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

Seventy-Seventh Session
April 5, 2013

A joint meeting of the Assembly Committee on Ways and Means' Subcommittee on General Government and the Senate Committee on Finance's Subcommittee on General Government was called to order by Chair Lucy Flores at 8:08 a.m. on Friday, April 5, 2013, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at 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 Lucy Flores, Chair
Assemblyman Paul Aizley, Vice Chair
Assemblyman Paul Anderson
Assemblyman Andy Eisen
Assemblyman Cresent Hardy
Assemblyman Joseph M. Hogan

SENATE COMMITTEE MEMBERS PRESENT:

Senator Joyce Woodhouse, Chair
Senator Moises (Mo) Denis
Senator Michael Roberson

STAFF MEMBERS PRESENT:

Cindy Jones, Assembly Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Laura Freed, Senior Program Analyst
Jennifer Gamroth, Program Analyst
Carol Thomsen, Committee Secretary
Cynthia Wyett, Committee Assistant

Chair Flores advised the Subcommittees that the first item of business would be the budget account for the Public Employees' Benefits Program (PEBP). Chair Flores informed the audience that the current hearing was a work session, and she would open Public Comment at the end of the hearing and after the presentation of the PEBP account. The Subcommittees would not vote on the budget accounts during today's hearing, and because the hearing was a work session, most of the dialogue would be among members of the Subcommittees.

Chair Flores asked Ms. Freed to commence with the budget presentation.

SPECIAL PURPOSE AGENCIES
PUBLIC EMPLOYEES' BENEFITS PROGRAM
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BUDGET PAGE PEBP-10

Laura Freed, Senior Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated she would walk the Subcommittees through what had transpired since the prior budget hearing on February 8, 2013. Ms. Freed indicated that during the previous budget hearing, discussion had centered on the total cost of employee and retiree health insurance, which depended on three factors: (1) inflation/utilization; (2) demographic changes in the participant pool; and (3) changes in the actuarially projected reserve levels. Those factors were reflected in The Executive Budget in decision units Maintenance (M) 101, M-103, and M-200, and M-102.

Ms. Freed said that during the February 8, 2013, hearing PEBP staff had indicated that its actuary was reconsidering the trend for both the high deductible health plan (HDHP) and the health maintenance organization (HMO) plan. Ms. Freed noted that the definition of "trend" in that discussion included both predicted inflation and utilization. Since that budget hearing, PEBP's actuary had completed the analysis and provided the agency with a set of rates for the HDHP, as had the southern and northern HMO vendors.

According to Ms. Freed, at the March 21, 2013, meeting of the Board of the Public Employees' Benefit Program, the Board reviewed and approved rates for both the HDHP and the HMO plan and took other action to dispose of most of the projected excess reserve that would be available at the end of fiscal year (FY) 2013. Ms. Freed stated that HDHP medical claim costs were expected to be down 8.6 percent, prescription costs down 38.1 percent, and dental costs down 6.1 percent compared to the previous year's claims experience; costs for the HMO plan were expected to increase 7 percent.

Ms. Freed stated it was clear that use of the HDHP was significantly lower than the actuary had predicted, and in addition, there were projected surpluses both in the Active Employee Group Insurance (AEGIS) budget account (BA) 1390 and the Retired Employee Group Insurance (REGI) budget account, BA 1368. Those accounts were the pass-through accounts where state subsidies were collected and transferred to the PEBP operating budget to fund the cost of claims and payments to HMO vendors.

Ms. Freed said the projected reserve excess available for fiscal year (FY) 2014 was $47 million. At its March 21, 2013, meeting, the PEBP Board approved various actions to use the excess reserves. The Board approved covering premium incentives for participants in the state's wellness program for both years of the upcoming biennium; funded Medicare Part B premium credits; and kept the HDHP rates flat for state participants. Ms. Freed stated that action generated some subsidy dollars which were then rebated in an equal amount to state active employees and non-Medicare-eligible retirees in the form of a one-time contribution to the health savings accounts (HSA) and the health reimbursement arrangements (HRA). The amount received was $297 for each primary participants and $115 for each dependent up to a maximum of three.

In addition, said Ms. Freed, the excess reserves would be used to fund a one-time contribution in FY 2015 to the Medicare Exchange retirees contribution of $2 per month per year of service. Ms. Freed stated that also existed in <u>The Executive Budget</u> for FY 2014. She explained that the base recommendation for Medicare Exchange retirees would be $11 per month per year of service, with a one-time $2 bump in both FY 2014 and FY 2015. Also, the PEBP Board chose to retain some excess reserves to offer another one-time HSA and HRA contribution for state and nonstate HDHP participants in FY 2015. A certain amount would also be reserved to mitigate expected plan year 2015 increases in rates. Ms. Freed said providing that the actuary's projections were on target, and the claims experience was consistent with predictions, the revised excess reserve in FY 2015 would be approximately $920,000.

Ms. Freed said since a significant decrease in trend from the original recommendation in The Executive Budget had occurred, a budget amendment had been submitted by the Budget Division, Department of Administration. Overall, because of the decrease in use, reductions in subsidy revenue to the AEGIS and the REGI budget accounts from other agency budget accounts would be $25.7 million in FY 2014 and $19.0 million in FY 2015, including the amount appropriated to the Distributive School Account (DSA). Ms. Freed stated that the biennial total subsidy savings would be $44.8 million, and the General Fund savings because of the budget amendment could be between $26 million and $29 million.

Because of the subsidy savings, said Ms. Freed, PEBP had calculated a revised AEGIS assessment and a revised REGI non-Medicare subsidy. The revised AEGIS assessment was $644.35 in FY 2014 and $753.12 in FY 2015. The revised REGI assessment for non-Medicare-eligible retirees, predicated on 15 years of service, was $456.20 for FY 2014 and $467.44 for FY 2015. According to action taken by the PEBP Board, the recommendation for Medicare retirees would be a one-time HRA increase of $2 per month per year of service in FY 2015.

Chair Flores opened the PEBP budget account for discussion and recognized Senator Woodhouse.

Senator Woodhouse asked Mr. Wells to come forward to answer questions. She stated that there was a group of retirees that had been labeled "orphan" retirees, and she asked whether the PEBP Board had taken any action regarding that group. Senator Woodhouse also wondered what the cost would be to cover those retirees, either through the current plan or through a state appropriation. She stated she was very concerned about that group of retirees and asked what other alternatives might be available.

James R. Wells, Executive Officer, Public Employees' Benefit Program (PEBP), explained that the nonstate retirees who were in the PEBP pool were now labeled a "retiree-only" group. In 2003, there were 2,300 nonstate active employees and approximately the same number of nonstate retirees. However, said Mr. Wells, as of July 1, 2013, there would be approximately 12 nonstate active employees and approximately 8,000 nonstate retirees in PEBP. That pool of retirees, which by statute had to be comingled separately, had become a retired-only pool. The 55-year-old to 64-year-old non-Medicare-eligible retirees were the most expensive group to insure, said Mr. Wells, and averaged approximately 1-1/2 to 2-1/2 times the average expenditure for the plan.

Mr. Wells explained that over the years, the premiums for nonstate retirees had continued to increase as the pool of participants had become more retiree-centric, and now that it had become a retiree-only plan, the premiums continued to escalate. Unlike the numbers for the state retiree plan, the rates for nonstate retirees had actually increased, both for the high deductible health plan (HDHP) with a 4.7 percent increase, and for one of the health maintenance organization (HMO) plans with a 4.5 percent increase; he noted that the second HMO plan had remained flat.

Mr. Wells stated that the premium rates for nonstate retirees continued to increase even though state retirees were seeing some relief. Unfortunately, the way the *Nevada Revised Statutes* (NRS) was written, there was nothing the PEBP Board could do to help the nonstate retiree population, other than giving those retirees additional HRA contributions commensurate with those given to state retirees. Mr. Wells stated that in addition to the one-time amounts that were provided for state employees and non-Medicare-eligible retirees only to keep rates flat, there was an additional $400 [HSA and HRA contribution] given to each primary participant and $100 to each dependent, up to a maximum of three dependents, which covered the entire population of state and nonstate members.

Mr. Wells reiterated that the PEBP Board did not have the authority to mitigate or offset the rate for nonstate employees and retirees by pooling them with state employees and retirees. The NRS provided there would be individual pools for the state active and retiree population and the nonstate active and retiree population.

According to Mr. Wells, Senate Bill (S.B.) 34 would change the PEBP comingling structure. The bill would create participating and nonparticipating pools; one pool for participating state employees and retirees and participating nonstate employees and retirees, except those in the Medicare Exchange, and one pool for retirees of employers that no longer participated in PEBP. However, said Mr. Wells, the bill would still leave a nonstate retiree-only pool. Part of the reason for not including the nonstate retirees was because it would be cost-prohibitive. The state paid approximately 93 percent of the premium for active employees depending on the plan and supplemented non-Medicare-eligible retirees and Medicare-eligible retirees with HSA and HRA contributions, but nonstate employers did not contribute to retiree health plans.

Mr. Wells said another possibility was for the nonstate retiree population to return to the insurance plan offered by their former employers and be comingled with that active employee population. That had occurred over the past several years, said Mr. Wells, because the PEBP rates had continued to increase. He noted that language pertaining to that possibility was not currently contained in S.B. 34. That option might put a burden on local government entities, but the burden would be mitigated because the retirees had come from different entities. The PEBP had created a list as of December 1, 2012, that depicted the former agencies for nonstate retirees.

Senator Woodhouse stated she had received an email message from one public employer that stated retirees from that employer could not rejoin the active insurance pool. Senator Woodhouse asked how much was left on the table when Medicare-eligible retirees left the plan.

Mr. Wells said PEBP was conducting an analysis about the treatment of Medicare-eligible retirees and non-Medicare-eligible retirees, both prior to the creation of the Medicare Exchange in 2011 and since that time. According to Mr. Wells, there was the perception that there was a difference in the amount provided to Medicare-eligible retirees as opposed to the amount provided to non-Medicare-eligible retirees. Mr. Wells said that prior to 2011 there was a single retiree rate included in the "session bill," which was the legislation that set the subsidy rates for PEBP. There was one figure for active employees and another figure for retirees.

Mr. Wells explained that the figure for retirees was an aggregate weighted average number between what was provided for non-Medicare-eligible retirees and Medicare-eligible retirees. There was always a higher cost for subsidizing non-Medicare-eligible retirees than there was for Medicare-eligible retirees, but the cost had simply been blended into a single number prior to 2011. Since that time, PEBP had broken out the numbers for Medicare and non-Medicare retirees. Mr. Wells said PEBP was conducting an analysis of the differences between the state's cost and the participant's premium cost before and after the Medicare Exchange was initiated.

