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

Seventy-Ninth Session
March 9, 2017

The joint meeting of the Assembly Committee on Ways and Means and Senate Committee on Finance Subcommittees on General Government was called to order by Chair Heidi Swank at 8:01 a.m. on Thursday, March 9, 2017, in Room 2134 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Heidi Swank, Chair
Assemblywoman Teresa Benitez-Thompson, Vice Chair
Assemblywoman Olivia Diaz
Assemblyman Chris Edwards
Assemblyman John Hambrick
Assemblywoman Ellen B. Spiegel

SENATE SUBCOMMITTEE MEMBERS PRESENT:

Senator Aaron D. Ford, Chair
Senator David R. Parks
Senator Becky Harris

STAFF MEMBERS PRESENT:

Mark Krmpotic, Senate Fiscal Analyst
Sarah Coffman, Principal Deputy Fiscal Analyst
Cathy Crocket, Program Analyst
Jennifer Gamroth, Program Analyst
Jay Kriebel, Program Analyst
Carmen Neveau, Committee Secretary
Lisa McAlister, Committee Assistant

Chair Swank asked the committee secretary to call the roll. The Chair then reminded Subcommittee members, testifiers, and members of the audience about Subcommittee rules and protocol.

Chair Swank explained that the budgets to be heard would include the Deferred Compensation Committee, Minerals, and Marijuana Regulation and Control.

FINANCE & ADMINISTRATION
DEPARTMENT OF ADMINISTRATION
ADMINISTRATION - DEFERRED COMPENSATION COMMITTEE (101-1017)
BUDGET PAGE ADMIN-48

Rob Boehmer, Deferred Compensation Program Coordinator, Committee on Deferred Compensation for State Employees, provided a brief background of the deferred compensation plan, as outlined in the "Nevada Deferred Compensation Program (Budget Account 1017)," (Exhibit C). The plan program, established in 1977, was a voluntary defined contribution retirement plan under Section 457(b) of the Internal Revenue Code. The plan provided participants and their beneficiaries a supplement to other retirement savings or retirement income. The program was operated solely in the interest of plan participants and their beneficiaries by the Committee on Deferred Compensation for State Employees appointed by the Governor, pursuant to *Nevada Revised Statutes* 287.325. The plan strived to provide quality investment options and competitive costs, while maintaining high customer service standards. He stated that his program coordinator position oversaw the administration of the program. The staff included his position and one 0.75 full-time-equivalent to manage an almost $800 million program. Other duties included providing contract management for the program’s record keeper, an investment consultant, and audit services. The goal was to help employees across the state understand the importance of supplemental savings through educational seminars and workshops. Educational opportunities, he stated, included National Retirement Security Week, a congressionally mandated week dedicated to financial security and financial wellness. He offered that 80 to 90 percent of people who left state service tended to stay in the program because the price offering afforded to participants was better than the retail market. He pointed out that all program expenses were paid from fees generated and collected by assets invested in the program. No State General Fund or other tax-generated funds supported the program.

Mr. Boehmer covered key program highlights, as shown on page 1 of Exhibit C. The program was holding $752 million in assets, and he expected to reach the pinnacle mark of defined contribution plans, $1 billion, in the next five to seven years. The program was available as a benefit to over 60,000 eligible government employees throughout Nevada and employees of the Nevada System of Higher Education, as well as 68 other political subdivisions. Program participants numbered 33,665. He stated that 85 to 90 percent of retirees continued to manage assets through the program, taking advantage of the institutional pricing structure and the stable value rate guarantees negotiated by the program on behalf of participants. He noted that the fixed rate offering was guaranteed at 2.75 percent. The average participant account balance was $51,418, as compared with the national average account balance of $42,816. He recounted that as mandated by statute, the record keeper contract went out to bid every five years to ensure competitive pricing. As the assets grew, he explained, the program could continue to get a better pricing structure through the record-keeping contract, which was last bid in 2014. Mr. Boehmer explained that Voya Financial, Inc. was the current contracted record keeper. In the past, he stated, the program had multiple record keeper contracts, but multiple vendors did not provide more investment options, and by selecting just one, the program saved participants $1.8 million over the five-year contract period.

Mr. Boehmer explained that in 2017, after one year's worth of research, national benchmarking, and evaluations, the Committee on Deferred Compensation for State Employees took action to amend the current program's fee structure. The intent of the revised fee structure was to provide enhancements and to provide a stronger transparency for fees. The revised fee structure meant that participants would know what they were paying and could make sound decisions based on that information. The revised plan also provided participants with the lowest share class on investment options and minimized the potential litigation exposure of state government in Nevada, according to Mr. Boehmer.

In comparing the Nevada deferred compensation program with other states, Mr. Boehmer continued, Nevada exceeded the national median participation rate, currently at about 38 percent participation compared with 33 percent national average per year, as shown on page 2 of Exhibit C. The annual deferral rate for Nevada was at $5,000 per participant per year, which he noted was impressive because that amount was in addition to the Public Employees' Retirement System (PERS) plan. The national average was $3,700 per participant per year. The staff size was also smaller in Nevada than other states.

Mr. Boehmer continued by stating that his office negotiated a fixed rate guarantee on the general account offering, which beat the national benchmark by nearly one percentage point. As he stated earlier, the fixed rate offering was guaranteed at 2.75 percent, while the national rate was at 1.78 percent for the benchmark Hueler Companies' stable value rate.

