

**Assembly Committee on Ways and Means
CLOSING LIST #10
April 29, 2015**

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Title: GOVERNOR'S OFFICE HIGH LEVEL NUCLEAR WASTE
 Account: 101 - 1005

Budget Page: ELECTED-41, Volume I

Revenues	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
GENERAL FUND	667,327	686,572	2.88	1,371,133	99.71	1,409,778	2.82
INTERAGENCY TRANSFER	400,000	400,000		400,000		400,000	
INTERIM FINANCE		610,752					
OTHER FUND	81,679	141,404	73.12	141,404		141,404	
REVERSIONS	(84,559)						
Total Revenues	1,064,447	1,838,728	72.74	1,912,537	4.01	1,951,182	2.02
Total FTE		4.00		4.00		4.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Revenues				0	0

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Expenditures				0	0
Total				0	0
Grand Total General Fund Impact of Closing Changes				0	0

Overview

The Agency for Nuclear Projects (ANP) was established by Executive Order in 1983 following passage of the federal Nuclear Waste Policy Act of 1982. The 1985 Legislature formally established the ANP and created a seven-member Commission on Nuclear Projects to support the work of the ANP and provide guidance to the Governor and Legislature on matters concerning the high-level nuclear waste program. In 1997, the Legislature made the ANP an organizational component of the Governor's Office. The ANP consists of the Division of Technical Programs and the Division of Planning. The Executive Director is appointed by the Governor and serves at the pleasure of the Commission.

Funding for the ANP consists of a General Fund appropriation, an annual grant from the Western Governors' Association (WGA), and an annual transfer of Highway Fund appropriations in the amount of \$400,000 received from the Nevada Department of Transportation to support activities related to the transportation of low-level and mixed nuclear waste.

Major Closing Issue

Increased Funding for Restart of Yucca Mountain Licensing Proceedings

Discussion of Major Closing Issue

Increased Funding for Restart of Yucca Mountain Licensing Proceedings (E-226/E-225, ELECTED-43):
 The Governor recommends General Fund appropriations of \$625,538 in each fiscal year of the 2015-17 biennium (E-226), which combined with base expenditures of \$110,000 each year, would provide

\$735,538 in each year of the upcoming biennium to support technical expert contract costs utilized by the agency in defending the state's efforts regarding the establishment of a high-level nuclear waste repository at Yucca Mountain. According to the agency, technical experts in the following areas are utilized by the agency to review and report on licensing and litigation issues related to the proposed high-level nuclear waste repository at Yucca Mountain: Geology/Geophysics; Physics; Engineering; Volcanism; Seismology; Corrosion Science; Geochemistry; Hydrology; Chemistry/Biochemistry; Mining Engineering; Aircraft Crash Probabilities and Impacts; Climatology; Transportation Engineering; and Environmental Science.

The Executive Budget also recommends General Fund appropriations of \$12,500 in each fiscal year of the 2015-17 biennium for additional travel for out-of-state adjudicatory hearings (E-225).

As background information, in September 2011, the licensing proceedings before the Nuclear Regulatory Commission (NRC) to establish a high-level nuclear waste site at Yucca Mountain were suspended. Subsequently, two states (Washington and South Carolina), two counties (Aiken County, South Carolina and Nye County, Nevada), three private citizens, and the National Association of Regulatory Utility Commissioners filed suit with the U.S. Circuit Court of Appeals requesting that the NRC be ordered to resume the Yucca Mountain licensing proceedings before the U.S. Department of Energy (DOE). The NRC and the State of Nevada opposed the petitioners' request and on August 3, 2012, the court issued an order holding the case in abeyance pending further action by Congress.

On August 13, 2013, the U.S. Circuit Court of Appeals issued an order directing the NRC to restart the licensing proceedings, using whatever remaining federal funds were available. In response, the NRC ordered its staff to complete activities previously suspended for the licensing proceedings, which include completion of the Safety Evaluation Report (SER), and preparation of a Supplemental Environmental Impact Statement (SEIS) regarding groundwater issues for the proposed repository.

To address the restart of the licensing proceedings, the Interim Finance Committee (IFC) approved IFC Contingency Funds totaling \$610,752 for the Agency of Nuclear Projects and \$765,400 for the Office of the Attorney General at its August 27, 2014, meeting. The funding was approved to support contract costs for legal and technical reviews of the SER; develop and revise contentions for the anticipated licensing proceedings; review the SEIS; and participate in a meeting between outside counsel, agency staff, and technical experts in preparation for the restart of the licensing proceedings. According to the state's financial system, as of April 20, 2015, the Agency of Nuclear Projects (ANP) has expended \$143,536 of the \$735,538 in total General Funds appropriated by the 2013 Legislature and allocated by the IFC for FY 2015. In response to Fiscal staff inquiry, the ANP provided the following update regarding the NRC's completion of the 5-volume SER:

Safety Evaluation Reports (SER)		
Volume	Subject	Release Date
1	Overview	Previously Released
2	Near-Term/Pre-Closure Issues	January 2015
3	Long-Term Repository Performance and Safety Issues	October 2014
4	Legal, Administrative, Programmatic and Regulatory Requirements	December 2014
5	NRC Conclusions, Recommendations, and Proposed Licensing Conditions	January 2015

Together with the Office of the Attorney General, the ANP, outside counsel and technical experts are preparing reports detailing aspects of the SER Volume 3 in relation to the 219 approved contentions to determine if new information in the SER necessitates new or expanded contentions. The agency reports that so far, four new contentions have been identified and additional new contentions are anticipated. Additionally, review and analysis of the remaining SER volumes (2, 4 and 5) are currently underway.

Regarding the Supplemental Environmental Impact Statement (SEIS), the agency indicates that now that the SER volumes have been completed, they anticipate the NRC to focus on releasing the SEIS. At that time, the agency, outside counsel and technical experts will be evaluating, reviewing and reporting on the results of the SEIS.

As indicated previously, the Governor recommends \$12,500 in each year of the upcoming biennium for additional travel for the Executive Director of the ANP to travel to the Washington D.C. area five times in each year of the upcoming biennium to attend anticipated NRC licensing proceedings (E-225).

Does the Committee wish to approve General Fund appropriations of \$625,538 in each year of the 2015-17 biennium for technical expert contract costs regarding the restart of the licensing proceedings for a high-level nuclear waste repository at Yucca Mountain?

If so, does the Committee wish to also approve General Fund appropriations of \$12,500 in each year of the biennium for out-of-state travel anticipated for the NRC licensing proceedings?

Other Closing Items

1. Replacement Equipment (E-710, ELECTED-44): The Governor recommends General Fund appropriations totaling \$9,292 over the 2015-17 biennium to replace three desktop computers, provide upgrades to three servers, and various computer software and replacement parts. **This recommendation appears reasonable.**
2. Cost Allocation (E-804, ELECTED-44): The Governor recommends General Fund appropriations totaling \$274 over the 2015-17 biennium for the assessment paid to the Division of Human Resource Management. **This recommendation appears reasonable.**

Fiscal staff recommends the Other Closing Items be approved as recommended in The Executive Budget, with authority for staff to make technical adjustments as needed.

**Nevada Legislative Counsel Bureau
Budget Closing Action Report
Assembly Committee on Ways and Means
W03 - WORKING VERSION 3**

Title: AG - ADMINISTRATIVE FUND
Account: 101 - 1030

Budget Page: ELECTED-84, Volume I

	2013-14 Actual	2014-15 WP	%	2015-16 GOV REC	%	2016-17 GOV REC	%
Revenues			Chg		Chg		Chg
BALANCE FORWARD	45,675	783,916	1616.29				
FEDERAL FUND	545,231						
GENERAL FUND	14,041,814	14,612,188	4.06	14,343,817	(1.84)	13,157,600	(8.27)
INTERAGENCY TRANSFER	10,877,472	10,387,776	(4.50)	14,583,755	40.39	14,715,449	0.90
OTHER FUND	1,094,952	1,235,966	12.88	1,371,699	10.98	1,352,320	(1.41)
REVERSIONS	(97,741)						
Total Revenues	26,507,403	27,019,846	1.93	30,299,271	12.14	29,225,369	(3.54)
Total FTE		249.80		249.78		249.78	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16	2016-17
E226	00	3580	Adjust Wells Fargo Settlement Funds to restore DAG position (PCN 390) for transfer of Mortgage Fraud Unit to BA 1045	123,711	123,440
E243	00	2501	Reduce General Fund per Budget Amendment A150761030	(221,899)	(292,664)
E243	00	3870	Reduce Cost Allocation Assessment per Budget Amendment A150761030	(163,611)	(215,776)
E243	00	3892	Reduce Cost Allocation Assessment per Budget Amendment A150761030	(5,888)	(7,757)
E243	00	4704	Change Funding for Project NEON to Transfer from Department of Transportation per Budget Amendment A150761030	391,398	516,197
E806	00	2501	Reduce General Fund for Salary Increase of Legal Researcher Positions not included in The Executive Budget (PCNs 405 and 410)	(33,516)	(14,942)
E806	00	3870	Reduce Cost Allocation for salary increase of Legal Researcher positions not included in The Executive Budget (PCNs 405 and 410)	(24,690)	(11,008)
E806	00	3892	Reduce Cost Allocation for salary increase of Legal Researcher positions not included in The Executive Budget (PCNs 405 and 410)	(901)	(402)
E901	00	3580	Adjust Wells Fargo Settlement Funds to Include PCN 390 in Transfer of Mortgage Fraud Unit to BA 1045	(123,711)	(123,439)
Sub-total				(59,107)	(26,351)
Line Item Changes to Revenues				(59,107)	(26,351)

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16	2016-17
E226	01	5000	Salary Costs for restored DAG position (PCN 390) included in transfer of Mortgage Fraud Unit to BA 1045	123,358	123,082
E226	04	7000	Operating Costs for restored DAG position (PCN 390) included in transfer of Mortgage Fraud Unit to BA 1045	117	117
E226	26	7000	IT Costs for restored DAG position (PCN 390) included in transfer of Mortgage Fraud Unit to BA 1045	236	241
E243	03	6000	Transfer Travel Costs to Project NEON category for better tracking	(1,984)	(1,984)
E243	04	7000	Transfer Operating Costs to Project NEON category for better tracking	(3,405)	(3,405)
E243	18	6000	Transfer Travel Costs to Project NEON category for better tracking	1,984	1,984
E243	18	7000	Transfer Operating Costs to Project NEON category for better tracking	3,405	3,405
E806	01	5000	Eliminate Increase for Legal Researcher Position not included in The Executive Budget (PCN 405)	(6,968)	(2,009)
E806	01	5000	Eliminate Increase for Legal Researcher Position not included in The Executive Budget (PCN 410)	(3,792)	2,369

