

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-Eighth Session  
April 22, 2015**

The Senate Committee on Finance was called to order by Chair Ben Kieckhefer at 8:05 a.m. on Wednesday, April 22, 2015, 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.

**COMMITTEE MEMBERS PRESENT:**

Senator Ben Kieckhefer, Chair  
Senator Michael Roberson, Vice Chair  
Senator Pete Goicoechea  
Senator Mark A. Lipparelli  
Senator David R. Parks  
Senator Joyce Woodhouse

**COMMITTEE MEMBERS ABSENT:**

Senator Debbie Smith (Excused)

**STAFF MEMBERS PRESENT:**

Mark Krmpotic, Senate Fiscal Analyst  
Alex Haartz, Principal Deputy Fiscal Analyst  
Lona Domenici, Committee Manager  
Emily Cervi, Committee Assistant  
Jeanne Harrington-Lloyd, Committee Secretary

**OTHERS PRESENT:**

Tina Leiss, Executive Officer, Public Employees' Retirement System  
Betsy Aiello, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services  
Roger Rahming, Operations Officer, Public Employees' Benefits Program  
The Honorable James Hardesty, Chief Justice, Supreme Court  
Michael J. Willden, Chief of Staff, Office of the Governor

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C.J. Manthe, Administrator, Housing Division, Department of Business and Industry  
Nicholas Trutanich, Chief of Staff, Office of the Attorney General

**Chair Kieckhefer:**

We will begin bill hearings and start with Senate Bill (S.B.) 420.

**SENATE BILL 420**: Revises provisions governing the executive staff of the Public Employees' Retirement System. (BDR 23-1176)

**Tina Leiss (Executive Officer, Public Employees' Retirement System):**

Senate Bill 420 was requested by the Public Employees' Retirement Board to create a general counsel position with the Public Employees' Retirement System (PERS) executive staff. The cost associated with the creation of this position was included in the proposed budgets submitted by the PERS Board. Revenue for the System's administrative budget is the result of transfers from the trust fund on a per capita basis for each member and benefit recipient. The Board believes, over time, the addition of general counsel will be either cost neutral or a cost savings. This position will improve the efficiency and effectiveness of the legal services provided to PERS.

The Nevada Constitution, in Article 9, section 2, subsection 4, recognizes the Board's authority to hire the necessary staff, which provides, in part, that PERS must be governed by the Board. The Board shall employ an executive officer who serves at the pleasure of the Board. In addition to any other employees authorized by the Board, the Board shall employ an independent actuary.

*Nevada Revised Statute* (NRS) 286.170, section 1, provides, in part, that subject to limitations of this chapter in the budget prescribed by the Board, the System must be administered by the executive officer, investment officer, operations officer and staff authorized by the Board.

*Nevada Revised Statute* 286.160 sets forth certain positions that the Board must employ and the qualifications required to hold those positions. Senate Bill 420 would amend NRS 286.160 to include the position of general counsel within the list of necessary positions that the Board shall employ. It provides that general counsel must be an attorney in good standing, licensed and practicing in the State of Nevada.

The Public Employees' Retirement Fund is a trust fund which must be administered for the exclusive benefit of the members and beneficiaries of the System. It is organized as a public agency and set outside of the Executive Branch of State government. The Board and certain staff members are fiduciaries to the trust fund. As such, the Board must exercise extreme care and independence when selecting its legal advisor. The Board has historically used a combination of outside legal counsel and some services of the Office of the Attorney General (AG). Due to the growth of the System, there has been an increase in litigation and workload. Given the complexities of laws and regulations governing the System and fiduciary considerations, the Board has determined that it is in the best interest of the PERS to employ full-time legal counsel, who is dedicated solely to providing legal advice to the Retirement System.

Legal representation of a public pension system is more complex than many areas of representation because of those fiduciary requirements. Federal law issues apply to public pension systems. In addition, there are State law requirements and a complex benefit structure. The level of expertise necessary to serve a public pension system cannot be gained if an attorney has multiple clients. The attorney needs to be dedicated full-time to learning, understanding and representing a public pension system. The attorney needs to be proficient in federal tax and benefit-related transactions that consist of hundreds of millions of dollars in the investment fund. The public pension system is highly regulated at the federal level and requires significant litigation management skills.