Senator Woodhouse asked whether Mr. Wells could estimate when that analysis would be completed so the Subcommittees could receive that information.

Mr. Wells replied that the analysis had been substantially completed; some information pertinent to the past two years had to be added. The information would be presented using weighted averages because it was impossible to conduct an individual analysis. He predicted that the analysis would be available in approximately one week.

Senator Woodhouse believed that would be helpful for the Subcommittees, and after that information had been reviewed, there might be additional questions. She noted that there had been much discussion during the previous budget hearing about customer satisfaction, and she was still quite concerned about the apparent dissatisfaction. Senator Woodhouse asked whether that concept would be addressed through PEBP's performance objectives.

Mr. Wells stated that PEBP was in the process of completing survey questions for a customer satisfaction survey that would be included in the open enrollment letters that would be mailed on April 19, 2013. The PEBP hoped to have the customer satisfaction survey open to participants at that time. The survey would be for all participants regardless of their plan, but there would be slightly different questions for participants depending on their plan. Mr. Wells noted that a similar survey had been conducted during the last open enrollment period. Participants would have approximately one month to reply to the survey.

Senator Woodhouse asked how long it would take PEBP to compile the results from that survey. Mr. Wells replied that it would take approximately six weeks to compile the information and present it to the PEBP Board.

Senator Woodhouse noted that the Legislature would be adjourned before that information became available, and she asked that Mr. Wells forward the information from the survey to Legislative Counsel Bureau (LCB)

Fiscal Analysis Division staff, who would then provide that information to members of the Subcommittees.

Assemblyman Aizley stated that when PEBP conducted a comparison between Medicare-eligible and non-Medicare-eligible retirees, which apparently was currently underway, he would appreciate information regarding current dollars rather than past payments into a Medicare pool to see how the two groups compared.

Mr. Wells stated that the current PEBP analysis compared Medicare-eligible and non-Medicare-eligible retirees in each year for the last four years. The analysis would depict the treatment of both groups for the current plan year and the three previous plan years.

Assemblyman Aizley asked whether the information would show the amounts that had been paid by the state. Mr. Wells replied that the first section of the analysis would show the amount that was contributed by the state for each group, and the second section would depict the premiums paid by the individual groups.

Chair Flores asked whether there was further discussion regarding budget account (BA) 1338, and there being none, the Chair opened Pubic Comment. She asked those wishing to testify before the Subcommittees to come forward.

Priscilla Maloney, Labor Representative, American Federation of State, County and Municipal Employees (AFSCME) Local 4041, stated she represented both active and retired AFSCME members. Ms. Maloney referred to Exhibit C, a letter dated April 4, 2013, to the Subcommittees, which was available on the Nevada Electronic Legislative Information System (NELIS).

Ms. Maloney said members were concerned about recent communications that had been reported in the press and had been conveyed to all state active employees. The state active employees received an email from the Office of the Governor that stated, "because of some cost efficiencies and reduced costs in services, as such I am proposing to use some of these funds to eliminate all remaining furloughs for all state employees beginning in fiscal year (FY) 2015."

Ms. Maloney said the April 2, 2013, article that appeared in the *Nevada Appeal* indicated that Jeff Mohlenkamp, Director, Department of Administration, stated that the cost to eliminate the furlough days starting in FY 2015 would be

$12 million, and that amount had become available when the PEBP Board met on March 21, 2013, and freed up funds by lowering premium rates. Ms. Maloney said that it had been established that the PEBP Board did not vote to lower premiums, but instead kept premiums flat.

Ms. Maloney stated that there had been many cuts in pay for state workers, as the Subcommittees were aware; she noted that members of the Subcommittees had been meeting with active state employees on weekends to hear their personal stories about what they had suffered because of budget cuts for the last four years.

According to Ms. Maloney, there were confusing terms being used about premium rates. The PEBP talked about subsidies and contributions, but both were actually contributions, one from the employee and the other from the employer. The employer's share was called the subsidy and the employee's share was called the contribution.

Ms. Maloney said the point was that there was apparently some disconnect in the communication between the Department of Administration and PEBP, and she wondered where the $12 million would come from. Ms. Maloney said she attended the PEBP Board meeting on March 21, 2013, and listened to the entire presentation. At that meeting, there was discussion of agenda item IX, regarding plan year 2014 rates and participant contributions, along with options for using excess reserves.

According to Ms. Maloney, Mr. Wells told the PEBP Board at that meeting that there was approximately $47 million in reserves, and those reserves would be used to pay one-time only contributions through the health savings accounts (HSA) and the health reimbursement arrangements (HRA). Any contributions or one-time disbursements from the reserves would be for two purposes: (1) rate reductions; or (2) benefit enhancements. Ms. Maloney said at no time during that hearing was there a discussion that if savings were realized in the overall PEBP budget from any source, it would be used to eliminate furlough days for state employees.

Ms. Maloney said active AFSCME members were very confused and did not know whether there had been a miscommunication between PEBP and the Department of Administration. She emphasized that active state employees would be thrilled to get even a "crumb" back from the budgetary decisions that were being made by the Legislature. However, said Ms. Maloney, at no time during the PEBP Board meeting was there mention of reserves or savings that could be used to eliminate furlough days for active employees. She opined that active state workers were being given false hope if the reserves would only be used for one-time contributions.

Ms. Maloney stated that the current benefit program was relatively new and the reserves were the outcome of switching to the high deductible, consumer-driven health plan and the projections made by the actuaries. While the actuaries had been somewhat off the mark, the PEBP Board voted to disburse the $47 million reserve in various ways through the HSA, the HRA, and other benefit enhancements, but the Board did not reduce premium rates for active state workers or retirees.

Ms. Maloney said that she had met briefly with Mr. Wells after the hearing of April 1, 2013, on Assembly Bill (A.B.) 303, at which time he stated that he hoped people would not have the perception that the reserve funds were anything other than one-time monies. She wondered what would occur after FY 2015 when the reserves had been expended.

Ms. Maloney reiterated that AFSCME members were unsure about the funding because it could not come from the PEBP reserves. The articulated purpose for the reserves, as stated by the PEBP Board on March 21, 2013, was for benefit enhancement or rate reductions. She also pointed out that savings from the PEBP budgets that commenced on July 1, 2013, would not be realized until FY 2014.

Testifying next was James Richardson, J.D., Ph.D., representing the Nevada Faculty Alliance, who stated that the Alliance was also concerned about the funding that would be used to eliminate the furloughs for active state employees. Dr. Richardson said he had also been inundated with emails about the communication that was sent to faculty members on the various campuses because it was somewhat ambiguous and unclear regarding the source of the funding.

Dr. Richardson said it was his understanding that use of the high deductible health plan (HDHP) was down significantly for various reasons, including the fact that participants had to learn how to use the high deductible, consumer-driven plan and were not using as many services. Dr. Richardson said The Executive Budget for the current biennium had been constructed using certain projections and assumptions regarding plan use over the biennium, and because of the decrease in use, PEBP had lowered the projections for both the state and the employees for the next biennium, which created a subsidy savings for the General Fund after the DSA portion had been removed.

Dr. Richardson said the Nevada Faculty Alliance was very pleased that there was funding that would be used to eliminate furlough days. The faculty members and classified employees in the system had suffered greatly and had taken on additional duties over the years. The Alliance was quite pleased that the furloughs would be permanently eliminated. Dr. Richardson indicated that some clarification regarding the source of the funding would be helpful because he had been inundated with emails and questions. The fact that the funding was tied to the PEBP budget, and was based on the projections for healthcare in general, called for some type of explanation.

Testifying next was Martin Bibb, representing the Retired Public Employees of Nevada (RPEN), who stated that he agreed with the comments of Ms. Maloney and Dr. Richardson. One fact that was inescapable was that for the last two years the PEBP projections had been significantly "off-the-mark." In February 2011, said Mr. Bibb, there was an $80 million shortfall in the projections for the health plan, and that was the year PEBP created the Medicare Exchange. However, from February 2011 to March 2012 there was a projected excess reserve of $29 million; in March 2013 it was reported that the excess reserve was $47 million; and for fiscal year (FY) 2015, the excess reserve was projected to be $27 million.

Mr. Bibb commented that RPEN was glad that PEBP was conducting an analysis because findings over the past year had revealed that some policies and procedures relative to accounting for PEBP had not been updated in over seven years. For that reason, projecting numbers that were closer to the actuals was very important.

Mr. Bibb said the concept that nonstate retirees could return to the health plan offered by their former employers was incorrect. Nonstate retirees were not often given the opportunity to remain on their employer's health plan. For example, said Mr. Bibb, when legislation passed that required local governments to provide a year of subsidy for retirees who were members of PEBP, within six months the Clark County School District (CCSD) had eliminated the preferred provider organization (PPO) option for retirees. That meant the only option available to retirees who wished to return to the plan was to join the CCSD's health maintenance organization (HMO). That HMO had very stringent requirements that participants had to reside in the county where the HMO was sponsored. Mr. Bibb said that meant that CCSD retirees who had moved out of the county or out of state were not eligible to return to the CCSD health plan.

Mr. Bibb said the customer satisfaction question that had been discussed earlier was crucial. One level of the PEBP survey sent out during the last open enrollment period was for Medicare-eligible retirees who used the Medicare Exchange, and it was reported that participants were not comfortable with that option. The RPEN conducted a small survey that asked participants in the Medicare Exchange whether they were satisfied with the process. Mr. Bibb said RPEN had received 700 returns to the survey, and the results were somewhat different. He hoped that PEBP could provide actual information during the session regarding the amount of the reserves and how those funds would be expended, along with the results of the upcoming customer satisfaction survey.

Testifying next before the Subcommittees was Peggy Lear Bowen, who stated she was considered an "orphan" PEBP member, having retired from the Washoe County School District after 35 years of service in the State of Nevada. She was a retiree who did not have 40 quarters with Social Security and would not qualify for Medicare. Ms. Bowen said she had put her trust and faith in the State of Nevada to provide a health plan, which she would have had if she had worked for another system and paid into Social Security and Medicare. Ms. Bowen said PEBP was in lieu of the option of Social Security and Medicare, and she was aware that changes to the PEBP system had been made for new employees.