E806	01	5000	Eliminate Increase for Unclassified Legal Researcher Position not included in The Executive Budget (PCN 410)	(48,347)	(26,712)
E901	01	5000	Include PCN 390 in Transfer of Mortgage Fraud Unit to BA 1045	(123,358)	(123,082)
E901	04	7000	Include PCN 390 in Transfer of Mortgage Fraud Unit to BA 1045	(116)	(116)
E901	26	7000	Include PCN 390 in Transfer of Mortgage Fraud Unit to BA 1045	(237)	(241)
Sub-total				(59,107)	(26,351)
Line Item Changes to Expenditures				(59,107)	(26,351)
Total				0	0
Grand Total General Fund Impact of Closing Changes				(255,415)	(307,606)

Overview

The Office of the Attorney General (OAG) serves as legal advisor to nearly all state agencies, boards, and commissions and assists the county district attorneys throughout the state. The following bureaus provide statewide services: Litigation, Government Affairs, Criminal Justice, and Consumer Protection. The Bureau of Litigation includes the Personnel Division, the Public Safety Division, and the Appellate Division. The Bureau of Government Affairs includes the Gaming Division, the Transportation Division, the Business and Taxation Division, the Government and Natural Resources Division, the Boards and Licensing Division, and the Health and Human Services Division. The Bureau of Criminal Justice includes the Special Prosecution Division, the Medicaid Fraud Control Unit, and the Fraud Unit, which includes Criminal Mortgage Fraud, Workers' Compensation Fraud, and the Insurance Fraud units. The Bureau of Consumer Protection includes the Civil Mortgage Fraud Unit.

The AG Administrative Fund is primarily funded from a General Fund appropriation and through assessments paid by non-General Fund agencies, and boards and commissions that receive legal services from the OAG. The budget also receives a transfer of tobacco settlement funds from the State Treasurer and a transfer of \$81,000 each year of the biennium from the Substance Abuse Prevention and Treatment Agency (SAPTA) to support the Tobacco Enforcement Unit, in addition to several other miscellaneous revenues.

Major Closing Issues

1. Office Restructure
2. Project NEON Positions – Budget Amendment A150761030
3. New Position for Fiscal Unit
4. Dedicated Attorney for Colorado River Commission

Discussion of Major Issues

1. Office Restructure (E-226, ELECTED-87): The Executive Budget includes \$518,775 (\$359,792 General Fund) in FY 2016 and \$505,036 (\$351,945 General Fund) in FY 2017 to add eight full-time positions; eliminate six full-time positions and one half-time position (6.51 FTE) for a net increase of 1.49 FTE; and modify the salaries of two positions as part of the restructure proposed by the new OAG administration. This decision unit, as constructed, does not entirely reflect the proposed restructure presented by the OAG during the budget hearings.

The OAG testified at the budget hearing that the restructuring was in accordance with the National Association of Attorneys General (NAAG) recommendation conducted in 2007 and after an internal audit by the OAG in early January 2015. Fiscal staff notes that the NAAG staff conducted an additional review March 23-25, 2015; however, the OAG has indicated that no formal written report is available and only a verbal report has been provided, which has not been provided to Fiscal staff. Follow-up information by the OAG indicates that due to the economic downturn, many of the recommendations from the 2007 NAAG report were not fully implemented while other recommendations requiring minimal fiscal impact have been implemented. The OAG indicates the restructure would provide proactive management; increased visibility; improved training to the agencies served; reduced outside counsel costs; improved efficiency; and save the state money due to potential liability.

Position Eliminations

To minimize the cost impacts for the proposed restructure, the OAG recommends the elimination of 6.51 FTE positions. Fiscal staff notes that the eliminations included in The Executive Budget are incorrect and the OAG has provided updated information to clarify the positions that should be eliminated based on the correct funding source. It should be noted that according to the Division of Human Resource Management, all positions recommended by the OAG for elimination are currently vacant. The table below provides a comparison of the position eliminations in the Governor's recommended budget (G01) and those recommended for elimination by the OAG.

Position Eliminations in E-226 (G01)				
PCN	Title	FTE	Funding	Status
25	Sr. DAG	1.00	Tobacco	filled
42	Sr. DAG	1.00	GF/AGCAP	filled
112	DAG	1.00	GF/AGCAP	filled
127	DAG	0.51	GF/AGCAP	vacant
314	Dir, High Tech Crimes	1.00	GF/AGCAP	vacant
326	Dep Chief Investigator	1.00	GF/AGCAP	vacant
390	DAG	1.00	Wells Fargo	vacant
Total:		6.51		
Position Eliminations Recommended by the OAG				
PCN	Title	FTE	Funding	Status
28	DAG	1.00	GF/AGCAP	vacant
119	DAG	1.00	GF/AGCAP	vacant
127	DAG	0.51	GF/AGCAP	vacant
221	DAG	1.00	GF/AGCAP	vacant
303	DAG	1.00	GF/AGCAP	vacant
314	Dir, High Tech Crimes	1.00	GF/AGCAP	vacant
382	Criminal Investigator II	1.00	GF/AGCAP	vacant
Total:		6.51		

Fiscal staff notes that according to the above table, PCN 25, supported with tobacco settlement funds, and PCN 390, supported with Wells Fargo settlement funds as recommended in The Executive Budget, are inappropriate positions to eliminate due to the dedicated funding sources. The positions recommended by the OAG for elimination are supported by a General Fund appropriation and cost allocation assessment revenue, which are appropriate revenue sources for elimination from this budget based on the funding recommended for the restructure. Additionally, Fiscal staff has worked with the OAG and the Executive Budget Office to clarify the funding and status of the positions to confirm the viability of eliminating the positions. Fiscal staff notes that a technical adjustment is included in this closing sheet to restore the DAG position supported by Wells Fargo settlement funds (PCN 390) for the Criminal Mortgage Fraud (CMF) unit so the position can be included in transfer Decision Unit E-901, which recommends the CMF unit be transferred to the National Mortgage Settlement budget. **Fiscal staff recommends approval of the position eliminations as recommended by the OAG, including the technical adjustment noted by staff, authority to make technical adjustments to correct the positions to be eliminated, and other technical adjustments that may be needed.**

Does the Committee wish to eliminate 6.51 full-time equivalent positions as recommended by the OAG, including the technical adjustment noted by staff for the restoration of PCN 390 to be transferred with the Criminal Mortgage Fraud Unit, and any other technical adjustments that may be needed?

New Positions

As indicated, The Executive Budget recommends 8 new positions; however, the position titles, and in some instances the position salaries do not align with the restructure proposed by the OAG. Fiscal staff also notes that The Executive Budget does not include operating costs typically associated with new positions (e.g., new furnishings, computers, software, training and travel) for the 8 recommended new positions. In response to Fiscal staff inquiry, the OAG indicated that the associated operating costs for the 8 new positions were not included in order to minimize costs, and that the OAG would utilize existing furnishings and computers for the new positions.

A summary of the positions included in the Governor’s recommended budget (G01) and the proposed restructure requested by the OAG is shown in the following table:

E-226 Positions (G01)			E-226 Positions - Revised Request by OAG			
PCN	Title	Salary	PCN	Title	Salary	Difference
840006	Asst Attorney General	\$ 140,662	840006	General Counsel	\$ 132,600	\$ (8,062)
840007	Special Counsel	\$ 132,600	840007	Bureau Chief	\$ 132,600	
840008	Special Counsel	\$ 132,600	840008	Bureau Chief	\$ 132,600	
840009	Special Counsel	\$ 132,600	840009	Bureau Chief	\$ 132,600	
840011	Special Counsel	\$ 132,600	840011	Bureau Chief	\$ 132,600	
840012	Solicitor General	\$ 132,600	840012	Deputy Solicitor General	\$ 132,600	
840013	Senior DAG	\$ 106,904	840013	Special Asst AG (Veterans)	\$ 110,000	\$ 3,096
840014	Senior DAG	\$ 106,904	840014	Special Asst AG (Neighborhood)	\$ 110,000	\$ 3,096
						\$ (1,870)

Fiscal staff notes that the positions in The Executive Budget represent the position titles and salaries as reflected in the unclassified pay bill approved by the 2013 Legislature. However, during the budget hearing, the OAG requested the position titles under the restructure as shown in the table above. If the restructure is approved, new titles would be created for the 2015 unclassified pay bill. Below is a summary of the OAG restructure as discussed during the budget hearing and provided by the OAG in follow-up information.

The General Counsel position would report directly to the Attorney General to advise on legislative affairs, constitutional and ethical obligations of the OAG; supervise, coordinate and review administrative rules, procedures and policies for the OAG, including oversight of the 400 employees; coordinate and review contracts and agreements on behalf of the OAG, including the approval and oversight of outside counsel contracts; investigate allegations of attorney misconduct; and handle all public records requests and open meeting law issues. In response to Fiscal staff inquiry as to how these functions are currently managed, the OAG identified 14 positions currently performing these functions, and stated those positions would be able to better focus on other areas within the OAG management if the General Counsel position was approved.

Does the Committee wish to approve a General Counsel position for the OAG?

The OAG proposal would establish four new Bureau Chiefs to manage the 1) Bureau of Government Affairs; 2) Bureau of Business and Industry; 3) Bureau of Litigation; and 4) Bureau of Criminal Justice. Within each Bureau would be individual divisions to which each division chief would report to the newly established Bureau Chief. The OAG indicates that providing Bureau Chiefs for each bureau would allow the OAG to be better equipped to manage and defend the state against potential outstanding liabilities and create other efficiencies. Further, the OAG indicates that the proposed restructure would create an executive staff of top-level advisors upon whom the Attorney General can rely for counsel. Fiscal staff notes that under the current structure a Chief Deputy Attorney General (DAG) supervises each of the 14 divisions. Under the revised OAG proposal, establishing Bureau Chiefs would create a 4 to 1 ratio of reporting rather than the existing 14 to 1 ratio.

Does the Committee wish to approve four new Bureau Chief positions for the OAG?