Most public pension systems that are statewide, including our State fund, have in-house legal counsel. Most statewide public pension systems have a department that consists of two to six in-house attorneys. The primary duty of general counsel would be to ensure that the Board and staff are fulfilling their fiduciary responsibilities and obligations to the members and beneficiaries of the system. The general counsel would be invaluable in providing daily advice in all areas of public pension administration including benefit issues, tax issues, investment issues, transactional issues, review of legal documents such as subpoenas and qualified domestic relations orders and assisting with public records requests.

Because of the nature, administration and investment of a \$34 billion trust fund, the size of our risk exposure is very high. A dedicated general counsel that is selected by the System will help minimize the risk exposure. The general

counsel will also internally handle certain types of litigation cases and will serve as litigation manager in more complex cases. The dedicated litigation manager will have the ability to not only be a legal expert, but also be that bridge between the legal and operational matters of the System.

We anticipate that in-house counsel will reduce, but not eliminate, the need for outside legal representation because of more complex litigation cases. The need for general counsel has been satisfied from 1995 through 2013, because the operations officer throughout that time was the former legal counsel for the System. That is no longer the case and we do not believe it is efficient to have legal counsel that is also an administrator of the System. Therefore, the Board has determined it is in the best interest of the System to have a dedicated full-time general counsel selected by the Board and part of the executive staff. A dedicated full-time general counsel will keep consistency and long-term legal representation in the System, because it takes a long time to learn the public pension system and its legal needs. In-house representation will help make our legal representation more stable. I am happy to answer any questions.

**Senator Goicoechea:**

We heard the policy on this in the Senate Committee on Government Affairs and the policy clearly makes sense.

**Chair Kieckhefer:**

All other positions that are statutorily in your office are exempt from the limitations based on, salaries as a percentage of the salary for the Office of the Governor. Do you have a salary level pegged for this position?

**Ms. Leiss:**

Yes, we do have a salary level pegged for this position. Our salaries are set by the PERS Board and approved by the Interim Retirement and Benefits Committee (IRBC) of the Legislature. We pegged the salary level for this position to another executive staff position, which is the third highest and is an administrative analyst. This is included in the budget and that salary level has been approved by the IRBC. We budgeted for the top of the range, but we do have ten steps within that range. The Board would have the authority to hire someone within the ten-step range. The range was previously approved by the IRBC.

**Chair Kieckhefer:**

Is there anyone here who would like to testify in favor of S.B. 420? Is there anyone opposed or neutral? Seeing none, I will close the hearing on S.B. 420.

We will now move to S.B. 422.

**Betsy Aiello (Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):**

The Division of Health Care Financing and Policy (DHCFP) proposed S.B. 422. It proposes the sunset for the Medicaid preferred drug list for our fee for service pharmacy program, be extended 2 years, until June 30, 2017, so it does not sunset this year. Postponing the prospective sunset gives DHCFP of the Department of Health and Human Services, the ability to continue to manage our preferred drug list. This includes atypical and typical psychotropic medications. These medications have been on the preferred drug list since 2010.

**SENATE BILL 422 (1st Reprint):** Allows for the continued inclusion of certain drugs on the list of preferred prescription drugs to be used for the Medicaid program. (BDR 38-1159)

The DHCFP has a process through our Pharmacy and Therapeutics Committee for our preferred drug list that is transparent through open meetings, and takes input about items that should be on the preferred drug list. The proposed bill is part of Governor Brian Sandoval's recommended budget and extends the sunset date from this June to June 30, 2017. If it does not pass, we will have a shortfall of revenue in our budget of \$1.3 million in 2016 and approximately \$1.3 million in 2017.

**Chair Kieckhefer:**

Currently, you maintain a preferred drug list. If S.B. 422 expires, would you be unable to maintain the preferred drug list?

**Ms. Aiello:**

Correct.

**Chair Kieckhefer:**

Why was the original sunset put in place?

**Ms. Aiello:**

There were concerns over atypical and typical psychotropic medications. All the medications are available, but require a prior authorization process because not all of them are on the preferred drug list. The medications on the preferred drug list go through the Pharmacy and Therapeutics Committee for review.