Ms. Bowen opined that Nevada had done it right and did not choose to pay into Social Security and Medicare, but rather chose to offer benefits through its own retirement system and healthcare plan. She noted that Nevada had one of the top retirement systems in the nation because the funds for that system were protected by law and could not be used for other purposes. Ms. Bowen thought that Nevada had also kept the health insurance benefits solid for retirees, who because of dedicated service, had earned the right not to suffer poverty because of healthcare premiums.

Ms. Bowen said she also attended the PEBP Board meetings and was told that there was only an approximately 10 percent dissatisfaction rate. However, an independent audit indicated that there was more than 50 percent dissatisfaction. There was a significant reserve that might be used to subsidize other entities within state government, but was meant to be used for insurance and health benefits for retirees. Ms. Bowen said she was concerned that members were either dying or trying to find other ways to afford healthcare. She did not think the Legislature was being advised that people were not using the HDHP because they could not afford the copay for the high deductible. Therefore, people were not seeking medical services and buying medication until there was an emergency. Ms. Bowen said some retirees could not afford medication because they had reached the "donut hole" in the Medicare Part D plan.

Ms. Bowen said the caveat was that if the Medicare Exchange program did not work, the PEBP Board would rescind the program. When Mr. Wells was asked if that would be possible, his response was "maybe." Ms. Bowen stated that the retirees' well-being was based on a rush-to-judgment new program that used an administrator [Extend Health] that was housed in the state of Utah. She opined that Nevada money for healthcare should stay in Nevada. Also, said Ms. Bowen, the Medicare Exchange programs divided the state into north and south, and she could not travel to Clark County for medical care because she resided in northern Nevada.

Ms. Bowen said it had been quite some time since PEBP had gone out to bid for non-Medicare-eligible retirees, who were the "orphans" or nonstate retirees who belonged to PEBP. Many counties had elected to withdraw from participation in PEBP because of what was occurring with the healthcare plans.

Chair Flores thanked Ms. Bowen for her testimony. The Chair asked Mr. Wells to come forward because there were additional questions from the Subcommittees. She also requested that Mr. Mohlenkamp, Director, Budget Division, be called to answer questions about the budget amendment; the Chair noted there appeared to be some confusion regarding the reserve in the PEBP budget account.

Assemblyman Eisen asked about the variation from year to year over the biennium for the projected contributions, particularly for active employees. The amount of $644.35 was projected for fiscal year (FY) 2014 and the amount of $753.12 was projected for FY 2015.

Mr. Wells explained that the reason for the difference in the amount of the contribution for FY 2014 and FY 2015 was because the Active Employee Group Insurance (AEGIS) budget account that collected the contributions for PEBP would have a projected balance as of June 30, 2013, of approximately

$19 million. Mr. Wells noted that the AEGIS pass-through budget account normally did not carry forward a balance; therefore, the assessment for the next year would be reduced to address the balance remaining in the account from the current biennium. In FY 2015 there would be no balance remaining so the assessment would increase to $753.12.

Mr. Wells stated that PEBP had provided the Budget Division with two proposals, one that would use the entire amount of the balance in FY 2014, which would result in a lower assessment for that year, and the second where the rates would remain within about $10 per month for FY 2014 and FY 2015. The decision regarding how to use that balance would be made by the Budget Division.

Assemblyman Eisen asked for clarification regarding how the total subsidy savings of approximately $47 million would be expended over the upcoming biennium.

Mr. Wells said he would attempt to explain the various reserves. The operating budget account for PEBP, which funded the insurance program, had a projected ending reserve of $47 million. That money could not be reverted to the General Fund because of federal restrictions, so PEBP used that reserve to increase health savings account (HSA) and health reimbursement arrangement (HRA) contributions for participants. The PEBP also used the reserve to lower rates and provide the one-time $2 per month increase to Medicare-eligible retirees.

Mr. Wells stated there was also a reserve in the AEGIS and REGI budget accounts. He explained that those accounts actually had a deficit balance in 2011 and PEBP had added that deficit to the FY 2012 contribution from the state to zero out the deficit. In FY 2013, PEBP was projecting a surplus and the reserve would be offset in FY 2014 by lowering the contribution rate. Mr. Wells explained that PEBP allocated money to the AEGIS budget account on a flat dollar-per-month basis for every employee, but removed money from the budget account based on the plan and tier selection of individual participants. For example, less money would be removed for a single employee and more money would be removed for a participant who covered family members. There was also a difference in contribution rates between the high deductible health plan (HDHP) and the health maintenance organization (HMO) plan; those were the variables that created either a surplus or deficit in the AEGIS and REGI budget accounts.

Mr. Wells said the surplus was created by the amount contributed by the state, but not used for a variety of reasons. One significant reason was that in July 2011, the PEBP Board made a change in the healthcare plans that would not allow coverage for an employee's spouse if the spouse had coverage available through his or her employer. After that change, approximately 2,300 spouses were removed from the plans, which caused a reduction in categories such as a participant going from employee plus spouse to employee only or participant plus family to participant plus children. Mr. Wells stated there was a savings in subsidy costs associated with those category changes, which had generated a portion of the surplus in the AEGIS account.

Mr. Wells said The Executive Budget for the upcoming biennium included decision unit Maintenance (M) 101, which projected 9 percent inflation for the HDHP and 8 percent inflation in the first year of the biennium and 12.5 percent inflation in the second year of the biennium for the HMO plan. However, said Mr. Wells, the HDHP rates had remained flat and PEBP was able to negotiate lower inflation with the HMOs, which generated a savings. That was what was driving the excess money that was now available for the Budget Division to use for other purposes. Mr. Wells said PEBP was simply resetting the inflation percentages that were in the original budget submitted in September 2012. That was the funding that would be used to eliminate the furlough days for active employees in FY 2015.

In the second year of the biennium, said Mr. Wells, The Executive Budget included 8 percent inflation for the HDHP and a reduction of the inflation for HMOs to 9.5 percent because of further negotiations. That decrease in the inflation estimates was part of the available cash to be used by the Budget Division for elimination of furloughs.

Chair Flores noted that Mr. Mohlenkamp was on his way to the hearing; she thanked Mr. Wells for his explanation.

Assemblyman Eisen said the budget included a projection for substantial inflation for the HDHP in the second year of the biennium and he asked for clarification.

Mr. Wells stated that the projection for the second year of the biennium had been lowered from 8.75 percent to 8 percent for the HDHP. He noted that trend was made up of two components, medical inflation and participant use; demographic changes were projected in another decision unit. The original medical inflation for the current year was 7.9 percent, and it was participant use that had dropped that projection to zero.

Mr. Wells said the PEBP Board had made some changes that were paying significant dividends. The Board had adopted a center of excellence (COE) model for organ transplants and bariatric surgeries. Mr. Wells commented that prior to adopting that model, a non-COE facility had negotiated a rate of $116,000 for an organ transplant with no guarantees that there would not be additional costs. However, an organ transplant at a center of excellence would cost $80,000 with a guarantee of no additional costs, which represented a savings of $36,000 on one claim.

Mr. Wells said PEBP believed it was starting to see participant and provider reforms. The participants in the HDHP were becoming more aware of medical bills because they were paying the initial costs rather than simply paying a small copay. Some laboratories had also established a flat rate for a bundled service of claims, and PEBP was seeing a significant decrease in the number of attempts to unbundle claims for laboratory work. Mr. Wells noted that there had been significant participant use of the offers from pharmacies for a 30-day supply of generic medication for $4, and a 90-day supply of generic medication for $10. Those offers had always been available, but in the past PEBP participants had preferred to use the health plan coverage.

Assemblyman Eisen wanted to make sure that the participants in the program were the primary beneficiaries of any savings, and saving $36,000 for an organ transplant should not be the only consideration. Dr. Eisen wanted to ensure that it was not just a “dollar” plan, but a plan that also produced the best outcomes for patients. It was important to look at the long-term outcomes, particularly for organ transplants, because a savings of $36,000 now could become moot in the future if the health of participants worsened. Aside from being a significant tragedy to the participant, it would be the wrong financial decision for the state. Dr. Eisen cautioned against making decisions over the biennium based solely on cost. He was aware that decisions had to be made regarding organ transplants, but PEBP should consider the patient outcomes beyond the biennium when making those decisions.

Mr. Wells stated that it was not his intention to indicate that the centers of excellence were solely chosen because of price: part of the savings occurred because of the number of organ transplants performed and the outcomes of those surgeries. That was how PEBP considered the risk for a centers of excellence that it would allow participants to use. Mr. Wells said the selection was not simply cost-based, but rather was outcome-based, which was the primary focus of PEBP. However, PEBP had been able to negotiate better prices at centers where there were also better outcomes, which Mr. Wells believed was a win-win situation.

Senator Woodhouse asked Mr. Mohlenkamp to come forward to address questions from the Subcommittees.

Jeff Mohlenkamp, Director, Budget Division, Department of Administration, asked Assemblyman Eisen to repeat the questions so he could properly respond.

Assemblyman Eisen asked about the use of funds that were available as savings because of the difference in original projections and what had actually been expended. He asked how those reserves would be used, other than the amounts Mr. Wells had discussed that would be used within PEBP for participants.

Mr. Mohlenkamp said he did not have the total history of the reserve amount, but he understood that PEBP modified its plan structure over the current biennium with the intention of creating some savings, which had materialized. There had been significant cost savings within the program, and some of those costs had manifested themselves in increased reserves and were being added back to the plan participants in the form of additional dollars to the health savings account (HSA). Additionally, said Mr. Mohlenkamp, there would be some savings on an ongoing basis, so when actuaries reviewed use and expected expenditures, those savings had been brought forward within the budget. Those General Fund savings were estimated in the $12 million to $13 million range, excluding the Distributive School Account (DSA).

Mr. Mohlenkamp stated that the Governor made the decision to use those savings to benefit state employees who directly contributed to PEBP. The decision was made to eliminate the remaining three furlough days in fiscal year (FY) 2015. Mr. Mohlenkamp pointed out that only the General Fund savings could be used for that purpose.

Assemblyman Eisen said he was still confused about the total dollar amount that the PEBP had planned to expend that was not expended. He believed there should be an actual dollar amount that would amount to the General Fund portion along with the reserve portion used for reimbursement to active and retiree participants.

Mr. Mohlenkamp said he would work with Mr. Wells to create an accurate statement for the Subcommittees. He only dealt with the General Fund amounts in The Executive Budget. There were other amounts that would assist state employees with healthcare costs, and he would meet with Mr. Wells to ascertain how the reserves would be expended and provide a breakdown to the Subcommittees.