Mr. Boehmer next covered the program goals for the 2017-2019 biennium. Specifically, he said, the goals were to continue to provide quality investment options that exceeded the peer group median benchmarks, to minimize the program cost to participants, and to increase program participation. The record-keeping contract, according to Mr. Boehmer, included an incentive clause. Program participants included new, active, and retired employees, and Voya Financial, Inc. guaranteed an increase in program participation of 10 percent over the term of the contract. If Voya Financial, Inc. did not meet the incentive target, the company would pay $100,000 to the state, which could then be returned to participants. He further stated that Voya Financial, Inc. was on track now, with about 6 percent increased participation after year two of the five-year contract.

Mr. Boehmer next addressed the budget overview for the program, which contained one decision unit Enhancement (E) 255 to increase Category 02 and Category 04 accounts by a total of $3,041. This increase would send an additional member of the Committee on Deferred Compensation for State Employees to the National Association of Government Defined Contribution Administrators, Inc., (NAGDCA) educational conference. In addition to educational benefits, he explained, this conference helped members meet the fiduciary responsibility to the program and provided an awareness of national trends and national program accomplishments.

Chair Swank asked for any questions from the Subcommittee members, and hearing no questions, she suggested returning to this topic later in the meeting when Patrick Cates, Director, Department of Administration, was present to address the reorganization questions.

FINANCE & ADMINISTRATION
DEPARTMENT OF TAXATION
DEPARTMENT OF TAXATION (101-2361)
BUDGET PAGE TAXATION-6

Deonne E. Contine, Executive Director, Department of Taxation, introduced her presentation titled "Department of Taxation," dated March 9, 2017 (Exhibit D). Page 1 of Exhibit D, she explained, illustrated the tax revenue and distributions. The Department of Taxation collected approximately $6 billion per year that was distributed to both state and local governments.

Ms. Contine continued her presentation on page 2 of Exhibit D. Budget account 2361, was the primary budget account for the Department of Taxation. She said that 82 percent of the budget was the personnel costs for 380 full-time-equivalent positions. Budget account 4207, Marijuana Regulation and Control, she explained, was a new budget account.

Returning to budget account 2361 on page 3 of Exhibit D, Ms. Contine detailed the four items included in the budget request. The first item, decision unit Enhancement (E) 225, was a funding percentage reallocation with a net zero impact. The request aligned funding for an information technology position that had been working on the Master Settlement Agreement (MSA) for tobacco and was now working on State General Fund projects. The new funding level, she said, would be 75 percent from the State General Fund and 25 percent from MSA funding.

Ms. Contine continued with the second item in budget account 2361, decision unit E-230, which was a decision unit to eliminate the Mining Oversight and Accountability Commission (MOAC). She noted there was a companion to this budget item in Assembly Bill (A.B.) 33.

The third budget item Ms. Contine presented was decision unit E-806, a reclassification of one Tax Examiner 2 position to a Management Analyst 1 position in the MSA Enforcement Unit. The tax examiner position dealt with tobacco enforcement, with duties and responsibilities added to the position. The change, she explained, resulted in a funding increase of $14,294 for the 2017-2019 biennium.

The final budget item Ms. Contine covered was a biennium decrease of $117,925 for the transfer of an information technology position from Enterprise Information Technology Services (EITS), Department of Administration, to the Department of Taxation. Decision units E-520 and E-920 addressed a position that had been dedicated to the Department of Taxation for several years and aligned the funding.

Chair Swank asked for questions on budget account 2361. Hearing no questions, she asked about decision unit E-225, the change in funding percentages with zero impact on the budget request. She asked Ms. Contine to explain how the 75 percent State General Fund and 25 percent tobacco settlement funding were determined.

Ms. Contine explained that the position was originally funded from the tobacco-related MSA. That position was charged with creating a database to query information for use in the diligent enforcement of the settlement. Over the course of three years, the database was developed and now only required maintenance efforts for about 25 percent of the position's time. The other 75 percent, Ms. Contine explained, was transitioned to working on State General Fund information technology projects.

Chair Swank then asked about decision unit E-806, the reclassification of the tax examiner position. She requested more information on how the assigned duties better aligned with a management analyst job title.

Ms. Contine stated that based on a settlement from a few years ago, the settlement required nonparticipating tobacco companies to pay into an escrow account. This caused the job duties to shift as tracking was required, and the data received from taxpayers required analysis. A tax examiner would answer questions from taxpayers and perform more process work.

Assemblywoman Spiegel asked about decision unit E-230, the elimination of the Mining Oversight and Accountability Commission (MOAC). She asked what independent body would provide oversight when the MOAC was eliminated.

Ms. Contine replied that presentations to MOAC came from the Division of Minerals, Division of Environmental Protection, State Department of Conservation and Natural Resources, and the Department of Taxation. She further explained that nobody was currently serving on the MOAC as all five appointments had expired. In addition, the oversight was duplicative of oversight that already occurred. One of the duties of the MOAC was to review regulations of various agencies, but there were also commissions and agencies that already reviewed those regulations. With the inability to get a quorum over the last year, there had been no review, so agencies adopted regulations, and this added an unnecessary layer.

Assemblywoman Spiegel summarized that there was already oversight by other agencies, and Nevada would not be losing an oversight group, but just one duplicative component of the oversight process.

Ms. Contine responded that Assemblywoman Spiegel was correct; there was oversight in other places. As Ms. Contine was not employed when the MOAC was created, she could not speak to the intent, but the only negative she could see in disbanding the MOAC was that there would no longer be one forum for all agencies to meet to discuss mining matters.

Chair Swank asked for other questions on budget account 2361, and hearing no questions, she moved to budget account 4207, Marijuana Regulation and Control.