**Senator Goicoechea:**

I would like to clarify what you said. Medications can be acquired on the list, but require preauthorization. Is there still an ability to access those prescriptions?

**Ms. Aiello:**

The medications on the preferred drug list do not require a prior authorization process. If someone needs a medication that is not on preferred drug list, as opposed to the private industry in Medicaid, they can go through a prior authorization process with a medical necessity so their physician can request the medication off the list. This is the required process for patients to acquire their medications.

**Chair Kieckhefer:**

To be clear again, the approval of S.B. 422 would result in a cost savings to the State?

**Ms. Aiello:**

Yes. We are able to acquire supplemental rebates from the manufacturer for the drugs on the preferred drug list.

**Chair Kieckhefer:**

Was the \$1.3 million per year you outlined total impact or General Fund impact?

**Ms. Aiello:**

This would be total impact.

**Chair Kieckhefer:**

What would the General Fund impact be?

**Ms. Aiello:**

I did not bring that information. It would be about 65 percent of \$1.3 million.

**Chair Kieckhefer:**

Is there anyone in the audience who would like to testify in favor of S.B. 422? Is there anyone who would like to testify in opposition or neutral? I see none and, with that, I will close the hearing on S.B. 422.

We will move to S.B. 471.

**SENATE BILL 471:** Revises provisions governing payments from the State Retirees' Health and Welfare Benefits Fund made on behalf of certain retired persons. (BDR 23-1178)

**Roger Rahming (Operations Officer, Public Employees' Benefits Program):**

Senate Bill 471 provides an exception for those Medicare retirees enrolled in TriCare to receive a health reimbursement arrangement (HRA) and was included in the Agency request budget of the Public Employees' Benefits Program (PEBP). Currently, to receive a subsidy, Medicare retirees have to enroll in a Medicare plan through PEBP and this bill grants that exception for retired veterans with Tricare.

**Senator Goicoechea:**

We had this bill in the Government Affairs Committee and the policy appears reasonable.

**Chair Kieckhefer:**

How many people qualify for this exception?

**Mr. Rahming:**

At this time, we do not have our budget here. Approximately \$1.1 million was placed into our budget for each year of the biennium.

**Mark Krmpotic (Senate Fiscal Analyst):**

The bill was required to implement a budget decision in the PEBP budget in decision unit E-276 where additional premium income and State subsidies are budgeted at approximately \$1 million each year with offsetting expenditures including HRA contributions for retirees totaling approximately \$900,000 in each year of the biennium. The bill is required to implement this budget

decision. That is the reason why the bill was referred to the Senate Committee on Finance.

## SPECIAL PURPOSE AGENCIES

### PUBLIC EMPLOYEES' BENEFITS PROGRAM

PEBP - Public Employees' Benefits Program — Budget Page PEBP-10 (Volume III)  
Budget Account 625-1338

E-276 Educated and Healthy Citizenry — Page PEBP-16

**Mr. Rahming:**

This would impact approximately 1,100 individuals.

**Chair Kieckhefer:**

Would this make their applications for benefits easier?

**Mr. Rahming:**

Yes. This would grant them an exception that they do not have at this time. This is a federal plan, not a plan through the PEBP.

**Chair Kieckhefer:**

Did this bill go through the Committee on Government Affairs with no issues?

**Senator Goicoechea:**

The policy side appears reasonable, but the impact on the budget is the reason it is in the Senate Committee on Finance. Will this have a General Fund impact of approximately 1 million?

**Chair Kieckhefer:**

No. This is a revenue and expenditure authority that is in the budget.

Is there anyone else who would like to testify in support of, against or as neutral on S.B. 471? I see none and with that, I will close the hearing on S.B. 471. We will move to S.B. 472.