Chair Flores said there were additional questions and recognized Senator Denis.

Senator Denis asked whether the source of the dollars that would be used to eliminate the furlough days were one-time funds.

Mr. Mohlenkamp said it was his understanding that the one-time funding would be used to add to HSAs for active employees. The PEBP anticipated experience factors on a declining basis, which was the reason for the reductions in the subsidy paid by the state, and the Budget Division had reduced the subsidy on an ongoing basis. Mr. Mohlenkamp stated that he was unsure whether the rates would change in the future or whether the rates would be sustainable. He would look at the experience going forward over the next biennium to see whether what had been experienced during the current biennium continued. The PEBP actuaries would continue to review the situation and make determinations, said Mr. Mohlenkamp, which would affect future subsidy changes.

Chair Flores asked whether there were further questions; the Chair recognized Senator Woodhouse.

Senator Woodhouse commented that she was worried about the "orphan" retirees, and she asked PEBP and the Legislature to continue to work on a solution for non-Medicare-eligible, nonstate retirees. Many comments made today were apropos, and Senator Woodhouse believed it was an issue that the Legislature should address. She was also greatly worried about the reduction in participant use of the high deductible health plan (HDHP), which she felt was a "blinking red light" that indicated participants were not using the plan because the deductible was too high. Senator Woodhouse opined that participants were not taking medications as prescribed and failed to obtain preventive care because of the high cost of the HDHP. She believed the Legislature and PEBP should take action to address those problems; the state was not treating its employees and retirees properly.

Mr. Mohlenkamp opined that the Governor was aware of the problems with the HDHP; however, the Governor did not control the actions of the PEBP Board. When the General Fund savings were realized, the Governor wanted to use those funds to benefit state workers, which would be done by eliminating the furlough days.

Chair Flores thanked Mr. Mohlenkamp and Mr. Wells and asked whether there were other questions; there being none, the Chair closed the hearing for the Public Employees' Benefits Program, budget account (BA) 1338.

Chair Flores opened the discussion regarding the Department of Business and Industry, Business and Industry Administration, BA 4681; Nevada Home Retention Program, BA 4679; Real Estate Administration, BA 3823; and the Division of Mortgage Lending, BA 3910. The major issue within those budget accounts was the use of National Mortgage Settlement funds to fund several decision units. The other major issue was the creation of BA 4679, the Nevada Home Retention Program.

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
BUSINESS AND INDUSTRY ADMINISTRATION (101-4681)
BUDGET PAGE B & I-8

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NEVADA HOME RETENTION PROGRAM(101-4679)
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REAL ESTATE ADMINISTRATION (101-3823)
BUDGET PAGE B & I-143

COMMERCE & INDUSTRY
DEPARTMENT OF BUSINESS & INDUSTRY
MORTGAGE LENDING (101-3910)
BUDGET PAGE B & I-279

Jennifer Gamroth, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that The Executive Budget recommended use of National Mortgage Settlement funds via a transfer from the Office of the Attorney General (AG) to the Department of Business and Industry (B&I) to fund several decision units included in the B&I Administration budget account; the Nevada Home Retention Program budget account; the Real Estate Administration budget account; and the Division of Mortgage Lending budget account.

Ms. Gamroth noted that the decision units included in the four budget accounts were decision units Enhancement (E) 225 and E-226. Decision unit E-225 in BA 4679 would continue funding a contract with the University of Nevada, Las Vegas (UNLV) Lied Institute for Real Estate Studies and the publication of a real estate and housing index. The first year of funding for the program was approved for the current fiscal year by the Interim Finance Committee (IFC) on January 23, 2013, in the amount of $103,059. Ms. Gamroth stated that it was a three-year project with a total cost of $498,295.

According to Ms. Gamroth, there had been numerous discussions regarding decision unit E-225. The decisions available to the Subcommittees were:

1. Approve the Governor's recommendation to continue funding for the 2013-2015 biennium for the contract with the UNLV Lied Institute for Real Estate Studies.

2. Disapprove the Governor's recommendation to continue funding and use the amount of $395,236 for another purpose, such as supplementing the Nevada Home Retention Program.

Ms. Gamroth said decision unit E-226 in BA 4679 recommended a new consumer affairs unit within the Director's Office, Department of Business and Industry (B&I). The Executive Budget recommended four new positions and support costs to be funded with National Mortgage Settlement funds. The four new positions included an unclassified administrative law judge position, one compliance/audit investigator 2 position, and two administrative assistant 2 positions. Ms. Gamroth explained that the consumer affairs unit would be strictly limited to program areas within the Division of Mortgage Lending, the Real Estate Division, and the Division of Financial Institutions and would be used to establish complaint-tracking, investigation, and resolution services under the guidance of the National Mortgage Settlement.

By way of background, said Ms. Gamroth, The Executive Budget for the 2009-2011 biennium recommended the elimination of the Consumer Affairs Division. The 2009 Legislature approved Assembly Bill No. 561 of the 75th Session, which temporarily eliminated the Consumer Affairs Division and the position of the Commissioner of consumer Affairs. In addition, the bill temporarily transferred the powers and duties of the Consumer Affairs Division to the Office of the Attorney General. Ms. Gamroth noted that in 2011 the Legislature approved Senate Bill No. 473 of the 76th Session, which continued the suspension of the Consumer Affairs Division through June 30, 2013. The 2013 Legislature would consider Senate Bill 488, which had been requested by the Department of Administration, and would continue that suspension through June 30, 2015.

The decisions for consideration by the Subcommittees were:

1. Approve a limited consumer affairs function within the Division of Mortgage Lending, the Real Estate Division, and the Division of Financial Institutions.

2. Disapprove the Governor's recommendation for the limited consumer affairs function and use National Mortgage Settlement funds of $746,781 over the biennium for another purpose.

Chair Flores asked whether there were questions regarding decision units E-225 and E-226 within the aforementioned budget accounts.

Assemblyman Anderson asked whether there was an alternative funding plan for the contract with the Lied Institute for Real Estate Studies and the publication of a real estate and housing index should National Mortgage Settlement funds not be available.

Ms. Gamroth stated that she had not asked the Department for alternative funding sources, but perhaps Mr. Breslow could provide additional information.

Senator Denis stated that he would also like to discuss the proposed consumer affairs unit with Mr. Breslow.

Chair Flores said the Subcommittees had questions regarding those decision units, and she asked Mr. Breslow to come forward to address those questions.

Bruce Breslow, Director, Department of Business and Industry, introduced himself, Ashok Mirchandani, Deputy Director, and Shannon M. Chambers, Deputy Director, to the Subcommittees. He explained that there were no other employees in the Administration section of the Department of Business and Industry (B&I), with the exception of an executive assistant in the Director's Office, who could search for funding alternatives for the contract with the Lied Institute. Mr. Breslow said there was no alternative funding plan; the only plan was to partner with the Lied Institute. He noted that the Housing Division would also benefit from the publication of a real estate and housing index.

Senator Denis asked about the proposed consumer affairs unit in decision unit E-226 of BA 4681. He pointed out that there had been a Consumers Affairs Division in the past that had been suspended, and it appeared that the current proposal would create a "token" consumer affairs unit. He asked about the plans for that unit and how it would help with consumer fraud.

Mr. Breslow stated that S.B. 488 would continue the moratorium on the Consumers Affairs Division over the upcoming biennium. The original Consumer Affairs Division had been comprised of approximately 50 employees statewide who conducted investigations and handled a significant volume of phone calls. Mr. Breslow said he was originally concerned that the proposal would be to resume the Consumer Affairs Division. However, because the funding was from the National Mortgage Settlement, B&I would focus the efforts of the consumer affairs unit on helping B&I respond to consumer calls and complaints dealing with mortgage lending, real estate, financial institutions, and to assist the Office of the Ombudsman of Consumer Affairs for Minorities of the Nevada Commission on Minority Affairs.

Mr. Breslow said there was currently one position handling complaint calls for all 14 divisions within B&I, and the requested four positions in the consumer affairs unit would assist in tracking complaints, conducting investigations, and providing support for the Ombudsman of Consumer Affairs for Minorities. He stated B&I was attempting to do its best with very limited resources, knowing that the funding from the National Mortgage Settlement could only be used for a two-year period. Mr. Breslow noted that administration would track the workload for the consumer affairs unit so that it could justify the need for those positions to the 2015 Legislature.

Senator Denis hoped, if the budget was approved, that a definite plan could be devised over the biennium to address consumer affairs moving forward, not only in specific areas surrounding mortgage fraud, but also in other areas where fraud might occur. Senator Denis believed that the functions of the original Consumer Affairs Division that were temporarily transferred to the Office of the Attorney General should also be reviewed for possible inclusion in a new consumer affairs unit.

Mr. Breslow said B&I currently did not have the funding or staff to create another consumer affairs division, and he agreed that further discussion should ensue before such a proposal was made. A division that handled consumer affairs should not let consumers down, and had to be focused on consumer issues. Mr. Breslow indicated that he would work on a plan that would return the Consumer Affairs Division.

Senator Denis noted that S.B. 488 was currently before the Senate Committee on Finance, and perhaps language could be added that addressed the creation of a plan over the interim for the Consumer Affairs Division.

Assemblyman Aizley asked whether there was any data regarding the number of complaint calls received by B&I that were not mortgage related; he wondered how consumers would lodge complaints if the consumer affairs unit was not approved.

Mr. Breslow noted that there was no current consumer affairs office; that had been eliminated during the 2009 Session. Currently, staff in the 14 divisions of B&I answered consumer complaint calls and attempted to resolve those complaints. When a complaint was not resolved, constituents would sometimes call their legislators, the Office of the Governor, or the B&I Director's Office.

When calls reached the B&I Director's Office, whether referred from the Constituent Services Unit of the Research Division, Legislative Counsel Bureau, the Office of the Governor, or simply phone calls made directly to B&I, those calls were tracked and a quarterly report was submitted to the Office of the Governor. Mr. Breslow said he did not have that data available today; he noted there was no data available for calls that went directly to the 14 divisions, which accounted for the vast majority of the calls.

Assemblyman Aizley said it appeared there was no information available about the content of the consumer complaint calls.

Mr. Breslow explained that calls received by the B&I Director's Office were tracked on a spreadsheet that depicted the caller's name, the complaint, where the call was referred, and how the complaint was resolved. That information was submitted quarterly to the Office of the Governor; that practice had been initiated by Mr. Breslow when he became Director about four months ago. He stated he did not have information about the individual calls received on a daily basis by the 14 various agencies within the Department.