The Deputy Solicitor General position would work with the existing Solicitor General to alleviate some of the caseload of that position. Specifically, the Deputy Solicitor General position would review all briefs filed in appellate courts to ensure consistency of the positions taken by the OAG. The OAG indicates that at least 338 appellate briefs have been filed in the past three years and the one Solicitor General position cannot properly implement a review process while performing other responsibilities. The position is anticipated to also review requests for the OAG to participate in amicus briefs and other sign-on requests from other states. The OAG states that, on average, the OAG reviews 30 multi-state amicus briefs each year. The Deputy Solicitor position is also anticipated to assist in the civil appeals division and assist the Attorney General regarding federal overreach cases. Fiscal staff inquired why a Deputy Solicitor General position was needed since the current structure includes an Appellate Division comprised of 10 positions (Solicitor General; 4 Senior DAGs; 3 DAGs; 2 Legal Researchers). In response, the OAG indicated that aside from the Solicitor General, the remaining 9 positions in the Appellate Division work exclusively on habeas corpus petitions and inmate appeals.

Does the Committee wish to approve a Deputy Solicitor General position for the OAG?

Two Special Assistant Attorney General positions are recommended for two new offices to be established within the OAG: the Office of Military Legal Assistance and the Office of Neighborhood Protection. The position for the Office of Military Legal Assistance would work with the legal community to address the civil legal needs of Nevada’s military personnel. The OAG indicates an advisory committee has been established to review the unmet civil legal needs of Nevada’s military citizens, and the position would coordinate these efforts as well as serve on the Nevada Supreme Court’s Access to Justice Commission. Fiscal staff notes that Senate Bill 60, as amended, provides permissive authority to establish an Office of Military Legal Assistance within the OAG. This bill is currently in the Senate Committee on Finance.

The position for the Office of Neighborhood Protection would work with local governments and communities regarding crime-fighting efforts to help make neighborhoods safe. The position would also serve as an advocate to promote justice, and protect citizen rights and interests from federal overreach.

Fiscal staff notes that The Executive Budget included these two positions as Senior DAGs with a salary of \$106,904 pursuant to the unclassified pay bill (2013). However, the OAG requests the position salaries at \$110,000 each.

Does the Committee wish to approve a Special Assistant Attorney General position for the Office of Military Legal Assistance?

Does the Committee wish to approve a Special Assistant Attorney General position for the Office of Neighborhood Protection?

If approved, the OAG indicates that performance measures for the office restructure will be developed over the 2015-16 Interim and be included in their 2017-19 biennial budget request.

Salary Modifications

The OAG has requested the following salary modifications:

- Increase the Solicitor General salary from \$132,600 to \$140,662.
- Decrease the General Counsel salary from \$140,662 to \$132,600.
- Increase two Special Assistant Attorney General salaries from \$106,904 to \$110,000.

Fiscal staff seeks authority to correct the salary of the Chief of Staff position to \$140,662 as stated in the unclassified pay bill, which was inadvertently decreased in The Executive Budget to \$132,600.

Fiscal staff notes that decisions pertaining to unclassified salary increases will be determined by the money committees at a later date. Fiscal staff seeks authority to correct the salary of the Chief of Staff position, and to make other technical adjustments to the unclassified salaries based on the statewide decisions made by the money committees at a later date.

2. Project NEON Positions – Budget Amendment A150761030 (E-243, ELECTED-88-89): The Executive Budget includes \$391,398 (\$221,899 General Fund) in FY 2016 and \$516,197 (\$292,664 General Fund) in FY 2017 to establish teams of OAG staff dedicated to Project NEON. According to the Nevada Department of Transportation (NDOT), Project NEON is a major project that would improve traffic flow in Southern Nevada by connecting the high occupancy vehicle lanes on U.S. Highway 95 with the express lanes on Interstate 15, adding general purpose lanes on Interstate 15, and reconstructing various interchanges along Interstate 15 in the 3.7 mile corridor south of U.S. Highway 95. The project is anticipated to take up to 20 years to complete and requires the acquisition of properties and right-of-way along the construction areas. Currently, the OAG indicates that Project NEON litigation matters are handled by the following staff within the OAG Transportation Division: four DAGs for eminent domain activities; one DAG for construction contract documents; and a Chief DAG who works with the NDOT senior management team.

The recommended decision unit would establish five new positions dedicated to Project NEON: two unclassified Special Counsel positions, two unclassified Legal Researcher positions, and one classified Supervising Legal Secretary position. The agency anticipates that each Special Counsel position would lead a “trial team” consisting of a Legal Researcher position and existing OAG staff for Project NEON litigation, which includes eminent domain and property rights issues, such as the People’s Initiative to Stop the Taking of our Land (PISTOL) and inverse condemnation. The agency indicated that after analyzing the number of parcels to be acquired for Project NEON together with the estimated time for the NDOT construction schedule, it was determined that at least five positions would be needed to meet the project timelines.

The OAG anticipates that the Project NEON teams would be able to handle more eminent domain cases in-house, while also managing the outside counsel cases. In follow-up information provided jointly by NDOT and the OAG, the Project NEON trial teams, if approved, are projected to save approximately \$4.0 million in outside counsel costs. To date, the OAG reports their staff have expended 3,189 hours on Project NEON matters in FY 2014 and 4,283 hours in FY 2015 YTD, and approximately 6,500-7,000 hours will be expended on Project NEON matters by the end of FY 2015. According to NDOT, 15 eminent domain cases involving Project NEON are pending and several right-of-way cases related to the estimated 100 parcels remain that NDOT will need to acquire to complete Project NEON. Testimony indicated that matters relating to Project NEON are anticipated to go through FY 2021 or longer for trials and appeals. Further, both NDOT and the OAG anticipate that should this decision unit be approved, NDOT will continue to employ outside counsel due to the volume of acquisitions involved with Project NEON.

Regarding the recommendation to employ Special Counsel positions as opposed to DAG or Senior DAG positions, the agency indicated that the Special Counsel designation recognizes individuals who have achieved a degree of expertise in highly specialized areas of law.

Prior to the budget hearing, the OAG stated that NDOT was working with the State Buildings and Grounds Division to secure office space for Project NEON to house the OAG Transportation Division staff and NDOT personnel and consultants working on Project NEON, and the staff in this decision unit, if approved. As an update, Fiscal staff notes that a lease for the Project NEON space in Las Vegas, effective August 1, 2015, was approved at the April 14, 2015, Board of Examiners meeting.

During the budget hearing, the Committee expressed concern that General Fund appropriations would be supporting a highway fund effort. Accordingly, the Executive Budget Office submitted Budget Amendment A150761030 on April 14, 2015, which changes the funding from General Fund appropriations and cost allocation revenue to a Transfer from the Department of Transportation (Highway Funds). According to the Nevada Department of Transportation (NDOT), 81 percent of the expenditures for the OAG Project NEON trial teams would be eligible for federal reimbursement; however, the programming is reviewed several times during each federal fiscal year so the percentage of support may change. Fiscal staff notes that a companion budget amendment for the NDOT transfer to the OAG was submitted for the NDOT budget on April 10, 2015 (Budget Amendment A1500654660). Further details of Project NEON are discussed in the NDOT budget, which is scheduled to close on Tuesday, May 5, 2015.

Does the Committee wish to approve two Special Counsel positions, two Legal Researcher positions, and one Legal Secretary to establish two Project NEON trial teams supported by a Transfer of Highway Funds from NDOT of \$391,398 in FY 2016 and \$516,197 in FY 2017 as amended?

3. New Position for Fiscal Unit (E-235, ELECTED-88): The Executive Budget includes \$139,645 (\$79,198 General Fund) over the 2015-17 biennium for salary and associated operating costs for an Administrative Services Officer position for the Fiscal Unit. Currently, the Fiscal Unit is comprised of six positions: The unclassified Chief Financial Officer (CFO), one Management Analyst, one Accounting Technician, and three Accounting Assistants. In addition to supervising the six positions within the Fiscal Unit, the CFO provides oversight to the Extradition Unit, Council for Prosecuting Attorneys, the Domestic Violence Ombudsman, and the ProLaw Administrator.

According to the agency, the Administrative Services Officer (ASO) would assist the CFO in managing the Fiscal Unit; provide backup when the CFO is away; assist with budget tracking and preparation for the budgets administered within the OAG; assist with budget revenue and expenditure projections throughout the year; supervise three of the six positions within the Fiscal Unit; oversee inventory within the OAG; and complete grant reconciliations.

The agency indicates that the CFO currently averages a 60-hour work week; however, is not compensated for overtime since the position is in the unclassified service of the state. Additionally, the agency has utilized contract services to assist the CFO over several years during the budget building phase, budget year-end closing phase, and to train new staff. According to the state's financial system, the OAG paid \$72,352 in contract costs to support the Fiscal Unit during calendar year 2014 and FY 2015 YTD. Fiscal staff notes that \$14,893 in contract services for the Fiscal Unit are included in The Executive Budget for each year of the 2015-17 biennium. Although the OAG testified they would prefer to have the contract costs remain in the budget, Fiscal staff recommends the contract costs be eliminated.

In follow-up after the budget hearing, the OAG indicated that there is a gap in support and assistance for the CFO regarding budget tracking and preparation; the completion of work programs; reconciliation of the Statutory Contingency Fund expenditures attributable to the OAG; maintenance and distribution of restitution funds; and creating fund maps. The recommended ASO position would help in these areas as well as meeting deadlines, supporting the CFO and fiscal unit in managing the 19 budgets (12 Executive budgets and 7 non-Executive budgets) within the OAG.

Does the Committee wish to approve \$139,645 over the 2015-17 biennium for a new Administrative Services Officer position and associated operating costs, and authorize Fiscal staff to eliminate \$14,893 in each year of the biennium in contract costs?

4. Dedicated Attorney for Colorado River Commission (Not Included in The Executive Budget): The OAG requests one new DAG position for the Bureau of Government Affairs Division to serve as a dedicated attorney for the Colorado River Commission (CRC) to provide legal support for the increased contracts relative to the hydropower electric resources generated at Hoover Dam. The CRC has projected that 65 to 105 long-term resource contracts with one federal power marketing entity, one federal power generation entity, a number of Nevada electric utilities, and an unknown number of Nevada consumers will be required before the end of calendar year 2017. Although this recommendation was included in the Agency Request budget, it was inadvertently omitted from The Executive Budget. The position salary and associated operating costs total \$99,907 in FY 2016 and \$122,301 in FY 2017, which would be supported 100 percent in funds transferred by the CRC.