**SENATE BILL 472 (1st Reprint)**: Revises provisions governing the eligibility of state officers and employees for health benefits. (BDR 23-1193)



**Mr. Rahming:**

Senate Bill 472 changes the insurance eligibility waiting period for new hires. Currently, NRS 287.045 requires the first day of the month after 90 days of full employment to be eligible for insurance benefits. This is in conflict with the Affordable Care Act (ACA). To comply, through regulation, we changed this to the first day after 60 days of full employment through Legislative Counsel Bureau (LCB) File No. R101-13. Senate Bill 472 changes the waiting period to the first day of employment, if that first day of employment is on the first day of the month. If not, then it is on the first day of the month immediately following.

Senate Bill 472 creates consistency with PEBP and all the various employees in different entities in the State. Currently, the professionals at the Nevada System of Higher Education (NSHE) have insurance eligibility the first day of employment if it is on the first day of the month or first day of the month immediately following. This bill make the insurance eligibility criteria for NSHE consistent across the State.

Section 1, subsection 1 changes the eligibility period for State employees. Section 1, subsection 3 changes the eligibility period for local governments that are participating. Section 1, subsection 4 changes the eligibility waiting period for the members of the Senate and Assembly. Section 1, subsection 5 defines the notification period for agencies to inform PEBP of a new employee within 15 days of the effective date of the insurance. Section 1, subsection 6 defines the enrollment or declination of coverage to be within the month of the insurance effective date.

**Chair Kieckhefer:**

This bill will help the State come into conformance with federal law. How will this bill affect individuals who are hired in late June if the effective date of the bill is July 1?

**Mr. Rahming:**

By regulation, they would fall under the 60-day rule.

**Senator Goicoechea:**

This bill was before us in the Government Affairs Committee. The policy seems to be reasonable. We passed it unanimously.

**Chair Kieckhefer:**

Was the maintenance unit included in the budget?

**Mr. Rahming:**

Yes.

**Chair Kieckhefer:**

What is the fiscal impact of the maintenance unit in the budget?

**Mr. Rahming:**

It is approximately \$220,000 for the first year.

**Chair Kieckhefer:**

Does this amount carry forward on an ongoing basis?

**Mr. Rahming:**

Yes.

**Chair Kieckhefer:**

Is there anyone else who would like to testify in support of, against or neutral on S.B. 472? Seeing none, I will close the hearing on S.B. 472 and start the hearing on S.B. 431.

**SENATE BILL 431:** Authorizes the Supreme Court of Nevada to enter into a long-term lease for office space in Clark County which extends beyond the 2016-2017 biennium. (BDR S-1133)

We have proposed Amendment 6421 to S.B. 431 ([Exhibit C](#)) before us.

**Mr. Krmpotic:**

On March 31, the Committee originally heard S.B. 431. Chief Justice James Hardesty presented this bill authorizing the Supreme Court to terminate its existing lease in Las Vegas, at the Clark County Regional Justice Center (RJC), and to enter into a new agreement for space in downtown Las Vegas. Chief Justice Hardesty presented various details regarding the location and the square footage for the proposed location in Las Vegas. It has been indicated that it is adjacent to the Federal Courthouse.

Proposed Amendment 6421 makes several changes to S.B. 431. Section 1, lines 1 and 2, strikes the language that provides notwithstanding the provisions is NRS 353.260. This statute prohibits spending in excess of the amount appropriated. The language in section 1, lines 6 through 8, indicates that the lease may not constitute debt for the purposes of section 3, Article 9 of the Nevada Constitution. This addresses the 25-year time period indicated in section 1, line 5 of Exhibit C. The Nevada Constitution states the debt cannot exceed 20 years.

Section 1, lines 9 through 16, strikes language that provides for the payment of this debt from the Consolidated Bond Interest and Redemption Fund. Even though that language was included in the original bill, Chief Justice Hardesty testified that appropriations exist in the Court budget to pay for the lease expenses in future biennia. These monies, in payment of a lease, need no longer be guaranteed by the Consolidated Bond Interest and Redemption Fund, which is funded with property tax receipts for the payment of State debt.

Section 2 of Exhibit C authorizes the Court to execute any necessary amendments to effectuate the release of the Court and the State of Nevada from any further liability to Clark County incurred by the current lease agreement for office space for the Court in the RJC owned by Clark County.

**Chair Kieckhefer:**

Chief Justice Hardesty, please give us a status update as to where your negotiations are with Clark County over release from the current RJC lease.