Assemblyman Aizley asked Mr. Breslow to provide a copy of the latest quarterly report to the Subcommittees, and Mr. Breslow stated he would provide that information.

Chair Flores asked whether Mr. Breslow had envisioned a long-term solution regarding how to deal with the elimination of the Consumer Affairs Division and consumer protection in Nevada. She asked whether Mr. Breslow anticipated that the proposed consumer affairs unit would be one of those components to better track calls and the services provided, even though services would be very limited.

Mr. Breslow said B&I would track calls to determine whether consumer complaints were being addressed. He would need to discuss the possibility of reinstating the Consumer Affairs Division with the Office of the Governor and the Office of the Attorney General (AG), along with how that might be undertaken. Mr. Breslow noted that the AG's Office had assumed the investigative side of consumer complaints, and the General Fund would be the funding source for the Consumer Affairs Division. It would be a joint effort between all entities involved.

Chair Flores stated that she had supported the contract with the UNLV Lied Institute for Real Estate Studies and the publication of a real estate and housing index. The request was for continued funding, but the question remained about what would occur at the end of the biennium. She wondered whether it was a short-term project or whether there were plans for public-private partnership.

Mr. Breslow said Mr. Mirchandani had been directing that program along with Mr. Conklin from the Lied Institute, and they could better answer the Chair's inquiry.

Ashok Mirchandani, Deputy Director, Department of Business and Industry (B&I), said the first goal was to ensure that the contract was up and running, which was the focus at the current time. Mr. Conklin from the Lied Institute would address the Subcommittees about the contract. The B&I was focused on approval of the contracts, securing the data, publication of a housing index, and the production of reports. Mr. Mirchandani stated that the outcome of the report and the perceived usefulness of the report would determine over the next biennium how to fund the contract going forward. The thought was that B&I could engage persons from the private sector to participate in funding.

Mr. Breslow stated that the program should ultimately move to the Housing Division, which would be a good progression for the future because the program would produce the housing index. There was no current statewide data about the housing industry so B&I was anxious to get the contract up and running.

Chair Flores asked whether there was a possibility that the contract would not exist after the 2013-2015 biennium. She wondered whether B&I anticipated continuation of the contract in the future.

Mr. Breslow said when things were going well no one seemed to need the data, but the B&I needed information about the fluctuations in the housing index. The publication would be a natural extension of the Housing Division. Mr. Breslow explained that the Administrator of the Housing Division proposed to hire an economist to fill a vacant position so that once the housing index was in publication, the program could segue to the Housing Division for future use by the Division and the economist. There had never been a published real estate and housing index available in Nevada, and he hoped it would assist B&I and the private sector with access to data.

Marcus Conklin, Associate Director, Lied Institute for Real Estate Studies, UNLV, stated that the contract was a true partnership between UNLV and B&I. Mr. Conklin said he appreciated the work that had been done by the B&I Director, the deputy director, and staff on the project. The Lied Institute was negotiating rates, and the contract was now being reviewed by multiple attorneys for the state and the Institute for final approval, at which point the Institute could actually begin to access data. The Lied Institute was excited about that opportunity.

Mr. Conklin said the purpose was twofold, and because of the joint partnership, the Lied Institute would be able to take advantage of economies of scale and would not be required to purchase two separate sets of data, but rather could purchase one set and share. He opined that made the contract somewhat difficult to negotiate. The Lied Institute would finally be able to consolidate numbers so that policymakers, program evaluators, and persons at all levels would have access to information from one source rather that searching out information from multiple sources. Mr. Conklin said the real estate and housing index would contain data across a broad set of variables that everyone could agree were the numbers that would be used. That would make everyone's job much easier—the Legislature, the Director of the Department of Business and Industry (B&I), and the Housing Division—because everyone would "be on the same page."

Mr. Conklin said the process would be time-consuming, and while he would like to think that the housing market would be fully recovered in two years, he did not believe that would happen. The question remained about the ultimate demand for the data contained in the real estate and housing index, which was unknown. Mr. Conklin noted that Mr. Breslow made a good point when he said that when times were good no one cared about the data, but perhaps a lesson had been learned that the data should be available when the housing market was stable, so everyone could understand the likelihood of a situation like the collapse of the housing market that recently occurred.

Mr. Conklin said he had reviewed several slides from the Chase Bank real estate symposium, and it was amazing in hindsight how big the "bubble" really was, and now it was amazing in hindsight how far the housing market fell. Mr. Conklin stated that, as leaders, the Legislature and the Department of Business and Industry should keep track of fluctuations in the housing market to be proactive in the future.

According to Mr. Conklin, getting the program up and running and delivering a product that was useful, reliable, and that people could agree upon would be helpful. Once the real estate and housing index had been published, everyone would better understand what the future held for the program. It would also be a plus to involve private partners because amassing data was expensive.

Chair Flores thanked Mr. Conklin for his presentation. The Chair asked whether there were further questions from the Subcommittees, and there being none, she asked Ms. Gamroth to continue her budget presentation.

Jennifer Gamroth, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), stated that The Executive Budget recommended a transfer of $49 million in National Mortgage Settlement funds from the Office of the Attorney General to the Department of Business and Industry (B&I) for the Nevada Home Retention Program. In addition to the $49 million in National Mortgage Settlement funds, said Ms. Gamroth, the Director of B&I had indicated that the U.S. Department of the Treasury had agreed to an allocation of up to an additional $100 million for the Nevada Home Retention Program, which would bring the total available to $149 million.

Ms. Gamroth stated that when the Nevada Home Retention Program was first presented to the Legislative Commission's Budget Subcommittee on January 29, 2013, the program was in the initial planning stages. Since that time, B&I had developed a draft business plan. That draft business plan was submitted to various stakeholders who reviewed the plan and made recommendations to B&I. In addition, said Ms. Gamroth, B&I held two meetings with the stakeholders to discuss various issues and to provide input. Based on those discussions, the B&I presented a final business plan, a copy of which had been provided to members as Exhibit D, "State of Nevada, Department of Business and Industry, Home Means Nevada, Home Retention Program."

Ms. Gamroth indicated that the business plan anticipated acquiring nearly 4,600 mortgages over a seven-year period, with a goal of retaining 50 percent of the individuals holding those mortgages in their homes. The program would be administered by a nonprofit organization under the direction of a board, which would be specifically created for that purpose. Ms. Gamroth said the makeup of the board was outlined in Exhibit D. Private sector business would play a major role with various aspects of the program and would be contracted with to carry out the professional services required to conduct the program.

According to Ms. Gamroth, once the initial program funding was acquired, governance would be formalized and contracts signed with service providers. The nonprofit organization would then act judiciously to acquire mortgages that were from 90 to 180 days delinquent. Delinquent, underwater Federal Housing Administration (FHA) backed mortgages would be evaluated and purchased, with prices determined by the quality of loans purchased, market value, and the probability of home retention. Ms. Gamroth stated that qualified mortgages would be acquired at approximately 70 percent of the home's current market value. An asset manager would be contracted with by the nonprofit organization and would conduct the loan-level due diligence review and information audit to make an informed recommendation to the board.

Ms. Gamroth stated once the nonperforming loans were procured, loan-servicing rights would be transferred to the master servicer within 30 days. Loans purchased would be modified, refinanced, or sold. This was a principal reduction program, which would leave the original interest rate intact as long as it fell within a floor-ceiling range to be determined. Loans that were outside that range might be modified if the program chose. The new notes would be for 100 percent plus 20 percent of current market value. Ms. Gamroth said the 20 percent portion of the note was without interest to incentivize homeowners to work with the contracted housing counseling agencies to bring their total monthly debt obligations below 45 percent of their total monthly income within two years. That would enable homeowners to build their credit profile and enhance their eligibility for refinance within a reasonable time frame. Once the homeowner was in position to refinance the loan and exited the program, 20 percent of the initial note would be forgiven.

Ms. Gamroth stated that borrowers would be contacted by a certified Nevada housing counseling agency, which would complete a client assessment, obtain required program information, and complete a financial analysis prescribed by the program for the homeowner's participation in the program. If a homeowner did not qualify, even after the revision to the mortgage terms, transition assistance would be offered—up to $5,000 per homeowner was the current proposal. Homeowners who were unwilling to participate would also be relocated to a suitable rental property under the relocation assistance program made available to them. If the home was not occupied by the homeowner and was being rented or leased, renter assistance would also be offered to the renter or lessee. The homeowners would be offered a choice of taking a deed in lieu or proceeding with a traditional foreclosure. Ms. Gamroth stated that upon completion of either process, the vacated property would be rehabilitated, if necessary, and marketed for sale to first-time homebuyers and other qualified persons with a stipulation of owner occupation.

Ms. Gamroth said it was her understanding that the homes would not be sold to investors. Only as a last resort would the program take back ownership of the property of a borrower who was unable or unwilling to participate in the program. The program would replenish funds by selling 75 percent to 80 percent of the repackaged seasoned loans to hedge funds and financial institutions such as state-chartered banks and credit unions. Ms. Gamroth indicated that the proceeds from the sale of properties that did not qualify for the Nevada Home Retention Program would also be returned to the program, along with scheduled principal and interest payments on the portfolio of loans serviced by the asset manager. Return of those funds to the program would enable the program to purchase additional nonperforming loans to assist more Nevada homeowners.

Ms. Gamroth offered the following list of requirements to qualify for participation in the Nevada Home Retention Program:

- Homeowners with FHA-qualified loans who were delinquent 90 to 180 days in their mortgage payments.
- Homeowners who purchased their homes between 2002 and 2008.
- The home must be owner-occupied.
- The current principal balance could not be more than the FHA loan limit of $417,000.
- Homeowner must agree to the requirements of the program, including financial counseling to assist the homeowner in bringing his debt ratio and credit rating up to standards that would allow the homeowner to qualify for a standard mortgage.

Ms. Gamroth said the program was designed to wind down by June 2021 with the last purchase being completed by June 2020. The mortgages retained by the program would be sold as soon as possible in early 2021. The B&I proposed that any proceeds from the sales remaining from the Nevada Home Retention Program would be returned to the State General Fund after all obligations were paid.