Does the Committee wish to approve \$99,907 in FY 2016 and \$122,301 in FY 2017 in transfer revenue for a new DAG position dedicated to the Colorado River Commission?

Other Items

1. New Software, Publications, and Contractual Lease Payments (E-225, ELECTED-87): The Executive Budget includes \$17,406 (\$9,871 General Fund) in FY 2016 and \$16,278 (\$9,232 General Fund) in FY 2017 for new software and services to allow OAG investigators access to national databases to research suspects and potential witnesses. The decision unit also includes funding for publications, annual lease costs for a copier, and \$3,000 each year for automotive repairs of agency-owned vehicles. **This recommendation appears reasonable.**
2. Transfer of Litigation Costs from Special Fund to Administrative Fund (E-500/E-900, ELECTED-89, 94): The Executive Budget includes litigation costs of \$247,720 in each fiscal year of the 2015-17 biennium to transfer from the Special Fund budget to this budget, where the costs would be distributed and assessed through the AG cost allocation plan. The proposed transfer would result in net General Fund increases of \$24,795 each year. **Information on this item is included in the Special Fund budget. Fiscal staff seeks authority to adjust this decision unit based on approval of the companion decision unit within the Special Fund budget.**
3. Vacant Position Elimination (E-601, ELECTED-89-90): The Executive Budget recommends eliminating a vacant Grants & Projects Analyst position and associated operating costs, resulting in a reduction in Wells Fargo settlement funds (this revenue is identified as Byrne Grant funds in The Executive Budget) totaling \$135,498 over the 2015-17 biennium. The agency indicates that the position, which was approved in FY 2012 with grant funding, is no longer needed. **This recommendation appears reasonable.**
4. Equipment Replacement (E-710, ELECTED 90-91): The Executive Budget includes \$751,328 (\$422,196 General Fund) in FY 2016 and \$66,790 (\$37,878 General Fund) in FY 2017 to replace desks, chairs, and bookcases; 9 servers and server licenses and software; various operating systems; document backup and retrieval equipment; fingerprinting equipment; and 4 forensic computers. The decision unit also includes funding to replace 160 desktop computers, 1 laptop, 33 printers, and various associated software replacements. **This recommendation appears reasonable.**
5. Equipment Replacement (E-711, ELECTED 91): The Executive Budget includes \$97,284 (\$55,336 General Fund) in FY 2016 to replace networking switches and routers. **This recommendation appears reasonable.**
6. New Equipment (E-720, ELECTED-91-92): The Executive Budget includes \$531,319 (\$302,144 General Fund) in FY 2016 and \$87,234 (\$49,472 General Fund) in FY 2017 for computer hardware and software to improve and expand the agency's disaster recovery backup environment; improve the archiving of data; and reduce the current environment to one system. The agency indicates this upgrade is critical to continue support of the e-discovery software used by the agency and

to address failures of the existing disaster recovery system. Additionally, the decision unit includes equipment to improve the server storage areas; new video-conferencing equipment in Las Vegas, Reno and Ely; upgrades to the agency's ProLaw case management system; Windows operating system upgrades; and power strips. **This recommendation appears reasonable.**

7. New Equipment (E-721, ELECTED-92): The Executive Budget recommends \$7,162 (\$4,275 General Fund) over the 2015-17 biennium for a laptop and projector, a printer, a desktop computer and Adobe Acrobat software for the Reno office. **This recommendation appears reasonable.**

8. Unclassified Position Upgrade for Legal Researchers (E-806, ELECTED-93): The Executive Budget includes \$425,084 (\$241,032 General Fund) over the 2015-17 biennium to increase the salaries of the OAG unclassified Legal Researcher positions to be comparable with the salaries paid to classified Legal Researcher positions within other state agencies. This recommendation would increase the salary of 2 unclassified Supervisory Legal Researcher positions to be comparable with a classified Legal Research Assistant II position (Grade 35), which represents a 10 percent increase from the current unclassified salary; and 13 Legal Researcher positions to be comparable with a classified Legal Research Assistant I position (Grade 33), which represents a 23 percent increase from the current unclassified salary. Similar decision units are included for the 2 positions within the Consumer Advocate budget and the 1 position within the National Settlement Administration budget. The tables below provide a comparison of the current salaries of the unclassified Legal Researcher positions with the OAG to that of the Legal Research Assistant positions in the classified service of the state:

OAG Unclassified Legal Researcher Positions	Current Salary ¹	Gov Rec ²	Percent Increase
Legal Researcher	\$ 46,102	\$ 56,627	23%
Supervising Legal Researcher	\$ 56,265	\$ 61,951	10%
1. Per A.B. 511 (2013 Unclassified Pay Bill); 2. Salary Increase is comparable to Classified Position, Step 8			
State Classified Legal Research Assistants		Pay Range	
		Step 1	Step 10
Legal Research Assistant I (Grade 33)	\$ 41,906	\$ 61,950	
Legal Research Assistant II (Grade 35)	\$ 45,560	\$ 67,693	

This recommendation is based on a desk audit of the unclassified Legal Researcher positions within the OAG compared to Legal Research Assistant positions that serve in the classified service of the state. The audit, completed by the State of Nevada Division of Human Resource Management on July 30, 2014, concluded that the OAG Legal Researchers perform a full range of duties that are also outlined in the class specifications for the classified Legal Research Assistant positions, and that the only noted difference was that the OAG Legal Researchers have a "slight increase in responsibility and consequence of error, as they are not supervised directly, but function under general direction."

As indicated in the tables above, the recommended salaries for the unclassified Legal Researcher positions are comparable to the classified salary scale of Grade 35/Step 8. In follow up with the OAG, staff was advised that the recommended salary for the positions was determined based on the longevity of the existing employees in that the majority of the OAG Legal Researcher positions have been employed with the OAG for seven or more years.

Fiscal staff notes that a technical adjustment is reflected in this closing sheet to eliminate upgrades to two Legal Researcher positions not included in The Executive Budget, resulting in \$59,107 (\$33,516 General Fund) savings in FY 2016 and \$26,352 (\$14,942 General Fund) in FY 2017.

Decisions regarding the salaries of unclassified positions will be determined by the money committees at a later date. Fiscal staff requests approval of the technical adjustment noted, and authority to make other technical adjustments that may be necessary for statewide decisions regarding unclassified position salaries made at a later date by the money committees.

9. Unclassified Attorney Position Upgrade (E-814, ELECTED-93): The Executive Budget includes \$26,800 (\$15,197 General Fund) over the 2015-17 biennium to upgrade a Deputy Attorney General (DAG) to a Senior DAG for the Personnel Division. To justify the position upgrade, the OAG indicates the DAG positions within the Personnel Division require expertise in personnel matters and the Senior DAG positions represent a level of expertise rather than supervisory functions. Further, the agency indicates that the Personnel Division was created within the Bureau of Litigation in 2010 and, at that time, provided advice and assistance regarding employment and personnel matters to the Department of Business and Industry and the Department of Corrections; however, the duties of the division have extended to more departments, such as Public Safety, Taxation, and Veterans Services. According to the agency, DAGs assigned to the Personnel Division provide legal advice and representation on all aspects of classified and unclassified personnel matters, including dismissals, demotions, or suspension of employees, appeals, administrative hearings, and grievances, violations of state law, negligence claims, civil rights, Family and Medical Leave Act, Americans with Disabilities Act, and the Fair Labor Standards Act.

In response to Fiscal staff inquiry, the agency provided an updated organizational chart for the Personnel Division, which shows the division is staffed with 16 positions: 2 Chief DAGs; 1 Supervising Senior DAG; 3 Senior DAGs; and 10 DAGs. However, the personnel report included with The Executive Budget for this budget shows 7 positions for the Personnel Division: 1 Chief; 1 Supervising Senior DAG; and 5 DAGs. Supplemental information provided by the OAG indicates that although the organizational chart shows 16 positions for the Personnel Division, the division is only comprised of 7 DAGs, and the other 9 positions have crossover work responsibilities with the Human Services Division.

Fiscal staff inquired into why the incumbent in this decision unit should be upgraded since, according to the Division of Human Resource Management, the position has only four months of state service, and according to the agency's guidelines, a senior DAG is required to have a minimum of 1 year experience as a DAG and 4 years as a licensed and practicing attorney; or 3 years of experience as a DAG; or 7 years as a licensed and practicing attorney. In response, the agency indicated that the position originally requested for the upgrade was no longer employed by the OAG, and this decision unit should be revised to provide an upgrade for an incumbent (PCN 233) who has been a DAG with the office since November 2010 and a practicing attorney since 1991.

Decisions regarding the salaries of unclassified positions will be determined by the money committees at a later date. Fiscal staff requests authority to adjust this decision unit based on statewide decisions regarding unclassified position salaries made at a later date by the money committees.

10. Transfer of the Criminal Mortgage Fraud Unit to the National Settlement Administration Budget (E-901, ELECTED-94): The Executive Budget includes the transfer of seven positions and associated operating costs from this budget, where the positions have been supported with grant funds and settlement funds, to the National Settlement Administration budget where the positions would be funded with National Mortgage Settlement (NMS) funds totaling \$1.3 million over the 2015-17 biennium. The seven positions recommended for transfer include one Deputy Attorney General (DAG); four Investigators; one Legal Secretary; and one Administrative Assistant, to continue the Criminal Mortgage Fraud Unit over the 2015-17 biennium.

This closing document includes a technical adjustment to include a DAG position (PCN 390) that was inadvertently included in Decision Unit 226 for elimination. The position was approved with Wells Fargo settlement funds for the Criminal Mortgage Fraud unit and should be included in this decision unit. Discussion on this item is included in the National Settlement Administration budget.

Fiscal staff recommends approval of the technical adjustment noted, and seeks authority to adjust this decision unit based on the closing action in the National Administration budget.

11. Statewide Cost Allocation (M-800/E-800, ELECTED-86, 92): The Executive Budget includes \$34 (\$21 General Fund) over the 2015-17 biennium for costs associated with the dispatch services provided by the Department of Public Safety. **This recommendation appears reasonable.**
12. Attorney General Cost Allocation: Fiscal staff has identified an error in the Attorney General Cost Allocation Plan (AGCAP) revenue assessed to state agencies. Specifically, The Executive Budget includes \$14,502,755 in FY 2016 and \$14,634,449 in FY 2017 for the assessment revenue; however, the expenditures assessed to state agencies total \$14,443,051 in FY 2016 and \$14,561,719 in FY 2017; a difference of \$59,704 and \$72,730, respectively. Fiscal staff notes that adjustments to the AGCAP, including the one noted, will be required based on all closing actions for this budget and seeks authority to make technical adjustments to the budgets that are impacted.

