

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

**Seventy-Seventh Session  
March 27, 2013**

The Joint Subcommittee on General Government of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Joyce Woodhouse at 8:04 a.m. on Wednesday, March 27, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**SENATE SUBCOMMITTEE MEMBERS PRESENT:**

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

**ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:**

Assemblywoman Lucy Flores, Chair  
Assemblyman Paul Aizley, Vice Chair  
Assemblyman Paul Anderson  
Assemblyman Andy Eisen  
Assemblyman Joseph M. Hogan

**SUBCOMMITTEE MEMBERS ABSENT:**

Assemblyman Cresent Hardy (Excused)

**STAFF MEMBERS PRESENT:**

Mark Krmpotic, Senate Fiscal Analyst  
Cindy Jones, Assembly Fiscal Analyst  
Eileen G. O'Grady, Chief Deputy Legislative Counsel  
Alex Haartz, Principal Deputy Fiscal Analyst  
Catherine Crocket, Program Analyst  
Jennifer Gamroth, Program Analyst  
Heidi Sakelarios, Program Analyst  
Thomas Hutton-Potts, Committee Secretary

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 2

**OTHERS PRESENT:**

David Gustafson, Administrator, Division of Enterprise Information Technology Services, Department of Administration  
Michael Torvinen, Deputy Director, Department of Administration  
Chris Ipsen, Chief Information Security Officer, Division of Enterprise Information Technology Services, Department of Administration  
Chris Nielsen, Executive Director, Department of Taxation  
Jon Hager, Executive Director, Silver State Health Insurance Exchange  
Shawna DeRousse, Operations Manager, Silver State Health Insurance Exchange  
Scott Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry

**Chair Woodhouse:**

We will hear from the Division of Enterprise Information Technology Services (EITS) regarding budget account (B/A) 721-1387.

**FINANCE AND ADMINISTRATION**

**ADMINISTRATION**

Administration - IT - Telecommunications — Budget Page ADMIN-101 (Volume I)  
Budget Account 721-1387

**David Gustafson (Administrator, Division of Enterprise Information Technology Services, Department of Administration):**

Budget account 721-1387 represents telecommunications in which we account for the State's telephone equipment that services approximately 10,000 State employees.

**Chair Woodhouse:**

Please give us an update on the replacement of the State's telephone system. Also, comment on the recent telecommunications study, your findings and recommendations of that study and which recommendations you are not planning to implement.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 3

**Mr. Gustafson:**

The State's telephone system is 15 years old. Last Legislative Session, a telecommunications study was approved that brought in the engineers from the manufacturer of the system, Avaya, Inc., to perform an analysis of our telecommunications and to then define the State's best suggested path forward.

There are 5 major, and approximately 150 smaller, telephone systems throughout Nevada. This is not the best model for Nevada, especially with a system comprised of aging equipment. We were not sure what the next steps should be to modernize our telephone system.

Coupled with that, last fall, the voice mail system experienced an outage and because of the age of the system the vendor did not have the necessary replacement parts readily available.

When the study was complete, the main recommendation from the Avaya engineers was to centralize our northern and southern main telephone systems. Then we are to begin consolidating the 150 smaller phone systems into the main centralized system using Voice over Internet Protocol (VoIP) technology. They also recommended that as the five major telephone systems leases come up for renewal, they too should be consolidated into the main centralized system.

Within B/A 721-1387, decision unit E-584 requests the funding to upgrade the State's northern and southern telephone system to current technology. This would be processed, maintained and managed through the manufacturer and their partners, through an outsourced model with a 5-year lease agreement.

E-584 Tech Invest, Efficient and Responsive St Governmen — Page ADMIN-104

**Chair Woodhouse:**

There are two existing phone systems with the Department of Employment, Training and Rehabilitation (DETR) and the Nevada Department of Transportation (NDOT). Why are you not going to use either of those two existing systems?

**Michael Torvinen (Deputy Director, Department of Administration):**

This issue came up near the end of developing the Governor's recommended budget and so we struggled to come up with a detailed plan. We have identified

that DETR and NDOT recently replaced their phone systems with modern technologically advanced telephone systems. We initially considered tying into one of those systems to move forward with implementing a new Statewide phone system.

However, the process of simply plugging into one of these systems is not as easy as it would seem. Also the associated costs were much greater compared to implementing a new centralized Statewide phone system.

We have decided to move forward with a new system for EITS on a consolidated basis. As the leases with DETR and NDOT expire, they will be consolidated into the State system and will eliminate some of the costs at their agencies. This new State system will have more than enough capacity to handle all State agencies in Nevada.

We have refined the amount of money we are requesting and have identified an option Avaya labels "a tech refresh lease." Typically, in the finance world, we do not purchase high tech equipment because the equipment needs to be refreshed as it ages rapidly enough that buying it does not make sense.

We propose 60-month financing using a tech refresh lease. Before the end of the lease term, we will renegotiate another lease. As we progress through the lease, Avaya will maintain the system including software and hardware upgrades.

We have arrived at the best solution and we will incorporate DETR and NDOT and anyone else that has a phone system. For instance, the Division of Welfare and Supportive Services (DWSS) of the Department of Health and Human Services (DHHS) has money in their budget to replace their phone system and want to connect with the Statewide centralized system. We are not proposing to take the money out of their budget, because the agency will have to alter their infrastructure at their facilities to connect.

Avaya stated that most of the phones on the desks will simply plug into the new system, so replacing these will not be necessary in most cases. There will be some infrastructure needs at the individual agencies when we get the system to their doors. We are proposing to leave these monies in their budgets to cover these infrastructure needs.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 5

**Senator Denis:**

What were the recommendations of that study?

**Mr. Torvinen:**

The main recommendation was to replace the phone system with a VoIP system that would be sufficient to cover everyone in the State system. As State agency phone leases expire, we connect them to this system.

**Senator Denis:**

Are there any recommendations that you are not going to implement?

**Mr. Torvinen:**

I do not believe so.

**Senator Denis:**

Does not the State already use a VoIP phone system?

**Mr. Gustafson:**

The backbone of our current phone system is a VoIP network. What we are discussing now is extending the VoIP to the satellite offices. Then, small offices, boards and commissions will have VoIP extended to the handset.

**Senator Denis:**

Are agencies currently connecting to this backbone?

**Mr. Gustafson:**

Yes.

**Senator Denis:**

Over the past few years, when an agency has needed a new phone system, have they had to go through you to ensure they got a compatible system?

**Mr. Gustafson:**

Most are using Avaya phone systems, but they are not cohesive. These are independent phone systems that are cobbled together. We are proposing a consolidated and centralized Statewide phone system.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 6

**Senator Denis:**

What you are proposing is creating a modern backbone. When an agency wants to connect with this new system, they will have to get a high-speed data line. In addition, will there have to be a new server or switch that allows connection to the backbone?

**Mr. Gustafson:**

That is correct.

**Senator Denis:**

The agencies will incur hardware-related costs and, in addition, their physical phones. If they have current Avaya systems, do the phones connect or will they have to be upgraded?

**Mr. Gustafson:**

That depends on the version of phone system software that each agency uses. Both NDOT and DETR have newer phone systems and current software versions.

We are going to bring unified communications functionality to the end user. Our current phone system is too old to process voice-mail-to-texting and voice-mail-to-email functionality. The same functionality required by most modern businesses cannot exist on our phone system due to its aged technology and hardware.

**Senator Denis:**

Will this allow all State agencies to connect to the new statewide centralized phone system even if the agencies are located in rural areas?