FINANCE & ADMINISTRATION
DEPARTMENT OF TAXATION
TAXATION - MARIJUANA REGULATION AND CONTROL ACCT (101-4207)
BUDGET PAGE TAXATION-14

Deonne E. Contine, Executive Director, Department of Taxation, continued with her presentation titled "Department of Taxation," dated March 9, 2017 (Exhibit D). Ms. Contine discussed Question 2, the Initiative to Regulate and Tax Marijuana, from the November 2016 statewide ballot, and the subsequent new budget account 4207, which included a budget request of $14 million. That funding, she detailed, would cover 16 new positions and associated operating expenses and included $5 million per year for the costs local governments may incur.

Chair Swank asked for questions from the Subcommittees. Hearing no questions from Subcommittee members, the Chair asked about the $10 million for local government and the types of costs that would be eligible for reimbursement to local governments.

Ms. Contine replied that matters were being sorted out, and the amount was a placeholder. The Governor’s task force for implementing Question 2 would address many of these matters. She further added that the task force included local government representatives who were identifying the local government costs.

Chair Swank requested confirmation that the $5 million per year was an estimate and whether a better estimate would be provided closer to budget closing. Ms. Contine answered yes to both questions.

Chair Swank then asked for a plan for how the reimbursements would be managed by the Department.

Ms. Contine responded that this matter was under discussion. The program was enacted on November 8, 2016, so it was a work in progress.

Assemblywoman Diaz asked for a summary of positions requested and the duties associated with the positions.

Ms. Contine stated that after the November 2016 election when the initiative was approved by voters, she spent some time with staff at the division that administered the medical marijuana program, Division of Public and Behavioral Health (DPBH), Department of Health and Human Services. She attempted to mirror the DPBH positions for cultivation and production facility inspectors, dispensary inspectors, and compliance inspectors. She asked the Subcommittee members to keep in mind that for the first 18 months, the initiative required only those who had an existing medical marijuana establishment license to be issued licenses. Because the medical marijuana program was operating and performing the same types of tasks, the thought was to create similar positions and take advantage of cross-training and shadowing opportunities from the medical marijuana program. She concluded that the number of positions was an estimate, using the medical marijuana program as a model and then factoring in additional resources needed when retail marijuana became available.

Assemblywoman Spiegel wondered about the Department of Taxation's concerns for handling potentially large amounts of regulation and taxation cash on a daily basis and how those concerns would be addressed.

Ms. Contine explained that as part of the budget request, there was a plan to strengthen security by installing a barrier between the public and the department employees. Bullet-proof glass would be installed. She conceded that a member of the public could go in, sit down at an employee's desk, and deal with the employee face to face. Her office had recognized the need to change that customer service layout in four offices. This matter was a concern to Ms. Contine, and the Department was beginning to address the subject in the budget request.

Assemblywoman Spiegel asked whether there had been any discussion of bringing in extra security or contracted staff for security purposes.

Ms. Contine believed these components were factored in as part of the security budget, but she wanted to be 100 percent sure about security. She stated that Capitol Police were assigned to the Grant Sawyer State Office Building in Las Vegas and various other offices.

Chair Swank asked about the $585,875 approved by the Interim Finance Committee (IFC) at the January 26, 2017, meeting and any programming accomplished with that funding. She also wondered what was covered in the information technology (IT) programming request for $200,000 in each year of the biennium.

Ms. Contine explained that a tax collection system and a licensing system were in the process of being developed. During the next biennium, there would be maintenance efforts for those systems, as well as tweaks and reprogramming for different licenses. The Chair asked for more information from IT on the 2,000-hour estimate. Ms. Contine explained that IT could provide a summary.

Chair Swank asked about the four positions requested at the IFC January 2017 meeting. She noted that one position had been filled, and she asked Ms. Contine for details, as IFC requests were usually urgent, yet three positions remained unfilled.

Ms. Contine reminded the Subcommittee members that she had requested one unclassified position, as that type of position was the easiest and quickest to fill. That unclassified position, she recounted, was filled one week later. The other three classified positions took time for the review of documentation, and she had been told that all three positions were posted for recruitment at this time.

Chair Swank asked Ms. Contine how long it would take to fill the positions once the positions were posted. Ms. Contine stated that she had a list of candidates for one posted position and interviews were being scheduled. She further stated that as soon as the other two positions closed and interviews were scheduled, the positions would be filled.

Chair Swank wondered when the Department anticipated the 15 percent excise tax and application license fees to start flowing into the office.

Ms. Contine anticipated being ready to accept applications in May 2017 as part of the quick-start effort. Establishments would be asked to pay both the $5,000 application fee and the various license fees when they filed their applications. With respect to the excise tax, when establishments opened in July, the tax returns and payments would be due 30 days after the end of the month, so the first returns would be due on August 31, 2017.

Chair Swank asked for questions from the Subcommittee members and there were no questions. At this point, the Subcommittees returned to budget account 1017, the Deferred Compensation Committee.

Chair Swank asked Patrick Cates, Director, Department of Administration, to address the reorganization. He stated that there was nothing built into the budget to reflect Senate Bill (S.B.) 80, the bill that sought to bring the Deferred Compensation Program and the Public Employees' Benefits Program (PEBP) under the Department of Administration.

He mentioned a bill draft request, listed as Bill Draft Request (BDR) 18-979, revising the language for S.B. 80. One substantive difference between the two bills, he detailed, was that the BDR sought to bring the programs under the Department of Administration but keep the programs separate. The other substantive difference, he continued, was to change the composition of the PEBP Board, removing the local government representative and including a Nevada System of Higher Education (NSHE) representative. The PEBP Board, he added, had not had local government participation in some time.