Does the Committee wish to approve the Other Closing Items 1, 3, 4, 5, 6, 7, 11 & 12 as included in The Executive Budget, with the technical adjustments noted by staff; authority for staff to make technical adjustments to Other Closing Items 2 & 10 based on decisions made in companion decision units in other OAG budgets, authority for staff to make technical adjustments based on decisions by the money committees relative to unclassified salaries, and other technical adjustments that may be necessary?

Legislation – Informational only/no action required

- Senate Bill 60, submitted on behalf of the Attorney General, was approved Amend Do Pass by the Senate Committee on Judiciary and re-referred to the Senate Committee on Finance on April 14, 2015. The legislation, among other things, would create the Office of Military Assistance.
- Senate Bill 338, as introduced, requires the Attorney General to establish the Safe-to-Tell Program for anonymous reporting to public safety agencies and schools of any violent or unlawful activities or threat of such activities. The legislation requires the OAG to provide educational materials regarding the program to each public school; provide training regarding the program to employees and volunteers of public safety agencies and public schools; and post information about the program on the OAG website. The OAG submitted a fiscal note indicating the bill as submitted would have a fiscal impact totaling \$413,106 over the biennium. The Senate Committee on Education re-referred the bill to the Senate Committee on Finance on April 10, 2015.
- Assembly Bill 233, as amended, would transfer the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels from the Department of Business and Industry Real Estate Division to the Office of the Attorney General. The OAG submitted an unsolicited fiscal note indicating the transfer would result in a \$1.6 million fiscal impact if the bill, as amended, were approved. The legislation was re-referred to the Assembly Committee on Ways and Means on April 17, 2015.
- Assembly Bill 481, would continue the Consumer Affairs Division within the Department of Business and Industry for another two years and allow the division to impose fines and sanctions regarding issues related to deceptive trade practices. The OAG has submitted a fiscal note indicating the bill, as introduced, would have a \$241,844 fiscal impact on the OAG if approved.

Title: AG - SPECIAL FUND
 Account: 101 - 1031

Budget Page: ELECTED-97, Volume I

Revenues	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
BALANCE FORWARD	1,247,464	1,260,867	1.07				
FEDERAL FUND							
GENERAL FUND	186,928	271,242	45.11	2,500,000	821.69	2,500,000	
INTERAGENCY TRANSFER	187,640	230,010	22.58	196,093	(14.75)	209,193	6.68
INTERIM FINANCE		765,400					
OTHER FUND	130,584	5,174	(96.04)				
REVERSIONS	(8,724)						
Total Revenues	1,743,892	2,532,693	45.23	2,696,093	6.45	2,709,193	0.49
Total FTE		1.00		1.00		1.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Revenues				0	0

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Expenditures				0	0

Total	0	0
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Grand Total General Fund Impact of Closing Changes	0	0
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Overview

The Attorney General Special Litigation Fund provides for the payment of litigation and expenses associated with lawsuits that are not anticipated at the time the budgets are approved by the Legislature. This budget supports costs for items such as depositions, independent medical examinations, and expert witnesses. This budget also supports a Construction Law Counsel position and the costs of litigation and administrative proceedings related to the proposed nuclear waste repository at Yucca Mountain. The budget is funded through a combination of General Fund appropriations, reimbursements from clients when applicable, and a transfer from the State Public Works Division (SPWD).

Major Closing Issue

Increased Funding for Restart of Yucca Mountain Licensing Proceedings

Discussion of Major Closing Issue

Increased Funding for Restart of Yucca Mountain Licensing Proceedings (E-242, ELECTED-99):
 The Executive Budget includes General Fund appropriations totaling \$2.4 million for each fiscal year of the 2015-17 biennium, which combined with base expenditures of \$61,814 each year, would provide \$2.5 million in each year of the upcoming biennium to support legal counsel contract costs in defending efforts regarding the proposed high-level nuclear waste repository at Yucca Mountain.

As background information, the licensing proceedings before the Nuclear Regulatory Commission (NRC) to establish a high-level nuclear waste site at Yucca Mountain were suspended in September 2011. Subsequently, two states (Washington and South Carolina), two counties (Aiken County, South Carolina and Nye County, Nevada), three private citizens, and the National Association of Regulatory Utility Commissioners filed suit with the U.S. Circuit Court of Appeals requesting that the NRC be ordered to resume the Yucca Mountain licensing proceedings before the U.S. Department of Energy (DOE). The NRC and the State of Nevada opposed the petitioners' request and on August 3, 2012, the court issued an order holding the case in abeyance pending further action by Congress. As a result, new federal funding for Yucca Mountain efforts have been suspended for Federal Fiscal Years 2011, 2012, 2013 and 2014.

On August 13, 2013, the U.S. Circuit Court of Appeals issued an order directing the NRC to restart the licensing proceedings, using whatever remaining federal funds were available. In response, the NRC ordered its staff to complete activities previously suspended for the licensing proceedings, which include completion of a multi-volume Safety Evaluation Report (SER), and a Supplemental Environmental Impact Statement (SEIS) regarding groundwater issues for the proposed repository.

To address the restart of the licensing proceedings, the Interim Finance Committee (IFC) approved Contingency Funds totaling \$765,400 for the Office of the Attorney General (OAG) and \$610,752 for the Office of Nuclear Projects (ONP) at its August 27, 2014, meeting to support the state's efforts regarding the NRC proceedings. The agencies indicated at that time that the funding would be used to support contract costs for legal and technical reviews of the SER; develop and revise contentions for the anticipated licensing proceedings; review the SEIS; and participate in a meeting between outside counsel, agency staff, and technical experts in preparation for the restart of the licensing proceedings.

Combined with existing available funds approved for the current biennium and the additional funds approved at the August 27, 2014, IFC meeting, the table below shows \$2.9 million in approved funding for FY 2015 between the two agencies, which the OAG indicated would be sufficient to carry out the restart activities and maintain ongoing activities. According to the OAG, ongoing activities include the monitoring of and participation in court proceedings involving Yucca Mountain, such as litigation relating to challenges to the radiation protection standard promulgated by the United States Environmental Protection Agency; the licensing rule issued by the NRC; the Department of Energy's (DOE) selection of the Caliente rail corridor; and the consolidated challenge to the DOE's attempted withdrawal of its NRC license application.

Total Yucca Mountain Budget	
FY 2015 - Attorney General & Office for Nuclear Projects	
	FY 2015
General Funds - OAG (Leg App)	\$ 103,971
Federal Funds - OAG (revised at FY 2014 closing)	\$ 1,260,867
General Funds - ONP (Leg App)	\$ 116,319
Transfer-in of FY 2014 Funds (AB 507 - 2013)	\$ 50,624
IFC Contingency Funds	\$ 1,376,152
Total:	\$ 2,907,933

According to the state's financial system, as of April 22, 2015, the OAG has expended \$218,702 in General Fund appropriations and \$739,890 in federal funds in FY 2015. Fiscal staff notes that The Executive Budget does not include a balance forward of federal funds for the 2015-17 biennium.

In response to Fiscal staff inquiry after the budget hearing, the OAG indicates that the SER was not completed until January 2015, which was later than anticipated; therefore, the rate of spending of the Contingency Fund allocation approved by the IFC in August 2014 has been less than expected. However, since the release of all volumes of the SER have been completed and due to the anticipated release of the SEIS, the OAG projects the rate of spending to increase. Additionally, the OAG projects that all remaining federal funds will be expended in FY 2016.

Fiscal staff will work with the OAG and the Executive Budget Office to determine the anticipated balance forward amount of federal funds from FY 2015 to FY 2016 and requests authority to include that amount as a technical adjustment. All unexpended Contingency Fund allocations approved at the August 2014 IFC meeting will revert to the IFC Contingency Fund at the end of FY 2015.

As indicated, the final two volumes of the five-volume SER have been completed by NRC staff and the OAG is awaiting the completion of the SEIS by NRC staff regarding groundwater issues for the proposed repository. In addition to the ongoing activities mentioned above, the OAG reports that contract legal counsel is reviewing the five-volume SER; determining if additional contentions should be developed for consideration with the 219 approved contentions; and is preparing for the restart of NRC licensing proceedings. The OAG indicates that contract legal counsel will be used to review and prepare detailed comments on the SEIS when complete.

A history of the General Fund appropriations for both the Nuclear Projects Office and Attorney General's Office is provided below:

General Fund Appropriations for the State Contract Costs Regarding Yucca Mountain						
Agency	FY 2012 Actual	FY 2013 Actual	FY 2014 Actual	FY 2015 Work Program	FY 2016 Gov Rec	FY 2017 Gov Rec
Nuclear Projects Office	\$ 116,318	\$ 111,615	\$ 110,000	\$ 735,538	\$ 735,538	\$ 735,538
Attorney General's Office	\$ 102,788	\$ 103,315	\$ 61,814	\$ 911,528	\$2,500,000	\$2,500,000

The OAG indicates that the state support is imperative to ensure that Nevada is adequately prepared to advance its efforts to block the establishment of a high-level nuclear waste repository at Yucca Mountain, and continue to address existing litigation. The OAG further indicates that no new federal funds are anticipated for the 2015-17 biennium.

Does the Committee wish to approve \$2.4 million, beyond the adjusted base amounts, in each year of the upcoming biennium for the Office of the Attorney General to continue the state's efforts regarding the licensing proceedings to establish a high-level nuclear waste repository at Yucca Mountain, and authority for Fiscal staff to include the Balance Forward of federal funds from FY 2015 to FY 2016?

Other Closing Items

1. Replacement Equipment (E-710, ELECTED-100): The Executive Budget includes a transfer from the SPWD of \$5,125 over the biennium to replace one laptop, one printer, one desktop computer and replacement software for the construction law counsel position supported in this budget. **This recommendation appears reasonable.**
2. Transfer of Court Costs to AG Administrative Budget (E-900, ELECTED-100): The Executive Budget includes the transfer of \$247,720 (\$115,691 General Fund) in each fiscal year of the 2015-17 biennium for litigation costs from this budget to the AG Administrative budget, where the costs would be distributed and assessed through the AG cost allocation plan (AGCAP). Under the current structure, legal, investigative and litigation costs such as depositions, travel, and witness fees of unanticipated litigation are paid from this budget then billed to the agency incurring the cost, referred to as the "bill back" process. However, the OAG indicates the bill back process has been a problem for state agencies in that agencies do not budget for these expenditures and believe the expenditures are included in the assessments paid to the OAG through the AGCAP.