**Mr. Gustafson:**

Yes. We will be procuring licensing as we bring on additional agencies. The Nevada Department of Corrections (NDOC) has a bandwidth problem as their prisons are located in areas that do not have the availability of high-speed bandwidth. We are looking to solve this issue by bringing them on one at a time. We absolutely want to bring everyone into the new system. This will allow us to use five-digit dialing, have one cent long-distance rates and additional benefits.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 7

**Assemblywoman Flores:**

I am not happy with this situation. The cost appears enormous. I agree that we need this because Nevada's technological infrastructure is crumbling around us. The reason why this Subcommittee has all of these questions is that we never received your report. We recently received a report from your consultant, but we never received the Agency's analysis of the telecommunications study. We sent a Letter of Intent and your Agency chose not to respond to that either. Over the course of this approximately \$5.4 million lease, approximately \$1.1 million is interest. This seems to be unusually expensive.

In addition, the \$160,000 we spent on this study was literally paid to the same company who told us that Nevada should use their services. We paid a company to tell us we should use their services which we could have had done for free.

The larger problem here is the lack of communication and the lack of information being presented to this Subcommittee.

I am displeased with the amount of money we are spending and how we arrived here. There are many questions still to be asked. We are almost halfway into Session and you are requesting approval of approximately \$5.4 million to procure a phone system. At the same time, we all know that the State needs it.

Please start by telling us why you thought that not responding to our Letter of Intent was a good idea.

**Mr. Gustafson:**

I was unaware that we had not responded to your Letter of Intent. The original letters of intent from the past Sessions were to develop a plan for a consolidated, centralized telephone system which is exactly what the study was meant to do. The study from the vendor recommends the consolidation of the State's phone system. That is the plan and they are guiding us through the procedure.

**Assemblywoman Flores:**

In that Letter, we asked if there was a way to move toward vendor independence to arrive at a point of competitive procurement. The Letter also directed you to report on the telecommunications study, its findings and the status of the

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 8

self-funded, phased plan to upgrade and implement the State's telecommunications.

No report of the completed telecommunications study was provided to the Interim Finance Committee (IFC) when we requested it. We recently received a consultant's report.

**Mr. Gustafson:**

The study was performed by the current phone system's manufacturer, Avaya. There are only two phone vendors in Nevada in the enterprise phone business, Avaya and Cisco Systems, Inc. If Cisco was the chosen vendor, we would have to replace 10,000 handsets in the State's current system, infrastructure would have to be altered and all phone related servers would have to be replaced. That is the more expensive option. I would be happy to reword the Request for Proposal (RFP) to allow Cisco to respond to see their bid. The RFP process is designed so that all vendors who reply offer their best price.

**Assemblywoman Flores:**

This is the analysis information we should have received before you arrived at this hearing. To make the assumption that Cisco is going to be the more expensive option is just that, an assumption. Perhaps Cisco wants to do business with Nevada and will come in at the RFP price. We do not know without asking.

It concerns me that we did not attempt that RFP route of including all possible vendors. In addition, the fact that we never received this analysis to assist in making these decisions is an issue. The new RFP is a good idea.

**Mr. Gustafson:**

I will be happy to reword the RFP so that Cisco is a prospective vendor.

**Assemblywoman Flores:**

From the very beginning, we have been trying to make this an open procurement process. Also, we have only made this RFP available to that same company that indicates Nevada should use their services. To simply reply "okay" is problematic. Our RFP should be designed and presented to allow all possible vendors to respond.



Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 9

**Senator Denis:**

Are there other companies that sell Avaya products, or are we limited to purchasing from the manufacturer?

**Mr. Gustafson:**

We deal with a platinum partner of Avaya. In Nevada, we are limited in vendors based upon our State's population.

**Senator Denis:**

Are there several Avaya platinum partners available when we go to bid for the equipment or is it only one partner that deals in Nevada?

**Mr. Gustafson:**

The partners are regionally specific. I agree with Assemblywoman Flores that the RFP process should be open to all vendors and feature competitive bids. If Cisco bids to replace all of the handsets, compared to Avaya simply upgrading the system, it would be interesting to see if their bid is competitive.

**Senator Denis:**

Was it Avaya that performed this specific study?

**Mr. Gustafson:**

Yes.

**Senator Denis:**

Are there others who do such studies?

**Mr. Gustafson:**

I do not believe so. We have over 170 pieces of phone equipment that work together. We do not build the car, we just drive it. I am unaware of any independent vendors out there that would have performed a study on our equipment for \$160,000 that would have offered a better solution.

**Senator Denis:**

Would Cisco have done a study for \$160,000?

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 10

**Mr. Gustafson:**

I am sure they would have.

**Senator Denis:**

Replacing every handset would add between \$400 to \$500 per phone.

**Assemblywoman Flores:**

In terms of the cost itself, was there an analysis that resulted in this \$5.4 million number over the term of this 5-year lease? We only received this information from one company. Have you done an analysis to define if leasing versus purchasing is the most efficient choice, considering that \$1.1 million of that \$5.4 million lease is interest?

**Mr. Torvinen:**

We have refined the price down to \$4.5 million which was an estimate put together with a 9 percent interest rate. We have received a new bid from the vendor for \$4.5 million for the 5-year term. That equates to about \$230,000 in interest which represents just a couple of percentage points. We have submitted a budget amendment to align the budget with the lower prices.

The \$4.5 million is for the design of the system and the estimated cost of system components. When we implement the system, those components will be bid out to various different suppliers for the different pieces so competition enters at that point. Each prospective supplier must state that they can offer specific components for the specific system for an exact amount.

**Chair Woodhouse:**

If we approve this replacement phone system, have you determined whether there will be additional costs based on data network utilization?

**Mr. Gustafson:**

Regarding the provision of VoIP to the handset, we do not see any additional costs. However, agencies will take advantage of many of the VoIP technologies and the unified communications functionality. We could see a minimal increase in bandwidth use.

**Chair Woodhouse:**

You indicated that this would be a 5-year lease, renegotiated as the lease expires. What would be the time line regarding actual replacement? What steps need to take place before using the system completely?

**Mr. Gustafson:**

If approved, we will begin working on the RFP right away to get the vendors lined up. We will design the DWSS connection. Our goal is to get the system up and running as soon as possible, because the system we have now is falling apart. I would estimate this would take 6 to 9 months.

**Assemblyman Aizley:**

When, during this process, do you ask the end user what kind of system and functionality they want? When do we discuss this new system's features?

**Mr. Gustafson:**

We work with our customer base all the time. Our telecommunications team does this in the field regularly. Our customer base is asking for some system functionality changes. The problem is that our current system cannot handle advanced functionalities. We want to upgrade the system and then begin opening functionalities such as voice-mail-to-texting. Our agencies are asking for these now.

**Assemblywoman Flores:**

In the 2011 Legislative Session, this study indicated that you were to generate a self-funded roadmap to show the cost savings achieved. Did you complete that?

**Mr. Gustafson:**

That is not possible under our current budget structure. We are challenged with finding the total telecommunications costs because of the way budgets are built and how funds are allocated from the Legislature. The money is spread across hundreds of budget accounts and multiple general ledger accounts meaning that there is no easy method of isolating those numbers. Without having a total telecommunications cost figure, the vendor could not develop a self-funded roadmap.

**Assemblywoman Flores:**

Information technology (IT) is important to this State and it is in bad shape. There is not one agency in Nevada we have heard from that does not have some form of IT issue, and a majority of the agencies are experiencing significant IT issues. This creates many inefficiencies and problems with privacy. It represents a huge problem.