Mr. Cates continued to explain that BDR 18-979 sought to make the PEBP Board and the Committee on Deferred Compensation for State Employees advisory in nature rather than governing boards. The Executive Officers of both boards would be appointed by, and report to, the Department of Administration Director.

Chair Swank asked Mr. Cates to discuss the Deferred Compensation Program and what administrative or operating deficiency this reorganization would address.

The intent, according to Mr. Cates, was to bring the programs that represented the employee benefits package together. The Department of Administration was responsible for the Division of Human Resource Management and worked closely with the Office of the Governor on compensation plans and employee raises. By having the Deferred Compensation Program and PEBP separated from their governing boards, there were conflicts that arose. The fiduciary responsibility for both programs had been placed on the appointed boards, which changed over time with no single point of accountability. The responsibility, according to Mr. Cates, should rest with the Governor and the Legislature, not with a board. He acknowledged the value in having input from board members who represented participants in the programs: their opinions were part of the process that informed the Governor and the Legislature, but according to Mr. Cates, the authority and decision-making should not rest with a board.

Mr. Cates added that reform of several boards and commissions was in the Governor's recommended budget. Some boards had contracted executive directors, and he noted that there had been difficulties for a board dealing with personnel issues when the employees reported directly to a public board.

Chair Swank looked at the structures of other states' deferred compensation programs and noted that Nevada would be the first in the nation to move from a governing board to an advisory board. She was wondering what Nevada knew that other states did not yet know. She also noted that deferred compensation seemed more related to the Public Employees' Retirement System (PERS) than to PEBP.

Mr. Cates explained that models varied and an advisory board could function like other states' governing boards. He believed that PERS was a program that served all state and local governments, but in Mr. Cates' opinion, the Deferred Compensation Program seemed to be a better fit with the PEBP package. He acknowledged that the size of the Deferred Compensation Program portfolio had grown and at some point would fall under different regulatory requirements and need more resources. The Department of Administration would be able to assist in that regard with the Deferred Compensation Program under the umbrella of the Department of Administration.

Senator Ford asked about the proposal to establish a chief compensation officer, the current duties of the Program Coordinator, and how the duties would change when the reorganization was approved.

Mr. Cates replied that there was no intent to change the duties of the position, but the reporting structure would change. Part of the effort involved in the change from a committee to a division was the creation of a new title.

Assemblywoman Spiegel referenced the earlier presentation by Rob Boehmer, Deferred Compensation Program Coordinator, Committee on Deferred Compensation for State Employees. During that presentation, Subcommittee members were told that the Nevada deferred compensation program participation rate was higher than the national median, that Nevada state employees had an above-average annual deferral rate, that the Nevada program had a smaller dedicated staff, and that the negotiated fixed rate guarantee beat the national benchmark by nearly 1 percent. She wondered what performance measures would get better results and how better results would be achieved.

Mr. Cates responded that the intent was not to change the performance of the program for a relatively minor change in reporting structure. The goal was to maintain the program, and the performance measures would have to change over time.

Assemblywoman Spiegel wondered about changing from a governing board to an advisory board. She asked whether the advice of the board would be taken seriously, thereby changing the performance results, depending on the management in place. While the intention may have been to keep the program performance level the same, she conceded, those who served on an advisory board (instead of a governing board) might have different philosophies affecting performance. She also asked about contingency plans to ensure results did not backslide.

Mr. Cates countered that board members came and went, management philosophies changed, but the Executive Officer drove the portfolio performance. Regarding the advisory board, he offered, when management did not follow the advice of the board, board members would have to explain their actions to the Governor and the Legislature.

Senator Parks noted that S.B. 80 had been referred to the Committee on Government Affairs, but there was no report of a hearing request. There had also been no withdrawal request, however. He asked whether BDR 18-979 would replace S.B. 80 in its entirety.

Mr. Cates said that was the intent. He was notified yesterday of the bill draft request number but did not have the language from the Legal Division, Legislative Counsel Bureau (LCB). He said that a formal request to withdraw S.B. 80 would not be issued until the language was received.

Senator Parks stated that records indicated that BDR 18-979 was requested and posted on February 16, 2017. Mr. Cates agreed, but commented that he had not yet seen the language from the LCB Legal Division.

Chair Swank expressed concern about moving from a governing board to an advisory board because the money was employee money, not state money. She noted that there were concerns of the Subcommittees and a basic lack of comfort that needed to be discussed and addressed.

Mr. Cates appreciated the opportunity to hear Subcommittee members' concerns in advance of the bill hearing so he could better address the concerns.

Senator Parks posed a question to Rob Boehmer, Deferred Compensation Program Coordinator, Committee on Deferred Compensation for State Employees. He wondered, when asking a question, finding an answer, or managing an account from the southern part of the state, what resources were available to the program participants. He asked Mr. Boehmer to discuss in more detail.

Mr. Boehmer explained that the contracted record keeper had been delegated the administrative duties of the program and had three dedicated representatives in the southern part of state. Similarly, there were three representatives in the northern region, one of whom was a traveling rural representative. With that being said, Mr. Boehmer qualified, because it was a participant-driven plan, the representatives could not give investment advice, but could educate the participants to make sound choices.