According to the OAG, the bill back process causes a burden on both the state agencies incurring the expense and the OAG, which does not always receive reimbursement. Follow-up information provided by the OAG indicates that for the past three fiscal years, the OAG has been reimbursed approximately 75 percent of the litigation costs billed. The proposed recommendation would eliminate bills being sent to agencies for the costs of unanticipated litigation and instead include the costs within the total assessment agencies pay for the AGCAP. Follow-up information provided by the OAG confirms that the agency incurring the litigation expense would not be assessed an additional amount; rather, the unanticipated litigation costs over the 2015-17 biennium would be included in the AGCAP to be absorbed by all agencies. **This recommendation appears reasonable.**

Fiscal staff recommends the Other Closing Items be approved as included in The Executive Budget, with authority for staff to make technical adjustments as needed.

Title: AG - WORKERS' COMP FRAUD
 Account: 101 - 1033

Budget Page: ELECTED-102, Volume I

	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
Revenues							
BALANCE FORWARD	166,530	107,745	(35.30)	25,280	(76.54)	19,292	(23.69)
FEDERAL FUND		71,003					
INTERAGENCY TRANSFER	786,887	964,370	22.56	918,658	(4.74)	874,608	(4.80)
OTHER FUND	2,766,370	2,787,804	0.77	2,977,469	6.80	2,894,642	(2.78)
REVERSIONS	(8,212)						
Total Revenues	3,711,575	3,930,922	5.91	3,921,407	(0.24)	3,788,542	(3.39)
Total FTE		37.00		35.00		35.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16	2016-17
E600	00	2511	Adjust Balance Forward to restore Investigator Position (PCN 1092) due to corrected Insurance Division Transfer Revenue		(19,292)
E600	00	4734	Adjust Transfer from Insurance Division to restore Investigator Position (PCN 1092)	58,336	99,397
E817	00	4659	Adjust Transfer from Industrial Relations for elimination of Decision Unit E-817	(1,475)	(4,467)
E817	00	4734	Adjust Transfer from Insurance Division for elimination of Decision Unit E-817	(11,606)	(8,617)
Sub-total				45,255	67,021
Line Item Changes to Revenues				45,255	67,021

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16	2016-17
E600	01	5000	Restore Investigator Position (PCN 1092) due to correction to Insurance Division Transfer Revenue	77,276	79,749
E600	04	7000	Adjust Operating Costs to Restore Investigator Position (PCN 1092) due to correction to Insurance Division Transfer Revenue	116	116
E600	26	7000	Adjust IT Costs to Restore Investigator Position (PCN 1092) due to correction to Insurance Division Transfer Revenue	236	240
E600	86	9000	Adjust Reserves to Restore Investigator Position (PCN 1092) due to correction to Insurance Division Transfer Revenue	(19,292)	
E817	01	5000	Eliminate Decision Unit E-817	(13,081)	(13,084)
Sub-total				45,255	67,021
Line Item Changes to Expenditures				45,255	67,021
Total				0	0
Grand Total General Fund Impact of Closing Changes				0	0

Overview

The Workers' Compensation Fraud Unit (WCFU) was established by the Legislature as part of the overall reform of the state's industrial insurance system. The WCFU is responsible for the investigation and prosecution of fraud committed by employees, employers, or medical providers against insurance companies or self-insured employers for workers' compensation. The WCFU is funded through a transfer from the Workers' Compensation and Safety Fund (Fund) administered by the Division of Industrial Relations. At the end of each year, unspent funds revert to the Fund. The 2005 Legislature approved the transfer of the Insurance Fraud Unit (IFU) into this budget. The IFU investigates and prosecutes insurance fraud cases and has the additional responsibility of prosecuting individuals who make, or assist someone

else in making material misrepresentations on applications for insurance, or filing false claims for benefits with private insurance companies. The IFU is funded through a transfer of the insurer assessments collected by the Insurance Division. The WCFU and IFU revenue collected from civil penalty recoveries is also included in this budget and used to assist in supporting the investigation activities of the fraud units.

Major Closing Issue

Elimination of Two Investigator Positions from the Insurance Fraud Unit

Discussion of Major Closing Issue

Elimination of Two Investigator Positions from the Insurance Fraud Unit (E-600, ELECTED-104): The Executive Budget includes a reduction of \$379,474 in transfer funds from the Insurance Division over the 2015-17 biennium to correspond with the recommendation to eliminate two Investigator positions and associated operating costs from the Insurance Fraud Unit (IFU). The Office of the Attorney General (OAG) indicates the position eliminations are necessary to align budgetary expenditures with revenue projections for the upcoming biennium, as estimated by the Department of Business and Industry, Division of Insurance. Pursuant to NRS 679B.700(3)(b), 85 percent of the funds collected by the Insurance Commissioner for the Fund for Insurance Administration and Enforcement must be paid to the OAG to support the IFU. The table below shows the current staffing for the WCFU and IFU.

Current Staffing for Workers' Compensation Fraud Unit (WCFU) and Insurance Fraud Unit (IFU)			
	WCFU		IFU
2	Senior DAG	2	Senior DAG
2	DAG	6	Investigators
1	Auditor	2	Administrative Staff
13	Investigators		
9	Administrative Staff		
27		10	

Fiscal staff notes that the revenue estimated for the 2015-17 biennium for the IFU in transfer funds from the Division of Insurance is \$965,388 each year. However, The Executive Budget includes \$918,658 in FY 2016 and \$874,608 in FY 2017 for this budget. In follow up with the OAG and the Executive Budget Office, Fiscal staff confirms that the transfer from the Insurance Division to this budget should be corrected to reflect \$965,388 in each year, which would correspond with the expenditure category transfer from the B&I Insurance Regulation budget. The OAG determined that based on the corrected revenue transfer, only one Investigator position is required to be eliminated. Fiscal staff concurs with the OAG determination and this closing document reflects the necessary adjustment to restore one Investigator position. Fiscal staff also notes that according to the Division of Human Resource Management, the remaining Investigator position recommended for elimination is vacant.

The OAG advises that the IFU cases utilize a substantial amount of resources and time due to the complexity of the cases. Specifically, the OAG stated that insurance fraud cases often involve groups of defendants using numerous scams such as falsifying accidents and identify theft, which require more time to investigate and more court appearances. As shown in the table below the agency projects that the number of referrals and prosecutions opened for the IFU will increase over the 2015-17 biennium.

	FY 2013 Actual	FY 2014 Actual	FY 2015 Projected	FY 2016 Projected	FY 2017 Projected
REFERRALS:	1400	1491	1450	1500	1550
PROSECUTIONS OPENED:	38	49	40	58	67

In follow up with the OAG regarding how increased caseloads would be managed with one less Investigator position, the OAG indicated that the existing senior Investigator has worked in the WCFU/IFU for 17 years, and 12 of those years have been exclusively in the IFU and another Investigator has 7 years of experience with the IFU. The OAG believes that with the combined experience of these positions and the entire unit, the IFU will be able meet caseload demands. Additionally, the IFU indicates they plan to identify areas wherein administrative staff can be utilized to assist Investigators in more areas and develop processes to prioritize the IFU cases. **Based on the adjustment made and the follow-up information provided by the OAG, the recommendation appears reasonable.**

Does the Committee wish to approve the elimination of one vacant Investigator position for the Insurance Fraud Unit, including the adjustment requested by the Office of the Attorney General to restore one Investigator position for the Insurance Fraud Unit as reflected in the closing sheet?

Other Closing Items

1. Replacement Equipment (E-710, ELECTED-105): The Executive Budget includes \$47,980 over the 2015-17 biennium to replace 24 desktop computers, 5 printers and associated software. **This recommendation appears reasonable.**
2. New Equipment (E-721, ELECTED-105): The Executive Budget includes \$350 in FY 2016 for two Adobe Acrobat software licenses. **This recommendation appears reasonable.**
3. Reclassification of Senior Deputy Attorney General to Chief Deputy Attorney General (E-817, ELECTED-106): The Executive Budget includes net revenue increases of \$13,081 in FY 2016 and \$13,084 in FY 2017 to reclassify a Senior DAG to a Chief DAG. The recommendation results in a 10.5 percent salary increase for the position. During the budget hearing, the OAG testified that this decision unit should be eliminated, which was subsequently confirmed in writing by the OAG. Accordingly, this closing sheet includes a technical adjustment to eliminate this decision unit. **With the adjustment to eliminate the decision unit as requested by the OAG, this recommendation appears reasonable.**

Fiscal staff recommends the Other Closing Items be approved as included in The Executive Budget, including the adjustment noted by staff for Other Closing Item 3, and authority for staff to make other technical adjustments as needed.

Title: AG - CRIME PREVENTION
 Account: 101 - 1036

Budget Page: ELECTED-108, Volume I

Revenues	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
BALANCE FORWARD	(1,695)	1,460	(186.14)				
GENERAL FUND	227,807	233,943	2.69	331,337	41.63	364,570	10.03
INTERAGENCY TRANSFER	2,321						
OTHER FUND	40,589	46,322	14.12	38,151	(17.64)	36,499	(4.33)
REVERSIONS	(2)						
Total Revenues	269,020	281,725	4.72	369,488	31.15	401,069	8.55
Total FTE		3.00		4.00		4.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Revenues				0	0

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Expenditures				0	0
Total				0	0
Grand Total General Fund Impact of Closing Changes				0	0

Overview

The Office of Advocate for Missing or Exploited Children was established by the Legislature in 1993 to assist law enforcement in locating missing children and protecting children from exploitation. Under the direction of the Children’s Advocate, the office serves as a center for public education and training of state and federal laws pertaining to missing, exploited, or victimized children. The mission of the unit is carried out through three concepts: prevention, protection and prosecution.

The Children’s Advocate in this budget serves as Director of the Nevada Clearinghouse for Missing or Exploited Children, prosecutes abduction cases, makes recommendations to family courts in custody matters, intervenes in jurisdictional custody disputes, provides administrative and legal assistance to the AMBER Alert Committee, serves on the Executive Committee to Review the Death of Children, and initiates court proceedings to enforce out-of-state custody orders. The Executive Budget recommends General Fund appropriations (90 percent) and fees from the sale of the missing or exploited children license plates (10 percent) to support the budget over the 2015-17 biennium.