**The Honorable James Hardesty (Chief Justice, Supreme Court):**

Prior to submitting the bill to the Legislature, we submitted this issue to the Clark County Commission. They voted unanimously to approve the amendments. We provided the amendments to staff, indicating that once the Legislature approves it, we would sign the amended lease with the RJC. That releases us from that lease, effective December 31, 2016. Should there be any delay in transferring to the new property, we would be on a month-to-month basis in that interim. The Clark County Commission has approved the amendment.

**Chair Kieckhefer:**

Do you have a finalized agreement for the new space?

**Chief Justice Hardesty:**

We have not finalized the agreement at this time. We provided Fiscal staff with term sheets from which the lease is being constructed. We had a full Court meeting with the architects and engineers to review the design of the building. The draft of the lease will be reviewed by us and submitted to the Department of Administration's State Public Works Division, Buildings and Grounds Section and their legal counsel for comment. This would authorize us to enter into the lease that we find acceptable on our terms.

**Chair Kieckhefer:**

There is a concern about ensuring that all the required costs are incorporated into this dollar amount. This would include security.

**Chief Justice Hardesty:**

Security is not included in the dollar amount. As I mentioned at the hearing earlier, the Court has a separate amount that it pays to the Clark County Judicial District. This provides marshals on the 17th floor of the RJC. We are negotiating with Judge David Barker to extend the contract to the new facility at approximately the same cost. If the contract is not approved, we would add two marshals within our budget authority and another \$50,000 in our budget to handle that cost. Security is not included within that cost. The amount is the lease amount for the base costs and includes all operating increases.

**Chair Kieckhefer:**

There is security for both ingress and egress at the RJC. There are metal detectors as you walk through the building and the parking structure. Is there a structure base that is cost allocated in the RJC? There are marshals that specifically serve the Court on the 17th floor. Is that baseline security infrastructure covered, as well, or just the marshal service?

**Chief Justice Hardesty:**

Within the plans and drawings, the baseline security operation is incorporated within the lease. The room where the marshals will be located is a two-story building with single access. That single access is focused on the security needs for the Court. The Court will provide funds that were set aside for the remodel of the RJC. These funds will now not be used for that purpose, but will provide furnishings for the new building and cameras and screens used by the marshals at the single entrance point.

**Senator Roberson:**

I would like to review the existing lease and the proposed new lease. I would also like to review the documents from Clark County that terminate any future liability on the current lease.

**Chief Justice Hardesty:**

I provided a copy of the RJC lease with the amendment the Clark County Commission approved, which terminates the lease. The term sheet was included. The new lease is being drafted by the developer's legal counsel. The term sheet and the other two documents can be supplied later this morning.

**Senator Roberson:**

I want to make sure we have control over the costs.

**Chief Justice Hardesty:**

I provided the Committee, or Fiscal staff, a copy of the comparison of lease payments the Court would make if it continued in the RJC. We are obligated under that lease until November 2025. The object of negotiating this lease was to maintain our rent at the same amount we are paying in 2016 for the first 10 years of the lease in the new facility. This makes our rent obligations for the first 10 years of this new lease less than what we would pay if we were to remain in the RJC.

During the first 10 years, the new lease payment is flat and does not include the operating and maintenance costs provided by the developer. Under the existing lease, 1 percent to 3 percent is added to the operations and maintenance costs at the RJC. There is a cost savings of approximately \$300,000 to \$400,000 as a result of being in a new facility. The new facility offers the Court approximately 7,000 to 8,000 more square feet than we currently occupy in the RJC. This will drive our per-square-foot cost down significantly.

**Senator Roberson:**

I would like to review the documentation for the remainder of the new lease, not just the first 10 years.

**Chair Kieckhefer:**

We will delay processing S.B. 431 today, while Senator Roberson reviews the requested documentation.

We will move to S.B. 503.

**SENATE BILL 503 (1st Reprint)**: Provides for the creation and implementation of the Breakfast After the Bell Program. (BDR 34-1200)

**Mr. Krmpotic:**

Senate Bill 503 was heard in the Committee on April 17. This bill provides for the creation and implementation of the Breakfast After the Bell program. It is a new program included in the State Department of Agriculture (NDA) budget. The Committee received testimony from Director Jim R. Barbee and Catrina Peters in support of the bill. Staff has reviewed the details of the bill to ensure that it is consistent with the manner in which the Committee has closed the budgets. The NDA budgets were closed 2 days ago.