Mr. Boehmer further explained that the six Voya Financial, Inc. representatives could hold enrollment meetings, change deductions, enroll participants, determine participant risk tolerance, or suggest a diversification model while meeting with participants, for example. He further stated that there was a subcontractor, Morningstar Associates, LLC, under the contracted record keeper. Participants could log into the Morningstar platform and receive investment advice to manage the account on their own or the participant could pay an annual fee to have the account managed. Those options were available to all participants.

Senator Parks explained that he had dropped into the Voya Financial, Inc. office in Las Vegas and found that, without an appointment, he would not be seen. The space was a nondescript office of executive suites that left Senator Parks puzzled.

Mr. Boehmer explained that the office in Southern Nevada had three representatives but no full-time office staff. The three representatives were often out on the road meeting with participants and that was why Mr. Boehmer felt that appointments were necessary.

Senator Harris asked about the managed asset plan where an individual chose to have the assets managed by a third party. She wondered about the fee structure for that service.

Mr. Boehmer explained that the current fee was 50 basis points, or one-half of 1 percent. That would be an annual fee taken out of the account on a monthly basis. Participants may cancel their participation in the annual fee at any point in time, he said.

Senator Harris asked whether the fee grew as the asset base grew.

Mr. Boehmer stated that the rate was a traditional fee for managed asset accounts. The participants were paying for management of their portfolio. As the assets grew, so did the fees that were paid. He suggested that the option to take advice, and then cancel the annual fee at any point in time, was a good cash savings option for participants.

Chair Swank asked for any further questions from Subcommittee members and hearing no questions, she moved on to the Division of Minerals.

COMMERCE & INDUSTRY
MINERALS
DIVISION OF MINERALS (101-4219)
BUDGET PAGE MINERALS-4

Richard Perry, Administrator, Division of Minerals, Commission on Mineral Resources, introduced his PowerPoint presentation titled "Nevada Division of Minerals, 2018-2019 Fiscal Year Activity and Budget Presentation," dated March 9, 2017 (Exhibit E). He explained that the Division was a state agency and part of the Commission on Mineral Resources, a seven-member board with expertise in mining, oil, gas, and geothermal resources appointed by the Governor and responsible for overseeing any regulatory changes. The Commission met quarterly throughout Nevada, as this gave the public better access to bring matters forward to the Commission's attention. As shown on page 2 of Exhibit E, the Division's funding was all from fees and required no State General Fund monies.

Mr. Perry noted the governing statutes for the Division of Minerals were included as Chapter 513 of the *Nevada Revised Statutes* (NRS) and referenced on page 3 of Exhibit E. These statutes defined the abandoned mine land program, the largest activity for the Division, and further defined the duties and responsibilities of the Division, including public information and collecting annual production statistics for all mining, including oil, gas, and geothermal resources, in Nevada. This data, he said, was used by economists and for municipal bond issuance. The Division was responsible for advising and recommending minerals policy to the Governor. The Division acted as the cooperating agency for federal actions on land use and National Environmental Policy Act (NEPA) actions, because it had geographic information system (GIS) capabilities for creating maps.

Other statutes that covered the Division of Minerals, according to Mr. Perry, included NRS Chapter 517, Mining Claims, Mill Sites and Tunnel Rights, one of the oldest NRS chapters going back to 1873. This chapter, he summarized, covered how claims were staked on federal land and all the rules and regulations associated with the claims, which often included significant interaction with county recorders. Mr. Perry continued with NRS 519A.290, which required his office to operate the state reclamation bond pool for explorationists who had to bond to work on federal land. He said his office held the money to ensure the reclamation was completed. Under Chapter 522 of the NRS, his office served as the regulatory agency for oil and gas. That regulation covered well permitting, drilling, completion compliance, conservation of resources, and correlative rights resolution. Finally, he referenced NRS Chapter 534A, which covered well permitting, drilling, completion compliance, and conservation of resources for geothermal resources.

Mr. Perry covered the three performance measures included in the Division of Minerals' 2017-2019 biennium budget request, as shown on page 5 of Exhibit E. There were 450 geothermal wells and about 120 oil wells in the state, and the Division was required to inspect one-third of the wells each year. The second performance measure was the percent of hazardous abandoned mine openings secured. He estimated that there were about 50,000 openings to mines statewide and about 20,000 had been inventoried since 1987. Mr. Perry stated that about 16,000 of the abandoned mine openings had been secured. The performance measure ensured that the Division was not just logging the number of mine openings, but had actually completed physical closures. The final performance measure covered educational presentations to civic groups, trade groups, and particularly grades K-12. He noted that all 11 staff members were required to make these presentations.

Mr. Perry continued with page 6 from Exhibit E, the Abandoned Mine Lands Public Safety Program, created by the Legislature in 1987 because of motorcycle fatalities in mineshafts. Claim fees funded the work, he stated, so industry had supported the program that addressed legacy hazards from 100-year-old mining activities. The mandated program activities included a statewide inventory of sites. The inventory was a large database that the Division of Minerals maintained for the federal Bureau of Land Management (BLM) and the U.S. Forest Service.

Mr. Perry covered the Division of Minerals' abandoned mine prioritization efforts, as shown for 2016 on page 7 of Exhibit E. Areas were rated to determine the degree of danger and accessibility for hazardous areas before staff and interns visited abandoned mines each summer.

Mr. Perry explained that interns were hired every summer from the University of Nevada, Reno (UNR) and the University of Nevada, Las Vegas (UNLV). Interns were trained to work safely in the field to survey and to use the global positioning system (GPS). Interns identified the logged sites and installed fencing to limit access to the mines. Staff performed this function year-round, he said, as calls came in about hazards opening up, so sites were secured as time allowed.