Major Closing Issue

New Criminal Investigator Position

Discussion of Major Closing Issue

New Criminal Investigator Position (E-241, ELECTED-110): The Executive Budget includes General Fund appropriations of \$69,005 in FY 2016 and \$104,364 in FY 2017 for a new Criminal Investigator position and associated operating costs to support the Human Sex Trafficking Unit within the Office of the Attorney General (OAG), which consists of a Deputy Attorney General (DAG) and a Chief DAG who currently comprise this unit located within the Administrative budget. The justification included in The Executive

Budget indicates the position is needed to assist with the Human Sex Trafficking Unit established within the OAG pursuant to Assembly Bill (A.B.) 67 approved by the 2013 Legislature. The legislation provides that the investigation and prosecution of human trafficking be under the Children’s Advocate in this budget and also provides that the Children’s Advocate may seek grants to support the efforts of carrying out the legislation. Fiscal staff notes that the OAG submitted a fiscal note to A.B. 67 (2013) that indicated there would be no fiscal impact. Follow-up information provided by the OAG indicates that the Human Sex Trafficking Unit utilized approximately \$25,000 in existing federal grant funds during the current biennium for training in sex trafficking solutions and training for rural law enforcement. Additionally, the OAG recently received notification regarding new grant opportunities specific to human sex trafficking and the grants unit is reviewing the grant application process for those new grants.

To support the position recommendation, the OAG indicates the position would work with local law enforcement as well as the National Truckers Association to investigate reported cases of human sex trafficking along the I-80 and I-15 corridors, including truck stops and rest areas along those highways. Further, the OAG reports that runaway children are subject to human sex trafficking crimes, and highly publicized events such as rodeos and county fairs often draw increased numbers of investigations into human sex trafficking cases. The OAG indicates there are currently 80 reports of runaway children in the state, the majority of whom have run away from foster care.

The OAG indicates the recommended Investigator position would represent the OAG on the Southern Nevada Human Trafficking Task Force to share resources to combat child sex trafficking issues in the southern region of the state. Fiscal staff inquired into caseload data regarding the number and location of human sex trafficking cases reported, investigated or prosecuted in the state since the approval of A.B. 67 by the 2013 Legislature and was informed by the OAG that no caseload data is available. However, the OAG confirmed in follow-up information that the Investigator position, if approved, would be responsible for collecting and tracking caseload information regarding the number of human trafficking cases reported, investigations and prosecutions.

Travel costs for the Investigator position include \$8,684 in FY 2016 and \$30,419 in FY 2017 for in-state travel and \$1,000 each year for out-of-state travel (\$41,103 in total travel costs over the 2015-17 biennium). The OAG, anticipated the position to spend a portion of time investigating cases in Southern Nevada and serving on the Southern Nevada Human Trafficking Task Force, and a portion of time in Northern Nevada collaborating with local law enforcement and investigating cases in the rural areas where resources may be limited. During the budget hearing, the Committee expressed concern regarding the \$41,103 travel budget for one position and requested details. Fiscal staff inquired if the OAG could reduce the travel costs for the Investigator position, in light of no specific caseload data available; however, the OAG responded that an adequate travel budget is needed for statewide investigations and requested the travel budget not be reduced. Fiscal staff has summarized the travel budget provided by the OAG below:

Proposed Travel Costs for Investigator for the Human Sex Trafficking Unit				
Item	Description	FY 2016	FY 2017	Biennium Total
Lodging, Airfare, Per Diem, Vehicle use	Position travel to LV and southern rural areas of the state 1 week/1x per month for 9 months (\$1,256 per month) plus \$206 for Fleet Services	\$ 11,510		
Lodging, Airfare, Per Diem, Vehicle use	Position travel to LV and southern rural areas of the state 1 week/2x per month for 12 months (\$2,512 per month) plus \$275 for Fleet Services		\$ 30,419	
Out-of-State Travel	Attendance at National Conferences	\$ 1,000	\$ 1,000	
		\$ 12,510	\$ 31,419	\$ 43,929
	Included in The Executive Budget			\$ (41,103)
	Difference			\$ 2,826

Fiscal staff notes that based on the detailed travel costs provided, the travel expenditures included in The Executive Budget are \$2,826 less in FY 2016 than the detailed travel costs provided by the OAG and summarized in the previous table. Accordingly, staff provides the following options for the Committee's consideration:

- a) **Approve General Fund appropriations totaling \$69,005 in FY 2016 and \$104,364 in FY 2017 for one new Investigator position, which includes \$41,103 for in-state and out-of-state travel costs over the biennium as included in The Executive Budget, including authority for staff to make a technical adjustment to increase travel costs in FY 2016 by \$2,826 as noted above.**
- b) **Do not approve a new Investigator position and associated operating costs, resulting in General Fund savings of \$69,005 in FY 2016 and \$104,364 in FY 2017.**
- c) **Approve a new Investigator position for the Human Sex Trafficking Unit, and reduce out-of-state travel costs by \$1,000 in FY 2016 to allow attendance at a national conference in the second year of the biennium only; and reduce in-state travel costs by \$15,072 in FY 2017 to allow one trip to Southern Nevada each month instead of two. With the technical adjustment of \$2,826 noted above, the net General Fund savings for this option is \$13,246 over the biennium; resulting in a total travel budget of \$27,857 for the Investigator position.**

Fiscal staff recommends that the Committee issue a letter of intent requesting the Office of the Attorney General to provide information to the Interim Finance Committee on a semi-annual basis regarding the number of human sex trafficking cases reported, investigated and prosecuted in the state, by location, and to establish performance measures for the OAG Human Sex Trafficking Unit.

Other Closing Items

1. **Replacement Equipment (E-710, ELECTED-111): The Executive Budget includes a General Fund appropriation of \$1,918 in FY 2016 to replace one desktop computer and associated software. **This recommendation appears reasonable.****
2. **New Equipment (E-720, ELECTED-111): The Executive Budget includes a General Fund appropriation of \$5,129 in FY 2016 for one heavy-duty color printer. **This recommendation appears reasonable.****

Fiscal staff recommends the Other Closing Items be approved as included in The Executive Budget, with authority for staff to make technical adjustments as necessary.

Title: AG - CONSUMER ADVOCATE
 Account: 330 - 1038

Budget Page: ELECTED-117, Volume I

	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
Revenues							
BALANCE FORWARD	(87,834)	1,899,500	(2262.60)	2,853,956	50.25	2,325,094	(18.53)
GENERAL FUND	622,415	625,303	0.46	665,551	6.44	663,896	(0.25)
OTHER FUND	2,948,933	3,741,083	26.86	2,906,531	(22.31)	2,906,531	
REVERSIONS	(148,249)						
Total Revenues	3,335,265	6,265,886	87.87	6,426,038	2.56	5,895,521	(8.26)
Total FTE		27.02		26.00		26.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Revenues				0	0

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Expenditures				0	0
Total				0	0
Grand Total General Fund Impact of Closing Changes				0	0

Overview

The Bureau of Consumer Protection (BCP) provides professional representation, public education and advocates for consumers who utilize regulated electricity, natural gas, water and telecommunication services. The BCP serves to protect Nevada consumers from unfair and deceptive trade practices, telemarketing fraud, and securities fraud through both civil and criminal enforcement. The Consumer Advocate also provides victim assistance, consumer education and public outreach. The activities of the Utility Consumer Advocate's unit of the Bureau are funded through the Utility Mill Assessment, while the Civil Mortgage Fraud unit is funded through Morgan Stanley mortgage settlement funds. The telemarketing, consumer fraud, deceptive trade and securities fraud functions of the Bureau are funded through General Fund appropriations.

Major Closing Issues

There are no major closing issues.

Other Closing Items

1. Regulatory Assessment Reserve Balance (Summary, ELECTED-121): Pursuant to NRS 704.033, the Legislature has established a statutory limit of 0.75 mills on assessments charged to regulated utilities on their total revenue, which is used to fund the utility functions of the Consumer Advocate's Office. The Consumer Advocate sets the mill assessment rate in May of each year based on the anticipated gross operating revenues of the Public Utilities Commission.

Pursuant to the OAG Expanded Program Narratives, the mill assessment for each year of the current biennium (FY 2014 and FY 2015) is 0.74 mills. The Executive Budget projects the rate to remain at 0.74 mills for each year of the 2015-17 biennium. During the closing of this budget by the 2013 money committees, a reserve balance of \$951,000 was approved as an adequate reserve at the end of FY 2015; however, the FY 2015 reserve balance is currently budgeted at \$1.9 million. The Office of the Attorney General (OAG) indicates that a higher reserve is needed due to fluctuations in regulatory assessment revenue.

In response to discussion regarding the reserve level, the OAG testified at the budget hearing that the mill assessment could be reduced from 0.74 mills to 0.70 mills for each year of the 2015-17 biennium. However, follow-up information provided by the OAG indicates that after further review, the OAG recommends the mill assessment remain at 0.74 mills as included in The Executive Budget. Specifically, the OAG indicates that the mill assessment revenue is projected to decrease in FY 2016 due to the pending exit applications of several large businesses before the Public Utility Commission. According to the agency, the applications would allow the applying businesses to no longer utilize NV Energy as their power supplier, which could impact the regulatory revenue that supports this budget. **Based on this information, Fiscal staff recommends maintaining revenues supported by the 0.74 mill assessment rate for the 2015-17 biennium as included in The Executive Budget.**

Fiscal staff notes Section 1 of Senate Bill 506, heard by the Senate Committee on Finance on March 27, 2015, transfers \$400,000 from the reserve in this budget to the State General Fund to assist the General Fund ending balance shortfall for FY 2015. The OAG expressed concern that based on the pending exit applications mentioned above, the redirection of a portion of the reserves in this budget could impact the operations of the Consumer Advocate. The Senate Committee on Finance amended S.B. 506 on April 22, 2015, which deleted Section 1 from the bill.