Fiscal staff suggested an amendment to this bill to remove the General Fund appropriations included in section 17. The Committee approved the NDA budgets with a \$1 million appropriation included in the budgets in each year of the biennium. The Fiscal staff has no additional concerns with the bill.

**Chair Kieckhefer:**

Is the recommendation to eliminate section 17, in its entirety or just subsection 1?

**Mr. Krmpotic:**

The recommendation is to eliminate the entire section 17. Subsection 1 includes the appropriations for the respective fiscal years. Subsection 2 provides that sums appropriated by subsection 1 must be used to make applications required to the public schools who participate in Breakfast After the Bell, created by section 6 of this act. This could be included in the back language of the Appropriations Act, given that the appropriations will be removed from this bill. Subsection 3, is strictly reversionary language that would go along with the appropriations as well. With respect to the Committee processing the bill, an amendment could be processed to eliminate section 17, but consider subsection 2, if necessary, in the back language of the Appropriations Act.

**Senator Goicoechea:**

The testimony from Mr. Barbee was that this \$1 million investment could raise as much as \$3 million a year including federal dollars, if we see the increase in participation that they anticipate.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 503, ELIMINATING SECTION 17 OF THE BILL.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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We will move to S.B. 506.

**SENATE BILL 506**: Revises provisions relating to state financial administration.  
(BDR S-1207)

**Mr. Krmpotic:**

Senate Bill 506 is one of three legislative measures recommended by the Department of Administration to address the shortfall of General Fund revenues in fiscal year (FY) 2015. Senate Bill 506 provides for the transfers of money from various accounts and funds for unrestricted General Fund use, included in sections 1 through 25 of the bill. As written, the bill provides for a total of \$67,073,485 in transfers to the General Fund for unrestricted use. The bill was presented by Jim R. Wells, Interim Director, Department Of Administration, when it was heard by the Committee.

Fiscal staff has conferred with the Department regarding concerns over several transfers. These concerns were over possible use of regulatory fees and transferring those fees to the General Fund. Another concern is duplicating a transfer that has been made to the General Fund. Staff is prepared to walk through these changes section by section for the Committee. There is information that will need to be presented by the Governor's Office, with respect to one of the particular sections.

In S.B. 506, section 1 calls for a transfer from the Bureau of Consumer Protection in the amount of \$400,000. Staff suggests this section be removed from the bill and the transfer not be made because the transfer would constitute a transfer of regulatory fees.

Fiscal staff suggests section 3 be removed from the bill. This is a transfer of \$2,941,926, representing transfers of AG penalties. This transfer was already made to the General Fund. The bill would duplicate what has already been done.

Fiscal staff suggests section 5 be removed. This is a transfer of \$25,000 for the Notary Public Training Account, representing a regulatory fee set by the Office of Secretary of State.

Fiscal staff suggests an amendment to section 10 to increase the amount of a transfer from the Account for Programs for Innovation and the Prevention of Remediation in the Department of Education (NDE), known as the School Remediation Trust Fund. This amendment would increase the transfer to the General Fund from \$426,231 to \$573,449 from the School Remediation Trust Fund. The Fiscal Division's education analyst indicates the amount represents regional professional development center funding for training on a new teacher evaluation system and unbudgeted interest. That is the amount being transferred into the General Fund under section 10 from the School Remediation Trust Fund.

Fiscal staff suggests an amendment to section 11 to increase the transfer amount from the Grant Fund for Incentives for Licensed Education Personnel in the NDE from \$3 million to \$4.5 million. This is based on revised information provided by the Department of Administration's Budget Division, pertaining to unused funds for teacher incentives and a reconciliation of the amounts necessary for the one-fifth retirement credit.

Fiscal staff suggests an amendment to section 14 to increase the transfer from the Supplemental Account for Medical Assistance to Indigent Persons, within the Hospital Care to Indigent Persons account, from \$178,284 to \$186,962. This is based on revised information from the Budget Office.