Mr. Perry differentiated between the types of hard closures, as shown on page 9 of Exhibit E. Examples of hard closures included not just fencing, but backfilling the mine opening. Polyurethane foam plugs were another type of hard closure, as were bat-compatible closures that allowed wildlife to continue to use the mine. Backfilling, he said, occurred as monies from claim fees allowed. Mr. Perry stated that the program results had been very good for the past few years, as illustrated on page 10 of Exhibit E.

Mr. Perry discussed the educational presentations that were tracked by the Division of Minerals staff, as shown on page 11 of Exhibit E. The biggest demand for presentations was from school systems, where staff provided rock and mineral kits as part of the presentations in Southern and Northern Nevada. Presentations were held in the winter and early spring, when staff field time was minimal, at the request of schools and civic groups. He explained that one change for the upcoming year would be the relocation of a vacant staff position to the Las Vegas office because of the demand for classroom presentations in that area.

As mentioned earlier, Mr. Perry recounted, the Division of Minerals was responsible for collecting production statistics for Nevada, as shown on page 12 of Exhibit E. An annual report was prepared in May and used by economists, the Department of Taxation (to audit their net proceeds of minerals calculations), and a number of other entities worldwide.

Mr. Perry referred to page 13 of Exhibit E to show that the Division of Minerals' revenues varied according to the number of claims newly staked or maintained in Nevada. The variance relied on the price of commodities, particularly gold, although there was a bump in 2016 based on 14,000 claims for lithium exploration that were staked in Nevada. The price for the mining claim fees was $10 per claim on those claims collected by the county recorders, and those fees funded the majority of the Division of Minerals budget.

Mr. Perry covered the pie charts on pages 14 and 15 of Exhibit E, showing revenue estimates and anticipated expenditures for the 2017-2019 biennium. He stated that mining claim fees were 79 percent of the revenue received, and personnel expenditures accounted for a little over half of the anticipated expenditures.

Mr. Perry provided information on the fiscal year (FY) 2016-2017 Division of Minerals accomplishments, as shown on page 16 of Exhibit E. Office staff spent considerable time updating regulations during those two years, he stated. Web-fillable forms were developed for mining claims, and a searchable database for all oil and geothermal wells in the state was developed. He stated that the office staff improved the delivery of information to the public through the agency website as well as public presentations and K-12 classroom educational materials.

Mr. Perry moved to pages 17 and 18 of Exhibit E to show the proposed enhancements. The major enhancement was the increase in contracted hard closure work for abandoned mine land. Based on an anticipated increase in claim fees, Mr. Perry anticipated addressing more hard closures. The background picture for page 17, he explained, was an example using South Apache Road in Las Vegas. There was an elementary school at the bottom of the image, and on the left was the Arden mine, a gypsum mine on county land that was active in the 1930s. The mine had been fenced for many years to limit access, but the intent now would be to hard close the mine.

Other enhancements, Mr. Perry continued, included computer upgrades and the replacement of exhibit booths used in educational and trade events. The final enhancement Mr. Perry discussed related to unclassified position changes. He stated that 8 of the 11 staff positions, including his position, were unclassified, and he proposed the top pay for 4 unclassified positions—the chief of dangerous mines and 3 field specialist positions—be upgraded to comparable classified pay scales as benchmarked to the Department of Conservation and Natural Resources (DCNR). He explained that he had seen about a 50 percent turnover in field specialists in the last three years. Staff who filled those positions had backgrounds in natural resources with significant geographic information system (GIS) and field skills, and Mr. Perry had a hard time retaining these employees when competing with other government agencies. He believed that a salary cap increase for retention purposes would be beneficial.

Mr. Perry explained that two bills would affect the Division of Minerals. The first bill was Assembly Bill (A.B.) 52 that would revise provisions relating to dissolved mineral resources. Should the bill pass, he stated, the Division of Minerals would develop regulations with the Division of Water Resources, DCNR, and the Department of Environmental Protection, DCNR. Those regulations would include a fee for drilling dissolved mineral resource exploration wells. The Division of Minerals' staff estimated that 25 wells per year would need to be permitted and field inspected. Existing oil, gas, and geothermal permit and inspection staff resources would be used for this effort, and he believed that no additional staff resources would be required. Mr. Perry stated that the impact to the Division of Minerals' 2017-2019 biennium budget was minimal.

Mr. Perry continued with the second bill that would affect the Division of Minerals, Assembly Bill 159, which would prohibit hydraulic fracturing in Nevada. The Division conservatively assumed one well per year would require hydraulic fracturing permitting and the associated production fee. He noted that a fiscal note was filed for this. He anticipated no impact in the 2018-2019 biennium, but long term, he believed it would affect oil production in Nevada, and because geothermal and oil were run together, it would cause funding problems in the future.

Chair Swank asked about decision unit E-815, the upgrade for unclassified positions. She asked Mr. Perry to discuss the chief of dangerous mines position, and how the position was comparable to an associate engineer position.

Mr. Perry responded that associate engineer 2 positions had great variability depending on the assigned agency, so he looked at the responsibility level. This position, he explained, ran the Abandoned Land Mines Program for the state, dealing closely with the BLM and the U.S. Forest Service. This position spent 20 to 30 percent of the time in the field, with the responsibility for hiring and managing 6 to 8 interns each summer. He believed it was a time demand and responsibility equivalency more than an exact duplication of duties.