Communication is important. We discussed this roadmap initially in 2011 and since those initial conversations it was obviously determined that the roadmap was not possible. Yet here we are in 2013 still talking about it. Communication between us needs to improve.

**Mr. Gustafson:**

I agree with Assemblywoman Flores.

The way that budgets are built, and the way the money is appropriated, encourages agencies to act independently. When this is the case, a disjointed environment is created. After 10 to 20 years of this, it has become a big mess. We cannot define how much telecommunications money is spent, or how much money is spent on IT, because everyone is purchasing these within their own budgets. Agencies are using other revenue streams. They are hiding money and either do not care, or are not aware of current policies.

**Mr. Torvinen:**

I would like to address the possible cost savings. The consultant's report explains how we could reduce costs by approximately 30 percent. Agencies are paying for phone services individually through AT&T and CenturyLink. As this new phone system initiates, they will be able to cancel those individual services and eliminate those expenses. The consultant's report indicates this savings could be as high as \$1 million statewide.

**Assemblyman Eisen:**

You just indicated that the State could save up to 30 percent. Where would this savings come from?

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 13

**Mr. Torvinen:**

This consultant's report was provided to your Fiscal Division Staff. Agencies could save up to 30 percent of the cost of monthly phone services that they currently pay to either AT&T or CenturyLink.

**Assemblyman Eisen:**

How did the consultant come up with 30 percent, if we cannot provide an accounting of the State's total telecommunications costs?

**Mr. Torvinen:**

The consultants defined the line charges and circuit expenses that could be quantified. Those figures are where the projected cost savings figure came from. If we implement the engineered system, we will eliminate those circuits.

**Chair Woodhouse:**

Have you prepared a statewide plan to reduce telecommunications costs based upon the study we have been talking about? We have heard some of this. We would like an entire summation.

**Mr. Gustafson:**

A statewide plan to reduce telecommunications costs would include the consolidation and centralization of all telephone systems. We know the State can save approximately \$1 million by eliminating line charges. We also know that economies of scale will be realized and some equipment eliminated as a result of the new phone system using VoIP technology.

**Chair Woodhouse:**

Let us discuss the funding source for this telephone system. There seems to be some inconsistency.

**Assemblywoman Flores:**

Is this written down? Can we have it to assist you in this process?

**Mr. Gustafson:**

You already have that.

**Chair Woodhouse:**

Appropriating General Fund money to support the replacement equipment is inconsistent with statutory requirements regarding internal service funds in your cost-recovery model. How can we understand what you are doing versus General Fund appropriations and the relative statutory requirements?

**Mr. Torvinen:**

We have amended the budget to pull out approximately \$1.8 million of General Fund money and fund the replacement equipment with user fees. Our proposal however, contains some unknowns in the plans and in the design. When I asked the vendor what we need to bring the NDOC into the system, I was informed the agency will need additional infrastructure to connect. In other words, the vendor needs to create the architecture of the entire system to determine what each facility will need. The vendor must design the architecture from the hub to the agency that is to be connected, because this alone will define the specific infrastructure needs for connecting each agency and facility to the system.

Because this all happened late in the process of creating our budget, this was a method of getting this topic into the budget discussion so we could all discuss it and move forward. We recently discovered the budget includes approximately \$1.8 million in General Fund monies, which is inconsistent with past practice and funding of internal service funds. Our amendment recommends that we pull the \$1.8 million in General Fund dollars out of the budget and replace that with the minimum of \$100 appropriation per fiscal year, allowing the Agency access to the IFC Contingency Account.

We are proposing to place \$800,000 of the \$1.8 million into the IFC Contingency Account allowing us to come to the IFC and furnish updates of the plan, and if we need some additional infrastructure or we need to create a unique connection, we will request the funds.

**Chair Woodhouse:**

What impact will that provide in changing that funding source?

**Mr. Torvinen:**

We have reworked the rates based upon the new quote from the vendor. It is less than the original 9 percent interest rate. We have built that amount into the

enterprise telephone services rates. That rate gets pushed out to all State agencies and they each in turn fund these service rates in their budget accounts. There will be some fluctuations in their funding sources in paying these new rates. In this particular budget we eliminated the \$1.8 million in General Fund appropriation and replaced it with revenues received from the agencies to pay for the phone system.

**Chair Woodhouse:**

Are you aware of circumstances that may create shortfalls in what you are proposing as you move ahead with this phone system replacement process?

**Mr. Gustafson:**

We do not foresee any at this stage. We see this as a "not-to-exceed number." The only other possibility would be for agencies to choose to take advantage of some of the modern functionalities the new system offers. This would involve increased bandwidth usage; however, this should be at a minimal expense, if any.

**Mr. Torvinen:**

We are requesting permission to control the \$800,000 during the consolidation of the phone system and to have access to the funds for specific issues we may encounter to fully implement the system. That is the reasoning behind asking for the \$100 appropriation annually to provide the Agency access to the IFC. This is unusual and does not meet past practices, but we believe it to be a reasonable solution.

**Assemblywoman Flores:**

It is a very unusual request and inconsistent with the provisions that govern how these accounts normally function. Could you give us an overview of what exactly it is that you are attempting to do and provide the details of why you feel it is necessary to request this very unusual format regarding the \$800,000?

**Mr. Torvinen:**

The problem we are expecting is within the individual agencies and the specific infrastructures each may need to connect to the new system. It is prudent to have a reserve to address these individual agency needs. It is sufficient to get us to where we want to go and will hopefully cover all possible contingencies.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 16

**Chair Woodhouse:**

We will now discuss B/A 721-1388, network transport services. We have no major issues within this budget. Please give us a brief overview.

Administration - IT - Network Transport Services — Budget Page ADMIN-110  
(Volume I)  
Budget Account 721-1388

**Mr. Gustafson:**

This is our microwave infrastructure group which supports 114 microwave sites throughout the State. It supports law enforcement and first responder radios in relaying information through a series of towers. This budget contains equipment and vehicle replacements.

**Chair Woodhouse:**

We will move on to B/A 721-1389. We have two major issues within this budget. Please give us an overview.

Administration - IT - Security — Budget Page ADMIN-120 (Volume I)  
Budget Account 721-1389

**Mr. Gustafson:**

This is our information security group, consisting of seven individuals including the State's chief information security officer. We manage policy and perform scanning assessments within the agencies, despite our limited resources. This budget account requests expansion of monitoring devices and automating several of our responses.

**Chair Woodhouse:**

When will the disaster recovery hardware and software requested in decision units E-589, E-501 and E-901 be in place and what would be your next phase?

E-589 Tech Invest, Efficient and Responsive St Governmen — Page ADMIN-124

E-501 Adjustments to Transfers — Page ADMIN-124

E-901 TXFR Frm Enterprise APLN SPT to Security — Page ADMIN-127



**Mr. Gustafson:**

During the 2009 Session, a decision was made to eliminate project managers and planning teams in the Department of Information Technology. After the 2011 Session we were merged with the Department of Administration and another 14 positions were eliminated. Some of those eliminated positions would have been doing much of this work, which is why we are asking for them back. In 2012, a Legislative audit determined we were not performing as much disaster recovery testing as we should. I agree with that finding. This request is a natural result of those cost cutting actions, and the 2012 audit's findings.

Our intent is to begin the process of restoring our disaster recovery capabilities. By working with the business units in determining which systems need to be recovery capable, and placing essential resources within the program, we ensure staying on track and moving forward.

**Assemblyman Aizley:**

Could a larger disaster recovery system being created in IT cover what you are doing, or are we going to have separate recovery plans for each State agency?