Section 15 is a transfer from the DHHS Division of Public and Behavioral Health (DPBH) Radiation Control Account. Fiscal staff suggests this section be removed from the bill representing \$250,000 from the Radiation Control account. Transfers from this account were a concern, since the balance in the account represents regulatory fees. The Budget Office recommended a reduction from this bill at the hearing from \$750,000 to \$250,000. Although Fiscal staff agrees that penalties flow into this account and the reduction was to reflect the transfer of what both the Fiscal Analysis Division and the Budget Division



believe are penalties, these amounts cannot be verified. Staff recommends this section be completely removed. Based on recent information from the Administration staff, they concur with this removal.

Section 18 is the DPBH Health Facilities Hospital Licensing transfer in the amount of \$3,050,000. Fiscal staff recommends this section be removed. This item was withdrawn by the Budget Division when the bill was heard on March 27.

Section 20 constitutes a \$35,000 transfer from the Emergency Medical Services Account. Staff suggests this section be removed from the bill, since it represents licensing fees. In conjunction with section 20, staff also recommends the removal of section 32, which relates to section 20.

Section 21 represents a transfer from the DPBH Marijuana Health Registry. It was believed that this account contained General Funds and that staff has since been verified that it does not contain General Funds. Fiscal staff suggests removal of this section, since the \$500,000 transferred from the DPBH Marijuana Health Registry account represents the license regulatory fees. Fiscal staff also suggests removal of related section 33, in conjunction with this removal.

Fiscal staff suggests section 22 be removed since the transfer of \$253,000 from the Department of Corrections Prison Industries Capital Improvement Program account represents deductions of inmate wages. This was a concern on the part of Fiscal and Legal Division staff.

Section 23 represents a transfer in the amount of \$1.5 million from the Account for the Management of Air Quality. Upon initial review, this was believed to be regulatory fees. The Governor's Office has provided new information to Fiscal staff indicating some of it represents a penalty. Fiscal staff suggests an amendment of this transfer from \$1.5 million to \$1.1 million. The Chair may want to take testimony from the Governor's Office, attesting to the fact a portion represents penalties.

Fiscal staff suggests removal of section 28 based on concerns by Legal Division staff about the contract clause issue. This is based on the transfer from the Bond Housing Trust Account and the language that can be used for any other purpose authorized by the Legislature.

Section 25 transfers unspent mortgage settlement funds from Business and Industry (B&I). Fiscal staff suggests that additional testimony be received from the Governor's Office. This section needs to be amended regarding legal concerns raised by the AG as to how this transfer can be made.

The suggestions made by Fiscal staff would reduce the transfers to the General Fund from \$67,073,485 to \$60,374,455. If the Committee adopts the suggestions and the additional information provided by the Governor's Office, the removal and amendments of these sections would address the concerns raised by Legal staff within LCB.

**Michael J. Willden (Chief of Staff, Office of the Governor):**

We are working with the AG and your staff regarding allowance of these sweeps in section 24 and section 25. According to advice we received from the AG, the sweeps in section 25 would not be permitted and may violate terms of the federal mortgage settlement dollars. We can work within the construct of the settlement dollars. We should delete \$9.4 million from section 25 and increase the current amount of \$8.6 million in section 24 to \$18 million. We would effectuate a transfer of funds into the B&I Housing Division (HD). They would spend the funds according to the settlement purpose and that would free up dollars in their organization that could be transferred to the General Fund. This is the proper amendment to S.B. 506.

**Chair Kieckhefer:**

Is the additional \$9.4 million currently in bond reserve account?

**C.J. Manthe (Administrator, Housing Division, Department of Business and Industry):**

We currently have \$9.4 million available in our general reserve trust fund.

**Mr. Willden:**

We have not asked the AG to review what we are proposing in section 24. The AG reviewed section 25 and the purpose of those funds. After discussing this with the HD we believe this is allowable under the terms of the federal mortgage settlement dollars.

**Nicholas Trutanich (Chief of Staff, Office of the Attorney General):**

We have been working with the Governor's Office regarding this issue and will be available for any advice they would like in the future on this proposed transfer of funds to increase section 24 and decrease section 25 of S.B. 506.