Chair Swank asked for the same comparison for the three field specialist positions and the proposed environmental scientist title. Mr. Perry replied that there were two field specialists in the Carson City office and one field specialist in the Las Vegas office. Duties included identifying and logging abandoned mines and developing maps of those sites using geographic information system (GIS) technology. The GIS work was highly specialized, he stated, and GIS was a difficult skill to find as counties and states everywhere wanted staff with GIS experience. The equivalency in this instance, he explained, was the skill package. Candidates were typically degreed professionals from a school of mines with bachelor's or master's degrees in geology or engineering, but with a specialty in natural resources, which he felt was a more difficult combination to find. The Division of Minerals competed with other entities for these employees. Returning to the 50 percent turnover in staff, Mr. Perry stated that one of the field specialists left state service to work for a university, one field specialist went to work in the industry for about double the pay offered at the state, and one went back to Elko to work in the mining industry. Mr. Perry acknowledged that the state could not compete with the industry pay rate.

Senator Harris asked about the abandoned Arden mine near the elementary school. This site, she explained, was in her Senate district and she had worked for years to address the safety concerns as children walked 50 yards up a hill to the abandoned mine openings. She had worked with Boy Scouts to reinforce the safety fence, and she asked about the priority in ensuring children were safe when the mine was proximate.

Mr. Perry explained that the Boy Scouts had done fencing work in that area for the last 20 years. However, the mine was on county land and there was a plan to make a walking and hiking trail in that area. People used a road that connected 40 to 50 mine openings already, and vandalism was always a problem. The Division of Minerals had notified the county that fencing was not a sufficient solution. Staff had done the engineering and received quotes from contractors for hard closings to backfill the openings. The county agreed to budget money for the contractor, but no date had been set for the work. Without a schedule, Mr. Perry's office would plan to hard fill a few openings a year and fence the remaining openings.

Senator Harris had discussed potential solutions with others, and there was mention of leveraging federal dollars to level the mines and potentially reclaim the land for a community park. She asked Mr. Perry to discuss that possibility.

Mr. Perry understood that there was a master plan for a recreation corridor. The county had applied for federal funding, and there was hope that the hard closing could be completed at the same time the trail was developed.

Assemblyman Edwards asked for contact information for school presentations. Mr. Perry said calls for Northern Nevada should be directed to the Division of Minerals' general phone number in Carson City, and calls for Southern Nevada to the Division of Minerals' general phone number in Las Vegas.

Assemblywoman Spiegel asked about exhibits for the Prospectors and Developers Association of Canada annual convention. She wondered whether the Division of Minerals had exhibited in the past and what outcomes were realized.

Mr. Perry replied that the Division attended a number of trade shows each year to represent the state and to hand out maps. The purpose, he said, was to answer questions from people interested in investing in oil, gas, or geothermal resources in Nevada and to point them in the right direction, a type of economic development function. Nevada, he stated, had not been represented at the Prospectors and Developers Association of Canada annual conference, the largest mining show in the world. A number of representatives from the industry and from the Board of Economic Development, Office of the Governor, attended this conference each year. Many states with fewer natural resources than Nevada had booths at these trade shows, he noted.

Assemblywoman Diaz asked about the decrease in the number of abandoned mines identified over the years. She noted that there were 552 abandoned mines in FY 2014, there were 142 abandoned mines in FY 2016, and there were 97 abandoned mines in FY 2017.

Mr. Perry responded that two different activities occurred each year as part of the prioritization process. The first activity was logging new hazards, and the second activity was securing hazards through fencing or backfilling. The priority for the last two years had been securing hazards, not logging new hazards. Each year, crews moved farther away from roadsides to log sites in more difficult terrain . These sites took more time and more effort carrying fence posts and wire for several miles before the crew could physically secure a mine opening. The ratio guide for performance measures was meant to keep the staff on track so they were not logging too many hazard sites without addressing the security component.

Assemblywoman Diaz asked whether there was a way to compare the number of mines identified versus the number of mines secured each year. She wanted to see what the trend had been over time for securing mines and what the need was prospectively.

Mr. Perry said the numbers were broken down and tracked on a monthly basis and included in the Division of Minerals' monthly report, which he could provide to her. Assemblywoman Diaz asked Mr. Perry to provide that information to staff.

Assemblywoman Diaz asked whether contractors were provided with a target for the number of abandoned mines to be secured with the additional funding in the 2017-2019 biennium. Mr. Perry replied that there was a plan to close 345 mines in Esmeralda, Churchill, Mineral, Pershing, White Pine and Clark Counties with the 2017-2019 budgeted funding request, including the enhancement funding.

Chair Swank asked for any additional questions, and hearing no other questions, she opened the floor for public comment.

Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force, explained that she had 27 years of service in DUI prevention and victim support in Northern Nevada. She stated that she was present to discuss the marijuana budget that was heard and to express other concerns about the program. First, she addressed Chair Swank's comment to Rob Boehmer, Deferred Compensation Program Coordinator, Committee on Deferred Compensation for State Employees, about what Nevada knew that other states did not yet know. That comment applied to the marijuana situation as well, and Ms. Stadler noted that Nevada was the only state to fast-track the marijuana program requirements. The initiative, she said, gave the state until January 2018 to have the program operable, yet the Department of Taxation's intent was to be ready for sales by July 1, 2017, with tax revenues to follow. This matter was concerning to the Northern Nevada DUI Task Force as the initiative had a target schedule, but the Legislature and the Office of the Governor wanted to fast-track an impairing substance into the community. She noted that other states had upwards of 50 staff members employed to get marijuana regulations prepared and ready, yet Nevada was proposing 16 staff members at the Department of Taxation. The Department of Taxation, Ms. Stadler stated, had no knowledge of marijuana matters. The Department was regulating growers, distributors, dispensaries, and other matters that seemed to be outside the purview of a tax collection agency. It was concerning, she continued, to attempt this with fewer staff than other states used to introduce an important, difficult, and major new process. She asked again why there was a need to fast-track the introduction of an impairing substance.