According to Ms. Gamroth, details regarding the organization of the nonprofit entity and the board were included in the "Organization" section of the business plan (Exhibit D). The business plan also included information pertaining to information technology systems; loan sourcing; program outreach; underwriting of loans; program services contracting; encumbrances and liens; record retention; statutory and regulatory compliance; program partners; closing costs; program reporting; program controls and fraud prevention; program reserves; projected program financials; cost analysis; exit strategy; program enhancements; and frequently asked questions.

Ms. Gamroth stated that the decisions for consideration by the Subcommittees were:

1. Approve the Governor's recommendation to transfer $49 million in National Mortgage Settlement funds from the Office of the Attorney General to B&I to be used for the Nevada Home Retention Program for the 2013-2015 biennium as outlined in the proposed business plan (Exhibit D). If approved, at budget closing the Subcommittees might wish to consider issuing a letter of intent to B&I to report to the Interim Finance Committee on a quarterly basis regarding the status of program implementation and the ongoing management and success of the program. Updated information on the status of the implementation and the ongoing management and success of the program would be helpful because the business plan was still a work in progress, and many features were subject to change such as the final allocation approved by the U.S. Department of the Treasury to supplement the program.

2. Approve the Governor's recommendation to transfer $49 million in National Mortgage Settlement funds from the Office of the Attorney General to B&I for a Nevada Home Retention Program modified per the Subcommittees' direction.

3. Disapprove the Governor's recommendation to transfer $49 million in National Mortgage Settlement funds from the Office of the Attorney General to B&I for the Nevada Home Retention Program as outlined in the Department's business plan (Exhibit D).

Ms. Gamroth said that concluded her presentation regarding the Nevada Home Retention Program.

Chair Flores thanked Ms. Gamroth for her presentation and recognized Assemblyman Hardy.

Assemblyman Hardy noted that if the $49 million was allocated from National Mortgage Settlement funds, the program would begin to identify the homeowners and mortgages that qualified for the program. The goal of the program was to retain 50 percent of the individuals holding the mortgages in their homes, and he opined that there would be a need for legal and marketing staff. Mr. Hardy wondered whether that staff would be provided by the state or the private sector and he asked about the source of funding for staff.

Bruce Breslow, Director, Department of Business and Industry (B&I), stated that the Nevada Home Retention Program was very lean—5 percent of the funding would be used for administrative costs—and there would only be a handful of staff including a program director, an executive assistant/board secretary, a management analyst, and an auditor. The program would also hire a certified public accountant and others from the private sector to manage the functions of the program. Mr. Breslow reiterated that only 5 percent of the funding would be used for administrative costs.

Mr. Breslow advised that there had been some major changes in the Nevada Home Retention Program as depicted in Exhibit D, which he would be happy to review for the Subcommittees.

Chair Flores hoped that members of the Subcommittees had reviewed the proposed business plan as described in Exhibit D, which contained the details of the program. The exhibit was available on the Nevada Electronic Legislative Information System (NELIS), and the business plan included a summary of positions and use of funds that very well identified the use and purpose of the funds. Chair Flores stated that page 25 of the exhibit contained pertinent information regarding the funds.

Mr. Breslow said B&I believed it was important to reach out to persons who were involved in the housing industry within Nevada, and in so doing, the B&I had created a stakeholder group of people who were interested in improving and evolving the industry.

Mr. Breslow stated that there were several stakeholders at the hearing today in support of the Nevada Home Retention Program, and he introduced the following:

- Tisha R. Black, Esq., attorney at law.
- Zolt Szorenyi, President, Lenders Clearing House.
- Bradley W. Beal, President, One Nevada Credit Union.
- Alan Cassell, Director, Heartland Sustainable Housing.
- James V. deProsse, Administrator, Housing Division, Department of Business and Industry.
- Rob Wigton, Chief Executive Officer, Nevada Association of Realtors.
- Marcus Conklin, Associate Director, Lied Institute for Real Estate Studies, UNLV.

- Andrew Hunter, Chief Executive Officer, Silver State Schools Credit Union.
- Janice Grady, Board Member, Nevada Association of Mortgage Professionals.
- Noah Herrera, Greater Las Vegas Association of Realtors.

Mr. Breslow stated that B&I had invited Jennifer Gamroth, Program Analyst, Fiscal Analysis Division, LCB, to attend the stakeholder meetings so she could keep pace with the changes in the Nevada Home Retention Program, and he believed that had been very successful.

There had been two major changes to the Nevada Home Retention Program since the first budget overview in January 2013, said Mr. Breslow, and one was dispersing the funds that would remain in the program upon completion. At the end of the program, the amount anticipated for reversion to the General Fund would be at least triple the original amount invested.

Chair Flores asked whether that was triple the entire $149 million investment, or the $49 million in National Mortgage Settlement funds. Mr. Breslow replied that the projection was to revert approximately $180 million to the State General Fund at the end of the program in eight years.

The second major modification, said Mr. Breslow, involved the initial plan to refinance the notes of the persons who owned the mortgages that were purchased in the pool from the Federal Housing Administration (FHA) at 100 percent of market value. However, the stakeholders in the financial industry advised B&I that if the persons continued to have credit issues and failed to make strides to correct their credit habits, it would be difficult to sell the notes. Therefore, said Mr. Breslow, B&I had added a component to the program that would address that issue and also address skepticism about people scamming the system.

Mr. Breslow stated that the program would refinance homeowners back to 100 percent plus 20 percent of current market value. The 20 percent was a no interest portion and as long as the note owner worked with the housing and credit counselors to keep credit margins down, upon exit of the program and sale of the home, the 20 percent would be forgiven. Mr. Breslow said that would keep people focused on making sure their credit improved and remained stable.

In addition, said Mr. Breslow, the goal of the program was to retain 50 percent of the persons in their homes with stabilized mortgages. At that rate, the program would create approximately 2,300 individual construction jobs to rehab the homes, and there would be 2,300 individual real estate transactions including real estate fees, which would involve the private sector. Mr. Breslow hoped the program could achieve 50 percent, but there might be more homes that had to be rehabbed and sold. Private industries such as associated general contractors and realtors had become more active in building the program because it would invigorate the private sector.

Mr. Breslow said the program that had been created would not be another "handout," similar to other federal programs, but rather B&I wanted to create a program for Nevada that would encourage people to work to improve their credit, and one that would return the money back to the State General Fund once the notes were sold. Mr. Breslow said B&I believed it was a good program, but one that was still evolving.

Mr. Breslow stated that Exhibit D was the final business plan and a copy had been hand-delivered to the U.S. Secretary of Housing and Urban Development in Washington, D.C. by the Governor. Mr. Breslow advised that B&I would continue to work with all stakeholders, the federal government, and the Legislature to ensure that the Nevada Home Retention Program was as good as possible.

According to Mr. Breslow, the person who thought of the idea for a Nevada Home Retention Program was Ashok Mirchandani, Deputy Director of the Department. Mr. Breslow presented Mr. Mirchandani with an Excellence Award from the Director's Office of the Department of Business and Industry (B&I) that had been developed for employees who did exceptional work.

Chair Flores congratulated Mr. Mirchandani on his award. After the original presentation regarding the program in January 2013, there had been many questions, but when she received the final business plan [Exhibit D] she had poured over the plan and found it extremely well-detailed. Chair Flores said the report had answered her questions, and she appreciated the effort that had gone into the development of the Nevada Home Retention Program. The effort to include the various stakeholders was also appreciated, and Chair Flores thanked those who had voluntarily participated in the effort to develop the program.

Chair Flores stated that there were questions from the Subcommittees and recognized Assemblyman Anderson.

Assemblyman Anderson echoed Chair Flores' comments and stated he had spent many hours with Mr. Breslow regarding the program. He said he had additional questions about the technical details, but understood that it was a fluid process. Mr. Anderson said he was at a point where he was comfortable with the process and was impressed with the way the program was developing. Mr. Anderson said he was excited that some of Nevada's homeowners would receive help.

Chair Flores said she was concerned about the asset manager. The state had received the National Mortgage Settlement funds, unfortunately, because private industry played a very large role in the collapse of the housing industry, and now those funds would be returned to the industry via the Nevada Home Retention Program. Chair Flores was aware that the asset manager would be selected through a request for proposal (RFP) process, and there would also be some nonprofit involvement and private sector involvement in the program.

Chair Flores stated that the service provider expense for the asset manager fees was $2 million in the first year of the program, $1,148,675 in the second year, and steadily declining over the course of the program [page 25, Exhibit D]. She asked whether B&I anticipated working with a nonprofit or a financial institution. The Chair asked who would apply and who would have the capability to compete as the asset manager for the Nevada Home Retention Program.

Mr. Breslow said the details could be explained by Mr. Mirchandani, but it would be through a RFP or request for qualifications (RFQ) process. He pointed out that it was not only the private sector industry that created the housing collapse, but also the federal government guaranteeing any and all loans that escalated the problem.

Ashok Mirchandani, Deputy Director, Department of Business and Industry (B&I), pointed out that the Nevada Home Retention Program was not an expense program, but rather was an investment program. The money would return to the State General Fund at the completion of the program. Mr. Mirchandani stated that the asset manager should consider the program as incremental business rather than a sole business. It could be an add-on program because the number of notes that could be procured was unknown, and how much business there would be for the asset manager was also unknown. The program would be well-suited to an asset manager that was already in business and would take on an additional program.

Mr. Breslow noted that the asset manager would be paid per transaction, and there would be no significant consulting fee.

Assemblyman Eisen appreciated the comment about an investment program, because he believed that was a concept that should be more widely used. Dr. Eisen asked about the $49 million in National Mortgage Settlement funds and whether that was the amount required by the U.S. Department of the Treasury to access the federal funding.

Mr. Breslow explained that the Office of the Attorney General (AG) had formed a committee that entertained proposals about how to use National Mortgage Settlement funds. He noted that $30 million was awarded to a separate use by the AG for outreach programs. To access the additional funding, B&I had submitted a proposal, along with other entities, and the committee had selected the Nevada Home Retention Program. Mr. Breslow stated that $49 million was the remaining balance of the National Mortgage Settlement funds, and the committee believed the program was significant and should receive the final contribution. Mr. Breslow noted that Mr. Beal was present at the hearing and had sat as a member of the committee formed by the AG.

Bradley W. Beal, President, One Nevada Credit Union, stated he had served on the committee formed by the AG regarding the National Mortgage Settlement funds. The committee reviewed proposals from a number of industry groups and also considered the proposal from B&I for the Nevada Home Retention Program. Mr. Beal said the committee believed that the B&I proposal was much more comprehensive and far-reaching, and it was an investment rather than an expenditure of funds. Therefore, said Mr. Beal, after the committee had reviewed the various alternative proposals, it recommended approval of the proposal submitted by B&I.