**Mr. Gustafson:**

Based upon how IT operates and is situated within the State government, each agency needs to have its own disaster recovery plan and abilities. The EITS, the State's centralized IT organization, is responsible for major infrastructure recovery.

**Chair Woodhouse:**

Please clarify how the proposed consulting services would facilitate your disaster recovery testing and give us your cost projection.

**Mr. Gustafson:**

The consultant is to assist us in establishing a viable disaster recovery program which is to go on in perpetuity. Once a testing process concludes on a system, the entire testing process starts over again. The full-time equivalent (FTE) position will carry the program and maintain it into the future. The consultant will help us get the program running again. The cost projection is a one-time appropriation for the 2013-2014 biennium.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 18

**Assemblywoman Flores:**

You have 8 FTEs in security, 13 FTEs in administration and 10 FTEs in IT and telecommunications.

The security audit of January 2012 found your agency did not have a written disaster recovery plan, that your contingency plans were outdated and that your existing disaster recovery hardware was insufficient to restore computer-based operations in a disaster situation. It seems strange that in January 2012 Nevada did not have a disaster recovery fund.

How long you have been with the Department?

Can you give the Subcommittee a sense of where your Agency is in terms of staffing the person responsible for developing the program and why no one took it upon themselves to create a State disaster recovery plan?

**Mr. Gustafson:**

I have been with the Department for 4 years.

The plan is outdated which is a problem and no one is assigned to update the program and perform the testing.

When the economy initially declined, decisions were made to make cuts in places that should not have been cut. As a result, disaster recovery systems were cannibalized and the resources were laid off. Now, 5 to 6 years later, the problems we are faced with are the direct result of those cuts.

We are trying to staff this and put products in place to perform the testing. One of the problems is that while we have the FTEs to do the testing, there is not enough equipment to perform the testing at the disaster recovery site. There is a cost to doing this. Equipment replacement and maintenance is necessary and is part of a normal functioning IT organization.

**Assemblywoman Flores:**

Are we updating the plan now and ensuring the appropriate person is in charge of the process?

**Mr. Gustafson:**

I have moved some of our resources and have established a plan from the ground up working with each of our teams. We have begun testing some of the most important systems. We will have a new and revised plan to you by June, as required. The old plan is lengthy and is on paper, rather than digitized. We need the right person to create this and we need the consultant to ensure the plan is complete.

**Assemblyman Eisen:**

Will you be providing direction to the individual agencies who need to develop their own disaster recovery plans? If so, will this include how they can complete these plans in an efficient manner and be coordinated with the central plan that you are developing?

**Mr. Gustafson:**

If we had the resources and the money, we would complete this for all agencies. While business is involved in disaster recovery, this is largely an IT function. Our plan is to get the core infrastructure down, make sure the complete program is established and that we are testing on a regular schedule. We will then go to our business partners regarding their specific applications. This will define how their program resides upon our core infrastructure and how we are able to test their applications to assist in developing their disaster recovery plans. More than one FTE position will be required due to the sheer number of systems in Nevada's State government.

Business decisions must be made for each program in each operation because some programs are not going to need full disaster recovery plans. In the IT world we call that our "recovery time objective" and "recovery point objective." If the recovery time objective for a business unit is a week, it will most likely not need a full disaster recovery program. However, if this is a program like the Silver State Health Insurance Exchange (SSHIX), which must be available 24 hours a day, 7 days a week, then the program will need a full disaster recovery plan. This will be the beginning of the restoration of the State's disaster recovery program.

**Chair Woodhouse:**

Regarding the proposed disaster recovery plan, was a technology investment request (TIR) made to the IT strategic planning group and, if not, why not?

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 20

**Mr. Gustafson:**

No. There was not a TIR because this is a software program, rather than an application, so it does not fit that model.

**Chair Woodhouse:**

Please describe the benefits of moving to the continuous monitoring system.

**Mr. Gustafson:**

The continuous monitoring system is critical to the information security of State data. This is where we monitor the data coming in and moving out of the networks, seeking abnormal behavior and viruses by using the Symantec Operations Center that correlates our logs 24 hours a day. Using this process, we located 20 viruses on our network just yesterday.

Security threats are increasing and becoming much worse. More monitoring will enable us to deploy additional monitors that allow us to track even more of what is going on internally. We are also using a system log event management system allowing us to correlate events as we see transactions across the network. This provides a better understanding of what unscrupulous people are doing inside of our network.

**Chair Woodhouse:**

There is approximately \$350,000 in decision units E-225, E-227, E-228 and E-583. Can this expense be spread over the biennium to keep rates constant?

E-225 Efficient and Responsive State Government — Page ADMIN-122

E-227 Efficient and Responsive State Government — Page ADMIN-123

E-228 Efficient and Responsive State Government — Page ADMIN-123

E-583 Tech Invest, Efficient and Responsive St Governmen — Page ADMIN-124

**Mr. Gustafson:**

It is a software package purchase, which is why it is frontloaded in fiscal year (FY) 2014-2015. Unless we finance this, we would not be able to spread it out over the entire biennium.

**Assemblywoman Flores:**

Nevada receives over 2 million malicious inquiries per day. Is this a large volume or does it compare to what other states are experiencing? When you say "State information systems," is this a Website or can you tell this Subcommittee where these inquiries are directed?

**Mr. Gustafson:**

We monitor a northbound and a southbound point of presence looking for activity that indicates computers within our network are calling servers in other countries which have been identified as having been compromised. We then know that specific computers have specific viruses. Symantec informs us of the specific Internet protocol (IP) address that has the virus. The agency then identifies which computer is involved so we can correct the problem. This decision unit increases the number of monitoring devices within our network through Symantec to handle the ever increasing volume of malicious activities.

Two years ago, we were receiving approximately 1 million attacks per day in active "denies" on our system's firewalls. Today, we are receiving 2 million to 6 million attacks per day. Our email spam system catches 350,000 to 650,000 spams daily through filtering. About 400 to 500 viruses are also caught and stopped daily. This situation is getting worse so we must increase our security capabilities to combat this on a perpetual basis.

**Chair Woodhouse:**

Our staff received a work program calling for consideration by the IFC. Does this duplicate any portions of the agency's IFC work program?

**Chris Ipsen (Chief Information Security Officer, Division of Enterprise Information Technology Services, Department of Administration):**

These were U.S. Department of Homeland Security grant funds that we received for securing Nevada's infrastructure. We originally applied for the grant and we were awarded the funds as a priority. This is merely moving the grant funds from the funding source into our account to utilize those funds on behalf of the State.

**Chair Woodhouse:**

Is this moving grant funds rather than duplicating something that is already in your budget?

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 22

**Mr. Ipsen:**

Correct. We are looking at a comprehensive package and resources for funding needed to combat these challenges. We are always looking for new ways to obtain better infrastructure to deal with the electronic threats facing the State.

**Chair Woodhouse:**

We will proceed to the Department of Taxation to discuss B/A 101-2361. Please give us a short overview of your Department and your budget.

## FINANCE AND ADMINISTRATION

### TAXATION

Department of Taxation — Budget Page TAXATION-9 (Volume I)  
Budget Account 101-2361

**Chris Nielsen (Executive Director, Department of Taxation):**

We have a simple budget because we are almost completely funded through General Fund money. We are currently funded for 329 FTEs. The Department of Taxation is comprised of four divisions: Compliance, IT, Local Government Services and Administrative Services.

**Chair Woodhouse:**

Why is there a need for an additional layer of upper management? Please discuss the chief deputy position in decision unit E-225, and then give us some examples of the problems that this position is meant to address.