Ms. Stadler reminded the Subcommittee members that motor vehicle crashes were the number one killer of children ages 3 to 14, and among the top ten killers for every age group up to age 54. She provided a document titled "Projected Fatalities in Nevada from Marijuana-related Crashes" (Exhibit F), with information pulled from the National Highway Traffic Safety Administration (NHTSA), the Fatality Analysis Reporting System

(FARS) data, Rocky Mountain High Intensity Drug Trafficking Area (HIDTA), and the Centers for Disease Control and Prevention (CDC). She cited Colorado, which had legalized marijuana for the longest period and therefore had the most experience. She noted that for the years 2013-2015, Colorado experienced a 62 percent increase in marijuana-related traffic crash fatalities. Nevada did not track marijuana-related traffic crash fatalities, although she hoped that tracking would be initiated immediately.

Ms. Stadler also provided a population comparison for Colorado and Nevada on Exhibit F, showing that Nevada had 53 percent of the population of Colorado. From the 2015 alcohol-related fatalities shown on Exhibit F, Nevada had 64 percent as many alcohol-related fatalities. She felt that Nevada was overrepresented by 11 percentage points for crash fatalities. Nevada, she stated, was already behind the curve in the number of alcohol-related fatalities, and now Nevada was going to introduce another impairing substance to the streets and highways, and on a fast track without concern for the future victims of those motor vehicle crashes.

Ms. Stadler further compared the Colorado alcohol-related fatalities with marijuana-related fatalities to show that in the first year after legalization of recreational marijuana, there were 50 percent as many marijuana-related fatalities as alcohol-related fatalities. In year 2, she continued, there were 59 percent as many marijuana-related fatalities, and in year 3, there were 76 percent as many marijuana-related fatalities. When that same pattern was applied to the Nevada alcohol-related fatalities, she surmised, Nevada residents could expect 49 fatalities from marijuana-related crashes in the first year and 57 fatalities from marijuana-related crashes the second year, based on the Colorado statistics. She stated that the 2017 Nevada Legislature, the Department of Transportation, and everyone else involved in the initiative were on track to authorize an additional 106 victims of marijuana-related traffic crashes over the biennium. The cost of these crashes, she continued, would be $138 million based on the CDC estimate of $1.3 million per fatality in 2013. She concluded by asking the Legislature to consider the future victims of motor vehicle crashes because of marijuana with all the other marijuana issues under discussion for this session.

Dr. Kent M. Ervin, Ph.D., representing the Nevada Faculty Alliance, spoke next. He explained that he was an appointed member of the Committee on Deferred Compensation for State Employees, although he was not representing the Committee, and in 2006 he became a member of the Nevada System of Higher Education (NSHE) Retirement Plan Advisory Committee and the Investment Management Subcommittee.

Dr. Ervin stated that at the November 29, 2016, meeting of the Committee on Deferred Compensation for State Employees, Senate Bill (S.B.) 80 had been published, and there were many questions. It was Dr. Ervin's understanding that the Department of Administration was asked to send a representative to discuss the change, but that never happened. For that reason and others, there was no formal Committee on Deferred Compensation for State Employees position on S.B. 80. Dr. Ervin stated that S.B. 80 would greatly change the duties of the current Deferred Compensation Program Coordinator. He believed that the existing responsibilities were to help with the contracting for program administration, but the investment decisions were the Committee on Deferred Compensation for State Employees' responsibility with the help of an investment consultant. The new structure would make one single person the primary fiduciary for all decisions, and Dr. Ervin did not believe an individual with those qualifications could be hired at the budgeted salary because of the greatly expanded responsibilities and the expertise in the investments and plan design. He stated that Mr. Boehmer was knowledgeable about investments and plan design, but to take on the extra responsibilities would take an estimated $50,000 to $100,000 to attract the candidates who perform a similar function elsewhere.

Dr. Ervin continued by asking whether State General Funds would have to be added to cover the extra cost. He felt that might be a model to consider, but recognized that would result in an increased cost to the participants by a proportional amount.

Chair Swank asked for any further public comment, and hearing none, the meeting was adjourned at 9:43 a.m.

RESPECTFULLY SUBMITTED:

Carmen Neveau
Committee Secretary

APPROVED BY:

Assemblywoman Heidi Swank, Chair

DATE:

Senator Aaron D. Ford, Chair

DATE:

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a document titled "Nevada Deferred Compensation Program (Budget Account 1017)," submitted by Rob Boehmer, Deferred Compensation Program Coordinator, Committee on Deferred Compensation for State Employees.

Exhibit D is a document titled "Department of Taxation," dated March 9, 2017, presented by Deonne E. Contine, Executive Director, Department of Taxation.

Exhibit E is a copy of a PowerPoint presentation titled "Nevada Division of Minerals, 2018-2019 Fiscal Year Activity and Budget Presentation," dated March 9, 2017, presented by Richard Perry, Administrator, Division of Minerals, Commission on Mineral Resources.

Exhibit F is a document titled "Projected Fatalities in Nevada from Marijuana-related Crashes," referenced by Laurel Stadler, Rural Coordinator, Northern Nevada DUI Task Force.