Chair Flores asked how the committee arrived at the figure of $49 million for the Nevada Home Retention Program.

Mr. Beal explained that the AG had committed funds to a number of other programs, and the amount of $49 million was the remaining balance of National Mortgage Settlement funds.

Assemblyman Eisen said the $49 million was the entirety of any remaining funds in the National Mortgage Settlement, and he wondered whether the allocation would leave room for any other use of those funds.

Mr. Beal stated that the AG would be better qualified to answer that question, but it was his understanding that the $49 million was the remaining balance of National Mortgage Settlement funds.

Chair Flores asked whether there were further questions from members of the Subcommittees, and there were none. She understood that persons were present who had participated in the creation of the Nevada Home Retention Program and she opened Public Comment at the Las Vegas location.

Mr. Beal stated that One Nevada Credit Union was the largest credit union in Nevada and served approximately 75,000 Nevadans; One Nevada Credit Union had been in business for 63 years. Mr. Beal said One Nevada Credit Union had been actively engaged in mortgage lending for over 30 years and had seen the tragedy and heartbreak of the collapse of the real estate market.

Mr. Beal said he had been very pleased to be asked by the AG to serve on the advisory committee regarding National Mortgage Settlement funds. What was particularly special about the Nevada Home Retention Program was that the substantial discounts being offered by the FHA would enable the program to offer some significant principal reductions to the troubled homeowners, which was a very unique and special opportunity for the state. Mr. Beal thanked Mr. Breslow and his staff for working with the FHA to make those discounts possible.

Secondly, said Mr. Beal, for those homeowners who were unable to finance and had vacated their homes, the program would create a source of resale inventory for the more traditional owner-occupants. Mr. Beal stated that traditional home buyers were being shut out of the market by cash investors, and it was difficult for them to purchase homes. Resale of those homes would help improve the neighborhoods because the abandoned and neglected homes would become owner-occupied, and pride of ownership would begin to take effect.

Mr. Beal said the program would be funded by National Mortgage Settlement funds and the U.S. Department of the Treasury, without using General Fund monies or taxpayer dollars, which was a benefit of the program. According to Mr. Beal, there would be a multiplier effect between the amount FHA was willing to discount the notes, the money from the National Mortgage Settlement, and the funding from the U.S. Department of the Treasury, and that would enable the program to generate many multiples of dollar benefits for the initial investment. For those reasons, said Mr. Beal, he and One Nevada Credit Union urged the Legislature to support the Nevada Home Retention Program as it was embodied in the budget account for B&I.

Testifying next was Tisha R. Black, Esq., who stated she was a real estate attorney in Las Vegas. Ms. Black said she had worked in the real estate industry in Nevada for 14 years as an attorney, and her family was third generation in real estate in Nevada. Ms. Black said she had a vested interest in the Nevada Home Retention Program because of the potential for the state to provide new opportunities for people who had been crushed by investments in the real estate market, not only commercial, but also residential.

Ms. Black stated that her clients ranged from residential borrowers to commercial borrowers, and she was quite familiar with the myriad of programs that had been offered, not only through private lending institutions, but also at the national level such as the Home Affordable Refinance Program (HARP) and the Home Affordable Modification Program (HAMP).

Ms. Black believed that the handicap for Nevadans was that there was no program that addressed principal reductions, and given the blow to the equity in the housing market and the real property market together, the principal reductions offered by most programs were minimal at $5,000 to $10,000 on the residential level. Ms. Black noted that most homeowners were facing depreciation in residential values of at least $150,000 on the average price of $326,000 for a single-family home.

Ms. Black said she was very pleased with the program because it was not a handout, but rather was an investment opportunity for the state. The program was also a rehabilitation opportunity for borrowers, many of whom when foreclosed out became the next generation of renters because their credit had been destroyed. Ms. Black opined that the product offered by the program that would rehabilitate the home and allow homeowners to remain in the home while not only realizing a value increase in the property, but also an increase in their credit score, was unusual in the nation.

Per Ms. Black, Nevadans needed to address the problems in Nevada and the Nevada Home Retention Program provided the opportunity to set Nevada apart from every other program in the nation, not only because of the program's creativity, but because of the investment in Nevadans and Nevada's economy through creation of a program that had a potential for return.

As an aside, Ms. Black noted that she had also participated in a working group on Assembly Bill No. 284 of the 76th Session (2011) with the Attorney General. Ms. Black said the bill changed the way foreclosures were conducted in the state.

Ms. Black indicated that Mr. Breslow and Mr. Mirchandani had asked for her opinion about foreclosures in the program. She did not believe there would be a problem because the program would ensure that it received the entire loan file, which would include a copy of the note and the deed of trust or mortgage. Having those two principal pieces of evidence in relation to the foreclosure model would remove any concerns about complaints of foreclosure being difficult in Nevada.

Ms. Black echoed Mr. Beal's sentiments, and she urged the Legislature to support the Nevada Home Retention Program.

Testifying next before the Subcommittees was Andrew Hunter, Chief Executive Officer, Silver State Schools Credit Union. Mr. Hunter stated that Silver State Schools Credit Union was a $600 million credit union that served 60,000 members that included employees of Clark County School District; the University of Nevada, Las Vegas; Nevada State College; family members of employees; and many others.

Of particular relevance, said Mr. Hunter, the Silver State Schools Credit Union had over $300 million in first mortgage loans to Nevada residents, mainly in Clark County, and had seen firsthand the effect of the decrease in home values on its members.

Mr. Hunter said he was present to express support for the Nevada Home Retention Program. While not every government intervention in economic issues proved successful, Mr. Hunter believed the current proposal had an extremely high probability of success. He commended the process by which the program had been organized because the Department of Business and Industry (B&I) had invited the appropriate mortgage market participants to take part in the program, and it appeared that B&I had taken the advice of those participants seriously. Mr. Hunter said the industry had confidence in the program because it took part in its design.

Mr. Hunter emphasized that there was a contagion factor. He commented that even though the Nevada Home Retention Program indicated that only a certain number of borrowers would be directly helped, it had been his experience that foreclosures and home vacancies were contagious, and similarly homeowners remaining in their homes and making their payments would also be contagious. Mr. Hunter believed that not only those persons who were directly helped through the program but also others living in the neighborhoods would benefit from the program.

According to Mr. Hunter, the key point was the ability to acquire home mortgages at 70 percent of the current value of the property. That would allow the borrower to reduce his indebtedness and ongoing payments, and would create the ability for the financial institution to hold the loan at a prudent loan-to-value ratio. It also created the ability for the state to make back its investment. Mr. Hunter stated that was why the industry had such confidence in the program.

Mr. Hunter stated that the Silver State Schools Credit Union was a mortgage lender and was a prospective purchaser of the home loans that would be sold to private parties. Mr. Hunter noted that the Nevada Home Retention Program was still evolving, and he could not commit that the Silver State Schools Credit Union would make those purchases; however, mortgage loans to Nevada residents at a prudent loan-to-value ratio and with interest rate risk management would be very attractive to the credit union.

Mr. Hunter believed that part of the program would move forward successfully. He believed that existing borrowers and the Silver State Schools Credit Union as a whole would benefit from the Nevada Home Retention Program. He urged the Subcommittees to support the program.

Testifying next was Janice Grady, board member and past president of the Nevada Association of Mortgage Professionals (NAMP). Ms. Grady stated she was also the qualifying employee at Lending Tree. She echoed the previous comments and voiced support for the Nevada Home Retention Program. Ms. Grady said she had reviewed the program with the NAMP board, which also supported the program because it would help everyone involved in the real estate industry, including loan officers.

Chair Flores asked whether there was further testimony from Las Vegas, and there was none. She thanked those persons in Las Vegas who had assisted B&I in the creation of the program.

The Chair asked persons in Carson City to come forward and present testimony.

Alan Cassell, Director, Heartland Sustainable Housing, a division of Heartland Coalition and a 501(c)(3) nonprofit corporation, introduced himself to the Subcommittees. He complimented the Department of Business and Industry (B&I) on the business plan for the Nevada Home Retention Program. Mr. Cassell said the history of Heartland Sustainable Housing in Nevada over the past two years was purchasing through different programs directly from banks and rehabilitating over 400 homes over the past 18 months. Those rehabilitated homes were then made available to low- to moderate-income homeowners, which resulted in converting 80 percent of those homes to owner-occupied.

Mr. Cassell said the belief of Heartland Sustainable Housing had always been that there needed to be a better stabilization program to keep people in their homes rather than simply thinking stabilization occurred by creating home ownership opportunities. He indicated that Heartland Sustainable Housing believed that the Nevada Home Retention Program contained such a stabilization program.

Mr. Cassell stated that Heartland Sustainable Housing would be happy to support facilitation of the program in any way possible.

Testifying next was Zolt Szorenyi, President, Lenders Clearing House, who stated he was present to support the Nevada Home Retention Program. With the stabilization factor, Mr. Szorenyi believed it was a great opportunity for the homeowners and the real estate community. There were many moving parts to the program, but he believed it would pull the industry and the public together to protect the state's investment for a better and faster recovery in the real estate market.

Chair Flores thanked Mr. Cassell and Mr. Szorenyi for their testimony. There being no further testimony, the Chair closed Public Comment.

Chair Flores asked Ms. Gamroth to continue her budget presentation.

Jennifer Gamroth, Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau (LCB), said decision unit Enhancement (E) 225 in budget account (BA) 3823, Real Estate Administration, recommended restoring seven positions and increasing an existing administrative assistant 3 position from a 0.60 full-time-equivalent (FTE) position to a 1.0 FTE position, funded with National Mortgage Settlement funds.

Ms. Gamroth stated that the narrative in The Executive Budget indicated that by restoring those positions, the Real Estate Division would be able to perform activities related to real estate fraud enforcement, compliance, and licensing, which would accomplish the intent of the National Mortgage Settlement by providing greater oversight of the real estate industry. In addition, the Division indicated that the recommended positions would also staff the Division's projects section, which provided oversight of time-share sales and the sale of subdivided land for new housing developments.