E-225 Efficient and Responsive State Government — Page TAXATION-12

**Mr. Nielsen:**

For an agency of our size, we have very few upper management positions to supervise the 329 FTE positions. I decided that we need a chief deputy position. This is a much-needed executive level position. It will provide consistency over the promulgation processes of three of our internal divisions and provide oversight over the entire regulatory function of this Department. We need to update and promulgate tax regulations to keep up with the evolution of the State's taxes. This position will be charged with performing those functions.

We currently have over 1,100 tax regulations in the State covering all of the taxes we administer. We have more tax regulations than we have tax statutes. The people voted in our main source of income, sales tax, in the 1950s and this cannot be amended without a vote of the people. The evolution of business is constantly creating new business models for which we must adapt, create or amend existing regulations to keep up with what is taxable and what is not. Tax regulations do not create tax liability, but they clarify tax liability.

**Assemblywoman Flores:**

Please explain why this Agency is different and why it requires a new chief deputy director. You stated that there is not much hierarchy within your Department. Other agencies, such as the DHHS, have more FTE positions and operate with only two directors. Why does your Department need a chief deputy position as compared to others who operate with fewer directors and more FTEs?

**Mr. Nielsen:**

Every agency is unique and has its own mandate or statutory mission. Our Agency is charged with collecting taxes. The regulations are an important function that have been completely lacking oversight through the past few years. We have over 200 tax regulations that must be modified, and 17 tax regulations that must be promulgated. This position must be filled by a stable, qualified and functional individual who will focus on this before we get caught, once again, not being prepared. We need oversight from a chief deputy position to spearhead these functions and to work directly with the regulations.

**Assemblywoman Flores:**

Do the regulations in need of change and repairs preclude us from collecting taxes? How is that affecting the process of getting regulations designed, implemented and allowing us to collect tax revenues?

**Mr. Nielsen:**

Tax regulations do not create tax liability. Our job is to interpret the statutes as written.

**Assemblywoman Flores:**

With the 200 or so regulations that remain outstanding, can you give us an idea of how that compares to 4 years ago and 6 years ago? Have we always been behind?

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 24

How long does it take to promulgate one regulation? If you had this one position, would you catch up on everything that needs to be done and how long would that process take?

**Mr. Nielsen:**

It is hard to estimate a time line because new scenarios are always coming up and new taxes must be developed. Based upon the backlog, if nothing new were to come up, we could get through all of this in approximately 5 years.

This process takes a long time because we have to go through a drafting phase and then work with the Legal Division of the Legislative Counsel Bureau to design the proper language. We then have to hold at least one workshop and an adoption hearing before the Nevada Tax Commission. We then proceed to the Legislative Commission. With Legislative Sessions going on, there is a permanent regulation window that does not run full time. We have to determine if passing an emergency or temporary regulation is necessary because we may have to go through the same process again if the regulation is determined to be critical.

The backlog is going to take approximately 5 years. There is always going to be a need for an ongoing regulation adoption process.

Governor Brian Sandoval, as he initially took office, charged every agency with reviewing and identifying every regulation within their scope of operations that needed to be repealed, or were redundant. We took advantage of this opportunity and identified and prioritized specific regulations in need of being repealed as well as those in need of being amended. That is how the idea of the chief deputy position was born.

**Assemblywoman Flores:**

What other position titles would handle this type of work in other departments? Could a paralegal process this type of work within a deputy director position?

**Mr. Nielsen:**

I do not know the answer to that question. Structurally, for the benefit of this Agency, the chief deputy position, as I have presented it, is what we need.



**Chair Woodhouse:**

What issues preclude you from moving the existing deputy director position to southern Nevada without having to create this proposed new position of chief deputy?

**Mr. Nielsen:**

Currently, we do not have a deputy position in southern Nevada. If we are given this position, it would give us an opportunity for an executive position to be placed in Las Vegas where it is sorely needed.

**Chair Woodhouse:**

If this is approved, would the Las Vegas position be a deputy director or would you be putting your new chief deputy in Las Vegas?

**Mr. Nielsen:**

I have not thought that far ahead. I do not know what the structure would look like yet. Sooner, rather than later, whether it would be a deputy or a chief deputy, we need a deputy in the Las Vegas area.

**Chair Woodhouse:**

Did you consult with the Division of Human Resource Management in identifying the salary range of this position, should it be approved?

**Mr. Nielsen:**

I did not and I need to find out if my staff has done this. The salary you are seeing was originated by comparing the salary earned by the chief deputy of a Constitutional Officer.

**Chair Woodhouse:**

Let us move on to the requested auditor II positions. Please give us a quick overview about the value of these positions, if approved.

**Mr. Nielsen:**

The value of the average auditor position is that they bill approximately \$938,000 in total audit billings annually which creates tax revenue. Decision unit E-227 requests three additional auditor II positions. These are line auditors who go into the field and perform audits.

E-227 Efficient and Responsive State Government — Page TAXATION-12

We base this on a “penetration rate” standard. Because we have a number of different businesses, we must have a large enough sample size to get a cross section within an audit program to keep businesses honest. We cannot simply audit Nevada’s top ten taxpayers every year. We have an obligation to feature a certain saturation level within Nevada businesses and this decision unit brings us closer to a proper penetration rate.

**Chair Woodhouse:**

You are currently running at 0.89 percent. What happens when you fall below the 1 percent mark?

**Mr. Nielsen:**

This percentage measurement number ebbs and flows every year as the timing of audit billings occur during the first days and ending days of each fiscal year. This number hovers above, and below, the 1 percent mark. The trend lately is that audits are taking longer to complete, probably based upon the recession economy. Businesses are not as forthcoming in providing their records. It has become more frustrating and time consuming to perform an audit because we have, within the past year, changed our audit selection criteria program. In recent times, it has been part risk-based selection, part random choice and audit leads we receive from the community.

Also, we have changed our risk program to skew more toward the higher dollar taxpayers, which are the larger companies that take longer to audit.

This decision unit, if approved, will bring us closer to that 1 percent saturation level.

**Chair Woodhouse:**

Of the total audits completed annually, what is the average number of audits found to be compliant which did not result in a change in the amount of taxes paid?

**Mr. Nielsen:**

The two largest tax categories we pursue collecting are sales and use tax audits which are defined as being 16 percent compliant, and the modified business tax

audits which are currently compliant at a rate of 52 percent. We typically do not audit modified business tax alone. It is normally audited in combination with a sales and use or other excise tax audit.

The number reported to the Employment Security Division of DETR for Unemployment Insurance (UI) purposes becomes the taxable base for modified business tax. We have an automated program that sends out deficiency notices when a discrepancy is identified. The only item, in this scenario, we are auditing is not whether the numbers the businesses are reporting are correct, it is whether the health care deduction is being deducted and processed properly.

**Chair Woodhouse:**

Are there any vacant positions assigned to your taxation call center that could be moved to the audit section and be reclassified as auditors?

**Mr. Nielsen:**

Currently, we have 12 vacancies statewide and there is no vacancy at the call center at this time.

**Chair Woodhouse:**

You are requesting two new revenue officer II positions. Please share with us the need for those two positions.

**Mr. Nielsen:**

These revenue officer positions, much like the auditor positions, are important to the revenue collection process. They contact taxpayers, make field visits, arrange taxpayer payment plans, file liens, and, in the worst case scenarios, work with the local sheriffs in locking down businesses for excessively delinquent taxpayers.

Last Session, the Legislature allowed us seven additional revenue officer positions. The average revenue officer collects approximately \$1.1 million per year. Historically these positions pay for themselves. If we were to get the same amount of positions as the last Session, they would be tasked with pursuing the smaller tax debtors and we would be reaching a saturation rate that would be too high in collections.