**Chair Kieckhefer:**

Does the AG feel comfortable with the changes outlined, to eliminate Section 25 and increase section 24 to \$18 million?

**Mr. Trutanich:**

There are legal issues which the AG would like to discuss with the Governor's Office before expressing an opinion at this open hearing.

**Chair Kieckhefer:**

It sounds like this issue has not been resolved.

**Mr. Trutanich:**

We will work with the Governor's Office to make sure that the process by which this money is swept is legal.

**Chair Kieckhefer:**

If we processed S.B. 506 today, can this be completed legally in the amounts outlined by Mr. Willden?

**Mr. Willden:**

The programs and services operated by the HD can meet the terms of the settlement and the funds can be moved into section 24. They will be spent appropriately and free up other funds to be swept.

**Ms. Manthe:**

The HD has a number of programs designed to address the impact of the foreclosure in the housing crisis. We have programs that make mortgages affordable for low-to moderate-income families, who receive home buyer education as part of the program. We work with the AG to make sure any programs we fund with the transfer are consistent with the terms of the settlement agreement.

**Chair Kieckhefer:**

Mr. Willden, are you in agreement with the other amendments as outlined by Mr. Krmpotic?

**Mr. Willden:**

Yes, we met with Fiscal staff this morning and are in general agreement. Our only concern is section 24 and section 25.

**Chair Kieckhefer:**

We will take a motion to amend S.B. 506 and have that amendment reported back to the Committee, so we can review the language in section 24 and section 25. We then will review and keep the process moving forward so we can make these transfers, but review the final language before it passes out of this Committee.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 506; ELIMINATING SECTIONS 1, 3, 5, 15, 18, 20, 21, 22, 25, 28, 32 AND 33 AND TO AMEND SECTION 10 TO MAKE THE PROPOSED TRANSFER OF \$573,449; AMEND SECTION 11 TO MAKE THE PROPOSED TRANSFER OF \$4.5 MILLION; AMEND SECTION 14 TO MAKE THE PROPOSED TRANSFER OF \$186,962; AMEND SECTION 23 TO MAKE THE PROPOSED TRANSFER OF \$1.1 MILLION; AMEND SECTION 24 TO MAKE THE PROPOSED TRANSFER OF \$18 MILLION; AND GRANT AUTHORITY FOR STAFF TO MAKE ADJUSTMENTS TO SECTION 24 PENDING NEGOTIATIONS AND UNDERSTANDING OF THE PENDING ISSUES.

SENATOR PARKS SECONDED THE MOTION.

**Senator Parks:**

Was there a larger number closer to \$85 million? A large part might be the PEBP or is that amount separate from S.B. 506?

**Mr. Willden:**

Mr. Wells was in another Committee hearing this morning dealing with the Active Employee Group Insurance (AEGIS) sweep bill which sweeps about \$18 million. Each year \$60 million is received and another \$18 million is received in the AEGIS.

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PEBP - Active Employees Group Insurance — Budget Page PEBP-25 (Volume III)  
Budget Account 666-1390

**Chair Kieckhefer:**

We passed the AEGIS sweep bill and it cleared the Senate.

**Mr. Krmpotic:**

To complete these transfers, S.B. 490 transfers \$28 million from the Account to Stabilize the Operation of the State Government to the General Fund. The Committee will consider these transfers at a later date.

**SENATE BILL 490:** Revises provisions governing transfers to and from the Account to Stabilize the Operation of the State Government.  
(BDR 31-1213)

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

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**Chair Kieckhefer:**

Seeing no further requests for public comment, this meeting stands adjourned at 9:16 a.m.

RESPECTFULLY SUBMITTED:

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Jeanne Harrington-Lloyd,  
Committee Secretary

APPROVED BY:

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Senator Ben Kieckhefer, Chair

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

EXHIBIT SUMMARY				
Bill	Exhibit		Witness / Entity	Description
	A	2		Agenda
	B	2		Attendance Roster
S.B. 431	C	2	Mark Krmpotic/Fiscal Analysis Division, Legislative Council Bureau	Proposed Amendment 6421