According to Ms. Gamroth, in response to a request for additional information, the Division indicated that while many of the workload statistics were not significantly increasing from fiscal year (FY) 2012 to FY 2015, staffing levels for the Real Estate Administration budget had been reduced by 14.8 FTE positions, or 46 percent from FY 2010 levels. The agency had provided supporting documentation that indicated work backlogs and processing times had increased significantly for the licensing, compliance, and projects sections. For example, said Ms. Gamroth, in FY 2010 the average processing time of an application was 6 to 8 weeks and the current average processing time was 10 to 14 weeks. The average number of cases under investigation had increased from 150 in FY 2010 to 335 in FY 2012. Ms. Gamroth said the project section, which according to the Division had only one dedicated position, had a backlog of time-share filings for amendments and renewals that were more than one year old. The Division indicated that staffing levels for the past two years were not adequate for proper response to persons attempting to do business in the state or for public protection through prompt handling of compliance investigations.

Ms. Gamroth stated that in response to inquiries about how the seven positions would be funded after the 2013-2015 biennium, the Division testified at the March 5, 2013, budget hearing that it would explore the feasibility of moving the Real Estate Administration budget account to a fee-funded, self-supporting budget. Currently, *Nevada Revised Statutes* (NRS) required the Real Estate Division to deposit all fees, penalties, and charges received by the Division to the Office of the State Treasurer for credit to the General Fund.

Ms. Gamroth indicated that the Division had provided Legislative Counsel Bureau (LCB) Fiscal Analysis Division staff with information that demonstrated if the fees currently deposited directly to the General Fund were instead deposited to the Real Estate Administration budget, the General Fund appropriation in that budget for each fiscal year could be eliminated, and there would be sufficient fee revenue to support the seven new positions recommended in future biennia. Moving BA 3823 to a self-supporting, fee-funded budget would require changes to several chapters of the NRS. Additionally, if the fees were directly deposited to the Real Estate Administration budget account in future biennia to fund the seven new positions, the amount that was currently reverted to the General Fund would be reduced unless fee revenues increased.

Ms. Gamroth informed the Subcommittees that the decisions for consideration were:

1. Approve the Governor's recommendation to fund the restoration of the seven positions and increase the existing administrative assistant 3 position to a 1.0 FTE position to be funded with National Mortgage Settlement funds.

2. Disapprove the Governor's recommendation to fund the restoration of the seven positions and the increase of the existing administrative assistant 3 position, and use the recommended amount of $648,160 for the biennium to supplement other programs, such as the Nevada Home Retention Program, or for another purpose in accordance with the National Mortgage Settlement agreement.

Chair Flores asked whether there were questions from the Subcommittees regarding decision unit E-225 in budget account (BA) 3823, and there being none, the Chair asked Ms. Gamroth to continue her presentation.

Ms. Gamroth stated that the next item for consideration by the Subcommittees were two decision units in the Division of Mortgage Lending, budget account (BA) 3910, that were recommended to be funded with National Mortgage Settlement funds. The first decision unit, E-225, recommended four new positions and other costs to fund a mortgage fraud enforcement unit. The

Division indicated that it intended to increase its focus on identifying instances of mortgage fraud and aggressively pursuing disciplinary enforcement with the four new positions. One additional investigator position was recommended to obtain access to online investigative and research tools and to provide training for examiners and investigative staff to support the Division's efforts to develop public and industry outreach programs related to mortgage fraud.

Ms. Gamroth stated that the program officer 1 position would administer the efforts to develop public and industry outreach programs related to mortgage fraud. The legal research assistant 2 position would research legal issues and complete the drafting of administrative orders and policy decisions pertaining to licensing and regulatory issues. The administrative assistant 3 position would provide clerical support to the mortgage fraud enforcement unit.

At the March 5, 2013, budget hearing, said Ms. Gamroth, the Division was asked to provide justification and additional information and supporting documentation for other costs recommended in the decision unit for out-of-state travel, in-state travel, printing, postage, equipment, and other operating costs. The Division recently provided LCB Fiscal Analysis Division staff with the requested information, and based on a quick review of that information, it appeared that the agency had made adjustments. However, LCB Fiscal Analysis Division staff was currently in the process of analyzing the additional information and would provide the Subcommittees with a complete analysis at budget closing.

Ms. Gamroth stated that the second item in the Division of Mortgage Lending, budget account (BA) 3910, was decision unit E-226, which recommended that the funding source for eight existing positions currently funded with fees and assessments be changed to National Mortgage Settlement funds. According to the narrative in The Executive Budget, the eight existing positions would be part of the mortgage fraud enforcement unit, recommended in decision unit E-225 as previously discussed. Ms. Gamroth said it was important to note that the fees which supported the budget had continued to steadily decline. Since fiscal year (FY) 2008, revenues in the budget account had not been sufficient to cover expenses, which resulted in the need to use reserves to offset expenditures beginning in FY 2009. Additionally, to remain within budget, a total of 23 positions had been eliminated since FY 2009.

Ms. Gamroth noted that if the Subcommittees ultimately approved decision unit E-226, the National Mortgage Settlement funds would only be available for the next two years. If the revenue issues were not addressed, funding to continue the eight existing positions after the 2013-2015 biennium would again be of concern. Approval of the decision unit would allow the agency to build up its reserves, which could be used in future biennia to compensate for any shortfalls in fee revenues. However, said Ms. Gamroth, if using National Mortgage Settlement funds for the eight existing positions was not approved, based on fee-revenue projections provided by the Division, the Division of Mortgage Lending budget would have sufficient fees and reserves to fund the eight positions, and the four new positions requested in decision unit E-225, through FY 2016. Also, the Division would have exhausted 100 percent of its reserves in FY 2017 and would realize a projected revenue shortfall of approximately $190,000.

Ms. Gamroth stated at the March 5, 2013, budget hearing the Division indicated that it was experiencing an increase in fees collected, and it felt the economy was turning around. The Division indicated that the fee revenues should be sufficient in future biennia to cover the costs of the eight positions. The Division of Mortgage Lending fees were statutorily limited, and the Division indicated it was currently conducting an analysis of its fee structure by program to identify where adjustments might be necessary for the Commissioner of the Division of Mortgage Lending to carry out his duties as required by law.

Ms. Gamroth informed the Subcommittees that the decisions for consideration were:

1. Approve the Governor's recommendation in decision unit E-225 and decision unit E-226 or one of the two.

2. Disapprove the Governor's recommendation for four new positions and other costs to fund a mortgage fraud enforcement unit in decision unit E-225 and disapprove the Governor's recommendation to change the funding source for eight existing position from fees to National Mortgage Settlement funds in decision unit E-226. The National Mortgage Settlement funds could then be used for another purpose such as the Nevada Home Retention Program.

Chair Flores asked whether there were questions regarding the Division of Mortgage Lending.

Based on the comments made at the previous budget hearing in March 2013, Assemblyman Eisen wondered whether there was some sense of scale for the increased fee revenues and whether the amount of money that was sought from the National Mortgage Settlement funds for the Nevada Home Retention Program might generate additional funds.

Bruce Breslow, Director, Department of Business and Industry, stated he would attempt to answer Assemblyman Eisen's question. He noted that what had caused the problem was the decline in mortgage transactions; however, the number of fraud cases had not declined. Until the housing market rebounded, it was believed that the infusion of National Mortgage Settlement funds in the Division's budget over the upcoming biennium would maintain the funding level necessary for continuation of fraud investigations.

Assemblyman Eisen asked whether the fees had increased sufficiently to alter the recommendation for the temporary infusion of National Mortgage Settlement funds.

Mr. Breslow said Ms. Leigh could better answer that question.

Vicki Leigh, Administrative Services Officer 1, Department of Business and Industry, introduced herself to the Subcommittees. Ms. Leigh clarified that the budget projections provided to LCB Fiscal Analysis Division staff were very conservative. The revenue was projected to remain flat through FY 2017, while the website for the Department of Employment, Training and Rehabilitation (DETR) showed projections of about 3 percent growth in the housing industry. Ms. Leigh said that by projecting a flat budget, which would carry the Division of Mortgage Lending through FY 2017, and in light of DETR's projections of the 3 percent increase annually in the housing industry, she believed that the budget projections would maintain the solvency of the Division through FY 2017.

Ms. Leigh said the budget account included the influx of funds from the National Mortgage Settlement to fund the eight positions and the four new positions, which she believed were in line with the mandates of the National Mortgage Settlement.

Chair Flores said for the Subcommittees to make a decision regarding the budget for the Division of Mortgage Lending, a decision had to be made whether to infuse the budget account with temporary money or defer the use of the National Mortgage Settlement funds for another purpose. The question was whether the trend would continue to increase sufficiently to maintain budget account (BA) 3910 as a fee-funded account. Chair Flores noted that the account would be self-sustaining through FY 2017, at which time the reserves would be depleted.

Assemblyman Eisen said the original projection was that approximately $2.4 million would be needed to bridge the gap in the budget account and to reinstate some positions that had been cut. However, at the budget hearing in March 2013, the information was that the fees had increased and revenue projections would also increase. Dr. Eisen wondered whether that infusion of funds would reduce the original projection.

Mr. Breslow said he would like the Commissioner of the Division of Mortgage Lending to address that inquiry with data and figures. He indicated that he would instruct James Westrin, Commissioner, to submit that information to the Subcommittees in writing.

Ms. Gamroth advised the Subcommittees that LCB Fiscal Analysis Division staff had received a response from the Division that included backup documentation about the revenue projections. The Division projected that it would be able to sustain operations with existing revenue, based on fee projections, up to FY 2017. However, in FY 2017 the Division would be short by approximately $190,000 after all reserves had been used.

Mr. Breslow indicated that the revenue projections did not include funding for the four new employees.

Ms. Gamroth concurred and stated that the recent projections included the four new employees funded with National Mortgage Settlement funds. The current recommendation was to fund the Division with National Mortgage Settlement funds over the 2013-2015 biennium. After the 2013-2015 biennium when those funds were no longer available, the Division could still fund the four new positions plus the eight existing positions with fees and reserves, but would fall short by $190,000 in FY 2017.

Chair Flores asked whether there were further questions or testimony to come before the Subcommittees, and there were none.

The Chair adjourned the hearing at 10:53 a.m.

RESPECTFULLY SUBMITTED:

Carol Thomsen
Committee Secretary

APPROVED BY:

Assemblywoman Lucy Flores, Chair

DATE:

Senator Joyce Woodhouse, Chair

DATE:

EXHIBITS

Committee Name: Committee on Ways and Means

Date: April 5, 2013 **Time of Meeting: 8:08 a.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
**	C	Priscilla Maloney, AFSCME	Letter dated April 4, 2013
**	D	Jennifer Gamroth, Program Analyst Fiscal Analysis Division	Home Means Nevada, Home Retention Program