**Chair Woodhouse:**

What is the current average number of accounts carried per revenue officer compared to your goal of 2,023 accounts per officer? If we approve these two additional revenue officers, how would the number of accounts per revenue officer change?

**Mr. Nielsen:**

There are two ways to measure accounts per revenue officer: the number of accounts each revenue officer is responsible for and the number of active delinquent cases, or real debt, each officer is pursuing.

The Division of Internal Audit conducted an audit of our Department in May 2012 and found that our revenue officers were processing 218 active delinquent accounts per officer. These additional two positions would decrease the number of active delinquent accounts per revenue officer to approximately 200.

**Chair Woodhouse:**

Should the Marketplace Fairness Act of 2013 pass, what additional resources would your Department require in order to implement it at the State level?

**Mr. Nielsen:**

The vote recently taken was a nonbinding voice vote in the U.S. Senate that occurred during the discussion of a budget bill. An official vote will have to take place on the actual bill and then the U.S. House of Representatives would have to vote and pass it as well.

We submitted a TIR to the IT Strategic Committee in the Department of Administration last calendar year for approximately \$2.6 million that would increase our ability to process higher volumes of remote sellers' sales tax revenues generated from online sales.

**Chair Woodhouse:**

How much time would the Department of Taxation require to begin collecting taxes generated through online transactions?

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 29

**Mr. Nielsen:**

Currently, the Marketplace Fairness Act of 2013 reads that there are two ways a state can start collecting. If that state is a streamlined sales and use tax agreement state, which Nevada is, it would begin 90 days after the President of the United States signs the bill.

It will take approximately 9 months to get the TIR up and running and to fully implement the changes. This would not stop us from collecting these sales tax revenues; however, we would have to use some manual processes until the system is ready to go. We will not be turning away any of these online generated tax dollars.

**Chair Woodhouse:**

Do we have any statutory needs?

**Mr. Nielsen:**

There are a couple of minor statutory issues, but they do not jeopardize our standing.

**Chair Woodhouse:**

If the Nevada Margins Tax Initiative passes with voters in 2014, what additional resources will the Department of Taxation require?

**Mr. Nielsen:**

We submitted an unsolicited fiscal note that estimates we will require an additional approximately \$1.4 million in the last 7 months of FY 2014-2015 and a little more than \$4 million in FY 2016-2017.

**Chair Woodhouse:**

We will now move on to the SSHIX and B/A 101-1400. Please provide a quick overview of your Department and your budget.

SPECIAL PURPOSE AGENCIES

SILVER STATE HEALTH INSURANCE EXCHANGE

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 30

Silver State Health Insurance Exchange Admin — Budget Page HEALTH INS  
EXCHANGE-3 (Volume III)  
Budget Account 101-1400

**Jon Hager (Executive Director, Silver State Health Insurance Exchange):**

Our simple budget was difficult to put together for multiple reasons. We had low expenditures in the base year as we were just starting up. We initially had to back everything out of the budget and replace it with a new base of financial information through working with Fiscal Division and Budget Division analysts. We added positions in the middle of the biennium, further complicating the process.

Our enrollment figures have been changing. We have been making sure that our enrollment is up to date with the DHHS to ensure we are in line with their estimated uninsured rates.

The biggest difficulty is that our plan has evolved considerably since August 2012. We want to provide our best estimates when we submit our Agency request; however, we do not have all of the federal rules yet.

We had a meeting with Centers for Medicare and Medicaid Services (CMS) representatives yesterday about something that could potentially add cost. We will advise the Subcommittee when we receive more details. It has been a difficult challenge for us to come up with new requirements as federal rules continually change.

It will be a simple budget again. It is the implementation and the coordination with the stakeholders that has been difficult.

We have three enhancement decision units in our budget. Decision unit E-740 decreases estimated enrollment and associated costs due to Medicaid expansion. If the State expands Medicaid enrollment it will decrease our enrollment. Individuals between 100 percent and 138 percent of the Federal Poverty Level would not go to the SSHIX, but would instead be eligible for Medicaid. This is linked to the decision units that the DHHS has in their budgets for Medicaid, DWSS and all associated costs.

E-740 ACA Caseload — Page HEALTH INS EXCHANGE-7

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 31

Decision Unit E-744 requests four additional staff to support our operations. We currently have nine FTEs. Three of the four new positions start on July 1. These are a training officer, benefits manager and the quality control officer. On October 1, an administrative assistant begins assisting with the administration of appeals.

#### E-744 ACA Enhancement — Page HEALTH INS EXCHANGE-8

We are a very new administration considering the magnitude of our project. We rely heavily on our vendors. Our existing staff are mainly for policy; however, as we start moving into summer, we will begin operations such as training, managing appeals and working with our vendors. Our operations are performed mainly by our vendors, as we are attempting to keep our staffing numbers to a minimum.

Decision Unit E-745 allows the SSHIX to offer and charge fees for supplemental products, collect interest earned from reserves and remove the exchange fees from the premium tax collections. We are currently moving forward with fees charged to carriers and to stand alone dental products; items required by the Affordable Care Act (ACA). We have a slight misalignment with our current statute and we are working through Senate Bill (S.B.) 454 to align it to allow the SSHIX to offer supplemental dental products. The ACA allows these products so we are moving forward with it. The Board of Directors of the SSHIX has also requested that we provide vision products for adults so the decision unit corresponds with S.B. 454. This also requests retaining of interest earned from the reserves we will be growing over the next few years, ensuring that we can always pay our bills.

#### E-745 ACA Enhancement — Page HEALTH INS EXCHANGE-8

**SENATE BILL 454**: Makes various changes relating to the Silver State Health Insurance Exchange. (BDR 57-1167)

Our budget contains no General Fund appropriation because the budget is completely fee based. There are cost allocations both to and from Nevada Medicaid and the DWSS. There is some General Fund revenue within those cost allocations, but those are for services we are providing to their members.

**Assemblyman Aizley:**

Does all of your money come from the federal government? Do you charge fees? You mentioned vision care. Are you charging for glasses? Who pays for the glasses? I do not understand how the money flows both in and out of your operation.

**Mr. Hager:**

We are completely grant funded and all of our money comes from ACA establishment grant funds. We will receive that funding through December 2014. There are two things the grant funding does not pay for: the operation of navigators and the creation of an operational reserve. It is important to create and maintain a 30-day reserve to make sure we can pay our staff, our vendors and the navigators.

The navigators will be funded through an advance from the General Fund that we will pay back by the end of this fiscal year. That functionality resides currently in our statute. We will earn the money to pay back that Fund based on fees we charge to our carriers.

We do not pay claims. The function of the SSHIX is to match individuals with the appropriate fully insured products in small groups and individual markets. We are in the middle of the premium side of this process. The SSHIX will be processing premium billings and will act as distributor of premiums to programs within the ACA.

We will receive funds from individuals or employers, remove the exchange fees and send the remainder to the carrier. In 2014 the fee is expected to be \$4.95 per member, per month.

The Advance Premium Tax Credit (APTC), referred to as the "subsidy," is a tax credit individuals receive from the federal government. We add the word "advance," because if the individual were to receive the tax credit at the end of the year when they filed their taxes, they could not afford insurance at the beginning of the year. Thus, the IRS advances those funds to the individual. We calculate that subsidy for the individual to make it easier for them to understand. The IRS sends this APTC money directly to the defined carrier on behalf of each individual enrolled. The remaining portion of the individual premiums comes from our Agency.



