directly with the homeowner and circumvented the FGC.

Ms. Masto said the most recent monitor's report highlighted five banks and what had been accomplished among the states as a result of the National Mortgage Settlement. The report showed the total consumer relief for Nevada was approximately \$1.7 billion, which was more than had been anticipated. She referred to completed first-lien modification forgiveness, and it appeared

there was an aggregate amount of relief of \$165 million, which affected 996 borrowers in Nevada. The average amount of relief was \$166,000.

Chair Carlton requested public comment and seeing none adjourned the meeting at 10:22 a.m.

RESPECTFULLY SUBMITTED:

Anne Bowen
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

Senator Debbie Smith, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: February 28, 2013

Time of Meeting: 8:08 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Catherine Cortez Masto, Attorney General, Office of the Attorney General	Expanded Narrative Budget Presentation 2013-2015 Biennium