By taking our fees on the front end, we only need to build a 30-day reserve, compared to other state exchanges that have to build a 6-month reserve because they take their fees at the back end of the process. Our reserve should operate between \$2 million to \$4 million, whereas other exchanges operate with approximately \$10 million in reserves.

**Assemblyman Aizley:**

If S.B. 454 is not approved this Legislative Session, would your Agency have to reduce future expenditures or would you have to increase future fees?

**Mr. Hager:**

We would still be able to offer standalone dental plans as the ACA requires; however, our current State statute would not align properly.

The impacts would be that neither the interest earned, nor the fees for the vision plans would come back to the SSHIX. Those dollar amounts are relatively small at \$10,000 to \$20,000 per annum.

Reserves would be reduced in the first year, when we are collecting most of our funds from the federal government to pay our expenses. I do not anticipate that we would reduce expenditures significantly; however, we would have to increase the fees for qualified health plans. Our expected enrollment in the vision plans is projected at approximately 5 percent, compared to our qualified health plans. Estimating a 25 cent per member fee, we might have to raise our per member, per month fee for qualified health plans by approximately 5 cents.

One of the reasons we wanted to offer vision plans is to create another mechanism for generating revenues, allowing us to charge lower fees for our qualified health plans.

**Chair Woodhouse:**

The Agency is waiting until January 2014 to have fees approved by the Exchange Board for calendar year 2015. Why would you want to wait that long?

**Mr. Hager:**

We set fees for calendar year 2014 in January 2013. We intend to set the fees for calendar year 2015 in January 2014. This is done on an annual basis and we try to have as much enrollment data as possible included in this process.

Our initial open enrollment period this year is from October 1 through March 31, 2014. By January 2014, we should know what our enrollment figures are for 2014 and then we can gauge better for 2015. If we were to do this now, we would be basing our 2015 fees on estimated enrollment projections instead of actual data.

There are approximately 600,000 uninsured individuals in Nevada. We believe that 33 percent to 50 percent of them are eligible for the SSHIX. We estimated the uptake for the uninsured population to be between 43 percent and 47 percent. The Congressional Budget Office estimated the uptake in the exchanges would be between 23 percent and 25 percent. The Office of the Actuary in the CMS predicts the uptake would be somewhere between 74 percent and 75 percent. This gives us a threefold margin. We estimated something in the middle of all of those numbers and we will do our best to hit those numbers; however, there are no guarantees.

We have designed the reserves just in case the uptake is less. We will be able to survive on the reserves we have, but may have to increase fees later. If the uptake is more, we will build a larger reserve. The issue is whether or not the establishment grant funding covers all of the costs. The Center for Consumer Information Insurance Oversight, our federal governing body and a division of the CMS, has indicated they want this to succeed and we have that support all the way to the White House. We are confident we will be able to request and receive additional grant funds, in case the exchange enrollment numbers are higher than our current projections.

We do not know what is going to happen with Sequestration and can only use our best estimates about these issues.

**Assemblyman Aizley:**

The Towers Watson Exchange Solution program, Extend Health, is the exchange that many of the State's retirees are using. When that contract expires, would you

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 35

be competing, or is that separate from what you are doing? Is it possible to bring that program back into Nevada?

**Mr. Hager:**

The Extend Health contract is a Medicare exchange for State Medicare retirees. If an individual is eligible for Medicare, they are eligible for coverage but are not eligible for the APTC. This means the SSHIX is not as attractive. One of the main reasons to enroll with the SSHIX is to receive the APTC. The only way to get the credit is to be on the SSHIX which is designed for both individuals and small employers with fewer than 25 employees.

Generally, Medicare-eligible individuals will not be on our exchange. I cannot speak for the Public Employees' Benefits Program and I do not know what is going to happen in future Sessions. There is going to be a major shift over the next several years in how insurance is provided by employers and how that is done for retirees, inactives and the other alternate statuses.

There will be major changes in the restaurant industry, which employs many part-time workers. Many part timers will have their hours reduced below 30 hours per week so their restaurants will not have to pay the corresponding tax penalties. Employers will have to determine if they are going to offer coverage or if they are going to send their employees to the Exchange.

Because of the focus on state-based exchanges, there are many more exchange entrants into the market. We will hopefully see more competition in the future.

**Chair Woodhouse:**

Explain why the projected grant award amounts for the enrollment assisters in the Executive Budget do not match the amounts included in the request for application.

**Shawna DeRousse (Operations Manager, Silver State Health Insurance Exchange):**

In August 2012, we placed our request in the Executive Budget. The Exchange Board made a decision in November 2012 regarding the amounts for navigators and enrollment assisters. In working with the Budget Office to make adjustments to our budget before it went to Fiscal Staff, we changed the numbers in each of those categories. Line items, such as with the assisters, did not match

up, but the categorical amounts compute. I would be happy to work with your Staff about this issue. If we decrease the amounts in the navigators and enrollment assisters budgets, we have to increase the amounts of the controlling contracts so that the categorical amounts stay the same.

**Chair Woodhouse:**

Yes, work with our Staff on that. How many navigators and enrollment assisters will be necessary to assist new enrollees coming into the SSHIX?

**Mr. Hager:**

We have estimated a need for 203 positions. We calculated our targeted enrollment figures, the total number of workdays between October 1 and December 15, and added to the formula that these positions would be working at approximately 7 hours per day. Of the 203 positions, 20 would be navigators and 183 would be enrollment assisters.

Eighty percent of our enrollees will be starting coverage on January 1, 2014, so they must be enrolled by December 15.

Another problem is that navigators cannot be paid with federal grant funds. We want to keep that budget as low as possible and increase the enrollment assister budget to take advantage of the federal grant funding. This will keep the fees to our carriers, which are passed along in premiums to Nevada consumers, as low as possible.

**Chair Woodhouse:**

Will the 203 employees be employed year round, or just during the open enrollment period, or is there a combination?

**Mr. Hager:**

Some will be employed year round; however, the bulk of them will be employed just during the open enrollment period. We expect the bulk of the enrollment to take place during the initial open enrollment. Enrollees cannot enter the SSHIX at any time other than during open enrollment periods. This protects the market and premium levels. If not, people would only buy insurance when they needed it.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 37

Special events circumvent this rule, such as the birth of a child, the death of a participant, change in an individual's income or the individual's eligibility for the APTC. We do have a small amount of money isolated to maintain low operating navigator and enrollment assister functions.

The number of navigators and assisters will be determined by responses received from the Request for Application (RFA). Those RFAs are due back by April 4.

While reviewing these RFAs we intend to have a small committee, or working group, select prospective grantees. This depends on the budget appropriations provided. Within a typical grant, the applicant will submit a budget and program of what they intend to do. We will choose the grantees that best target our populations. These populations are the uninsured, the underinsured and some of the minority populations that tend to exhibit higher rates of uninsured individuals and families, as compared to the rest of Nevada.

**Chair Woodhouse:**

Why are the enrollment periods in each of the years held at different times?

**Mr. Hager:**

The federal government dictates those enrollment dates during the initial enrollment period.

The enrollment period is October 14 through December 7. Every future enrollment period will be the same.

During the initial enrollment period we will be working to get everyone onto the Exchange. Because there will be such an increased enrollment volume, we expect there will be system-wide operational errors and IT issues. It is expected that nationally, approximately 30 million people will be enrolling in health insurance coverage.

Our system is required to attach to query a federal data hub that is linked to the CMS, the IRS, Homeland Security and the Social Security Administration. If we have 30 million people across the Country accessing the systems that access the federal data hub, it will be interesting to see if that hub is able to stay up 24 hours

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 38

a day, 7 days a week. We are hoping that they build a robust enough system to handle that kind of enrollment volume and traffic.

On October 1, we will be ready with our implementation plan, all of the communications with our carriers and vendors and with the DWSS vendors.

We are not going to advertise before October 1. We are going to initiate our call to action on October 7 in northern Nevada and on October 14 in southern Nevada. This will allow us time to get a feel for everything. We will get our call center representatives comfortable with callers, before the wave of enrollees starts.

We want to roll out northern Nevada initially, with the smaller populations, and then bring on the larger populations of southern Nevada. By mid-October, things will be busy on the phones and within the enrollment process.

Our brand name will be: "Come to the Exchange at Nevada Health Link and Enroll in Coverage." This will be an interesting period in defining what works, what breaks and what issues we encounter within the entire process.

**Chair Woodhouse:**

Explain the exchange enrollment facilitator certification process.

**Mr. Hager:**

The process to create the navigator, enrollment assister and certified application counselor program, which is a new requirement just put into place by the federal government on January 22, took eight meetings to design.

We are required to have navigators, and, due to budgetary constraints, we wanted more enrollment assisters. We are now required to have certified application counselors. We also want to make sure that our consumers are protected. The federal government indicated that all three positions must be certified.

**Scott Kipper (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):**

We have been working in conjunction with our colleagues at the SSHIX to create a program that provides the necessary consumer protections for individuals dealing with Nevada consumers as they go through the exchange process.

We have created our process with two primary principles: education and accountability. It is important for everyone going through this program to become a navigator, assister or counselor is as educated as possible. We have had great success with our producers program, those agents and brokers who deal with Nevada consumers. We modeled this program after theirs.

We also need accountability. An example would be an unscrupulous navigator providing incorrect information to Nevadans, or steering consumers away from where they should be headed. The State must have a form of discipline functionality and process to deal with poorly behaving navigators.

We have designed this program and encased it within Assembly Bill (A.B.) 425 that addresses health care reform.

**ASSEMBLY BILL 425**: Revises the Nevada Insurance Code. (BDR 57-1156)

**Chair Woodhouse:**

Who would administer the exams and when do you plan for the training to commence once you have identified these individuals?

**Mr. Kipper:**

We use a national vendor called Pearson VUE. They are a professional testing agency that administers insurance producer and broker tests, real estate license tests, cosmetology tests, etc. The tests are developed through a national database, from input on test questions from our staff and from interested stakeholders throughout Nevada. They have testing sites in Reno and in Las Vegas.

**Chair Woodhouse:**

Is there a fee for the exam and for the training? Who would be responsible for paying those fees?

**Mr. Kipper:**

The fee for the exam and certification is \$195, payable to the Division of Insurance. The total fee for an individual to go through the process in its entirety is \$550. A background check is required and we want to require pre-examination education, designed to assist potential licensees to pass the tests, utilizing vendors in the State.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 40

**Ms. DeRousse:**

When we went through the RFA process, and conducted the orientation meetings with the potential grantees, we encouraged them to place \$550 to \$600 dollars per individual into their grant application, as it is reimbursable.

**Chair Woodhouse:**

Do you have this in your budget?

**Ms. DeRousse:**

Yes, we do.

**Chair Woodhouse:**

Is this in the Division of Insurance budget?

**Mr. Kipper:**

No, I do not believe it is.

**Chair Woodhouse:**

Is it in the SSHIX budget?

**Mr. Kipper:**

Yes.

**Chair Woodhouse:**

What associated fees are involved in the recertification process as the program progresses?

**Ms. DeRousse:**

The Division of Insurance bill, A.B. 425, details the 3-year recertification cycle which follows the same cycle format as a producer recertification.

We told our potential grantees that because assisters will only function through December 2014, there will be no need to recertify assisters as they will not be there at the end of the 3-year cycle. Navigators will need to recertify at the 3-year mark because they are an ongoing position associated with the program and so will incur those fees on an ongoing basis.



**Mr. Hager:**

We cannot use federal grant funds to pay for navigators, which is the reason we have such a low number of navigators in the first year. The second year, starting January 2015, when we are only on our fee-based system, the budget for navigators remains fairly consistent. If they receive a new grant award, many enrollment assisters would transition to the role of navigators.

**Chair Woodhouse:**

Are there any other statutory changes to be implemented in this Session that are not covered in A.B. 425?

**Mr. Kipper:**

We have anticipated every possible change; however, we continue to receive new rules and regulations from the federal government. As we analyze those, or if we receive more rules and regulations, we would ask the Legislature to address those issues specifically in statute.

**Chair Woodhouse:**

Should this legislation not be approved, how would the SSHIX meet the requirements to provide consumer assistance?

**Mr. Hager:**

Federal law and regulations requires that we have a navigator program. Navigators and assisters would have to be certified directly by the SSHIX. We do not think the SSHIX is the best place for doing these certifications.

One of the reasons we have been working with the Division of Insurance to certify navigators and assisters is the functionality of actually enrolling someone. In Nevada, producers must carry insurance to cover any errors, omissions or other problems within the insurance process. However, navigators are not mandated to carry the same insurance.

Federal regulations require that navigators only facilitate enrollment. The definition of "facilitating" enrollment and the actual enrollment is not clear. This must be absolutely clear and detail specific regarding the differences. This issue creates the need for the SSHIX to be capable of promulgating regulations to make this work.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 42

This would be less complicated if the Division of Insurance certified these positions. It would require a new chapter in statute stating these exchange enrollment facilitators are certified by the Division of Insurance and authorized to enroll people.

If such legislation does not pass, we will have to determine the definition between "facilitating" as opposed to actual enrollment, if the SSHIX is to certify these positions. It is difficult to define what navigators can, and cannot, do within the enrollment process.

There are a number of additional items in A.B. 425 that are important to the SSHIX. Alignment of market requirements will make it much easier for us to process enrollments. We will comply with federal law, but if State law does not match that, federal law has precedence.

The other item in A.B. 425 is our network adequacy components, as we must ensure that these are addressed moving forward. If this does not happen, we can issue network adequacy requirements just for the plans within the SSHIX. This creates concerns about possible adverse selections in comparing plans from inside the SSHIX to plans from the outside market. The outside market does not have to comply with the same network adequacy standards as the SSHIX does.

**Mr. Kipper:**

We have worked collaboratively since the first day in addressing and planning the development of policy on many of these issues. In the event that A.B. 425 does not become law, the Division of Insurance still pledges all of our resources and expertise in licensing and certifying individuals to ensure Nevada's consumers of health insurance have the greatest protections possible.

**Chair Woodhouse:**

Are the background checks included in the \$550?

**Mr. Kipper:**

Yes, background checks are included in the \$550 which is a cost to the individual.

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 43

**Chair Woodhouse:**

Which organization is going to conduct background checks?

**Mr. Kipper:**

The background check information will be initiated by specific vendors, then sent on to the Nevada Department of Public Safety or the FBI.

**Chair Woodhouse:**

This meeting stands adjourned at 10:32 a.m.

RESPECTFULLY SUBMITTED:

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Thomas Hutton-Potts,  
Committee Secretary

APPROVED BY:

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Senator Joyce Woodhouse, Chair

DATE: \_\_\_\_\_

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Assemblywoman Lucy Flores, Chair

DATE: \_\_\_\_\_

Joint Subcommittee on General Government  
Senate Committee on Finance  
Assembly Committee on Ways and Means  
March 27, 2013  
Page 44

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	2		Agenda
	B	3		Attendance Roster