2. Replacement Equipment (E-710, ELECTED-119): The Executive Budget includes a \$9,390 reduction in Morgan Stanley settlement reserves in FY 2016 to replace 3 desks, 6 chairs, and 1 conference table. **This recommendation appears reasonable.**
3. Replacement Equipment (E-711, ELECTED-120): The Executive Budget includes a General Fund appropriation of \$4,286 in FY 2016 and \$57,568 in reduced reserves over the 2015-17 biennium to replace 29 desktop computers and associated software, 29 surge protector strips, 1 router, and 3 medium-duty laser printers. **This recommendation appears reasonable.**
4. Increase for Unclassified Legal Researcher Positions (E-806, ELECTED-120): The Executive Budget includes reduced reserves totaling \$17,782 and \$24,956 in General Fund appropriations over the 2015-17 biennium to increase the salary of one unclassified Legal Researcher position in this budget to be comparable to the salary of a classified Legal Research Assistant position, and reclassify a Senior Legal Researcher to a Supervising Legal Researcher. Staff notes that The Executive Budget includes an increase to the maximum unclassified salary of the Legal Researcher from \$46,102 to \$56,627 and the Supervising Legal Researcher from \$56,265 to \$61,951. **Decisions regarding the salaries for unclassified positions will be determined by the money committees at a later date. Fiscal staff seeks authority to make technical adjustments that may be necessary based on the outcome of statewide decisions involving the salaries of unclassified positions.**

Fiscal staff recommends this budget be approved as included in The Executive Budget, with authority for staff to make technical adjustments as necessary.

Informational Item – no action required

Section 2 of Senate Bill 506 redirects \$19.7 million currently held in the OAG non-executive Court Settlements account to the State General Fund to assist in addressing the FY 2015 ending fund balance shortfall. The settlements included in the non-executive Court Settlement account are the result of the successful activities of the Consumer Advocate and OAG staff investigating, prosecuting, litigating and settling cases on behalf of the state to provide relief and assistance to Nevada consumers. Settlement funds are disbursed in accordance with the court order pertinent to each settlement and may include reimbursement for the costs of litigation.

Title: AG - COUNCIL FOR PROSECUTING ATTORNEYS
 Account: 101 - 1041

Budget Page: ELECTED-126, Volume I

Revenues	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
BALANCE FORWARD	(10,226)	178,234	(1842.95)	203,148	13.98	203,703	0.27
GENERAL FUND	100	100		100		100	
INTERAGENCY TRANSFER	16,376	7,943	(51.50)				
OTHER FUND	193,937	203,920	5.15	193,937	(4.90)	193,937	
REVERSIONS	(100)						
Total Revenues	200,087	390,197	95.01	397,185	1.79	397,740	0.14
Total FTE		1.00		1.00		1.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Revenues				0	0

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Expenditures				0	0
Total				0	0
Grand Total General Fund Impact of Closing Changes				0	0

Overview

Pursuant to NRS 241A.040, the Advisory Council for Prosecuting Attorneys consists of seven members including the Attorney General who serves as an ex-officio member of the Council. The Council is responsible for developing prosecution training programs, assisting state and local prosecutors in conducting prosecutions, coordinating the development of policies for conducting prosecutions, and coordinating proposed legislation for submittal to the Legislature. The budget is supported by court assessments received pursuant to NRS 176.059, fees and reimbursements from training sessions, and a nominal \$100 General Fund appropriation, which provides access to the Interim Finance Committee Contingency Account if needed.

Major Issue

There are no major closing issues.

Other Closing Items

- Replacement Equipment (E-710, ELECTED-128): The Executive Budget includes reduced reserves totaling \$1,388 in FY 2016 to replace a medium-duty printer. **This recommendation appears reasonable.**
- Unclassified Position Salary Increase (E-806, ELECTED-128, 129): The Executive Budget includes a reduction to reserves totaling \$19,471 over the 2015-17 biennium to support a 7.6 percent salary increase for the unclassified attorney who serves as the Executive Director to the Advisory Council for Prosecuting Attorneys from \$102,260 to \$110,000. Fiscal staff notes that the proposed amount for the

position does not align with other attorney positions within the Office of the Attorney General (OAG) as set forth in the unclassified pay bill, nor the unclassified tier schedule used for the unclassified pay bill.

Although no justification was provided in The Executive Budget, in response to Fiscal staff inquiry, the OAG advised that due to a “nexus” between the Council for Prosecuting Attorneys and the Technological Crime Advisory Board (Board) established in NRS Chapter 205A, the attorney in this budget was appointed by the Board to serve as the Executive Director for the Board in September 2013 (FY 2014). Accordingly, the OAG indicates the increased pay is to accommodate the dual capacity in which the attorney now serves. As Executive Director to the Board, the position facilitates federal, state and local law enforcement activities and task forces related to technological crimes; assists the Department of Administration’s Enterprise Information Technology Services (EITS) in securing state information systems; facilitates changes to civil and criminal laws relating to technology; distributes funds from the Board pursuant to forfeiture statutes; and performs administrative duties associated with the quarterly meetings held by the Board.

As background information, the Technological Crime Advisory Board was established by the 1999 Legislature and placed within the OAG Administrative budget. In 2007, the Legislature approved the Governor’s recommendation to move the budget, titled High Technology Crime (BA 1044) and the Board expenditures, from the Administrative budget to its own budget to simplify tracking. The establishment of a separate budget in FY 2008 included eight full-time unclassified positions. However, in 2009, the Legislature approved the Governor’s recommendation to return the High Tech Crime budget back to the Administrative budget to accommodate supervisory functions of the investigative staff. The High Tech Crime unit currently remains in the OAG Administrative budget. The organizational chart included in The Executive Budget shows five positions for the High Tech Crime unit within the Administrative budget. Fiscal staff notes that the Executive Director position for the Technological Crime Advisory Board has been vacant since September 2013 and is recommended for elimination in the Administrative budget (E-226, ELECTED-87, 88).

Decisions regarding the salaries for unclassified positions will be determined by the money committees at a later date. Fiscal staff seeks authority to make technical adjustments that may be necessary based on final decisions involving the salaries of unclassified positions.

Nevada Revised Statutes 205A.090 establishes the Account for the Technological Crime Advisory Board within the State General Fund, and requires that any funds collected pursuant to criminal or civil forfeitures related to technological crime must be used to carry out the duties and expenses of the Board and reimburse federal, state and local law enforcement that participated in the investigation. According to the OAG, no funds have been collected on behalf of activities conducted by the Board and the OAG High Tech Crime unit.

Fiscal staff notes no performance measures for the Council for Prosecuting Attorneys or the High Tech Crime unit have been established. It should be noted that after the budget hearing, the OAG provided draft performance measures for the Council for Prosecuting Attorneys budget activities. Fiscal staff recommends the Committee request the OAG establish performance measures for the Council for Prosecuting Attorneys budget and the High Tech Crime unit for its 2017-19 biennial budget request.

Fiscal staff recommends this budget be closed as included in The Executive Budget, with authority for staff to make technical adjustments based on statewide decisions regarding the salaries of unclassified positions, other technical adjustments that may be necessary, and that the Committee request the Office of the Attorney General establish performance measures for the Council for Prosecuting Attorneys budget and the High Tech Crime unit for the 2017-19 biennial budget request.

**Nevada Legislative Counsel Bureau
Budget Closing Action Report
Assembly Committee on Ways and Means
W02 - WORKING VERSION 2**

Title: AG - VICTIMS OF DOMESTIC VIOLENCE
Account: 101 - 1042

Budget Page: ELECTED-130, Volume I

Revenues	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
BALANCE FORWARD	(70,488)	99,961	(241.81)	24,078	(75.91)	75,715	214.46
FEDERAL FUND	11,763						
GENERAL FUND				97,272		97,358	0.09
INTERAGENCY TRANSFER	297,904	216,990	(27.16)	142,500	(34.33)	142,500	
OTHER FUND	142,454	169,850	19.23	132,454	(22.02)	132,454	
Total Revenues	381,633	486,801	27.56	396,304	(18.59)	448,027	13.05
Total FTE		1.00		1.00		1.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16	2016-17
B000	00	2511	Adjust Balance Forward for WP C32449	86,333	77,484
B000	00	2511	Adjust Balance Forward to align Reserves		(1,672)
B000	00	3870	Correct Revenue for VINE Assessments	12,500	12,500
B000	00	4669	Add Transfer of Grant Funds from Violence Against Women Grants Budget 1040	50,000	50,000
E811	00	2501	Eliminate General Fund to return funding for Ombudsman Position to existing revenue source and eliminate recommendation for Ombudsman Salary Increase	(97,272)	(97,358)
E811	00	2511	Adjust Balance Forward to return Ombudsman Position funding to existing revenue source and eliminate recommendation for Ombudsman Salary Increase		(79,765)
Sub-total				51,561	(38,811)
Line Item Changes to Revenues				51,561	(38,811)

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16	2016-17
B000	19	7000	Restore Contract Costs for Fatality Review Committee inadvertently omitted	7,500	7,500
B000	19	8000	Restore Grant Costs for Fatality Review Committee inadvertently omitted	7,500	7,500
B000	20	7000	Correct Contract Costs for VINE Program	58,021	82,149
B000	86	9000	Adjust Reserve for Changes in Revenue and Expenditure Categories	(1,672)	(36,323)
B000	86	9000	Adjust Reserve for WP C32449	77,484	77,486
E811	01	5000	Eliminate Decision Unit E-811	(17,507)	(17,543)
E811	86	9000	Adjust Reserve to return Ombudsman Position funding to existing revenue source and eliminate recommendation for Unclassified Salary Increase	(79,765)	(159,580)
Sub-total				51,561	(38,811)
Line Item Changes to Expenditures				51,561	(38,811)
Total				0	0
Grand Total General Fund Impact of Closing Changes				(97,272)	(97,358)

Overview

The Victims of Domestic Violence budget includes programs relating to domestic violence, sexual assault, stalking, batterer treatment and the Office of Ombudsman for Victims of Domestic Violence. The Domestic Violence Ombudsman, in conjunction with the Batterer's Certification Committee, is responsible for standardizing and overseeing the treatment of domestic violence offenders, as well as assisting in the

statewide coordination of domestic violence services and training. The Attorney General appoints a person to serve as Ombudsman for a term of four years. Funding for this budget includes distributions of court assessment fees collected pursuant to NRS 176.059 and NRS 200.485.

This budget also includes the Committee on Domestic Violence, which is responsible for the evaluation, certification, and monitoring of programs for the treatment of persons who commit domestic violence, and for the review and evaluation of programs provided to police officers for training related to domestic violence and the Nevada Council for the Prevention of Domestic Violence, which is responsible for increasing awareness of domestic violence, making recommendations for legislation, and providing financial support to programs for the prevention of domestic violence. With the approval of Senate Bill (S.B.) 26 (NRS 228.205) by the 2013 Legislature, this budget oversees the Victim Information and Notification Everyday (VINE) system.

Major Closing Issues

1. Changes to Unclassified Ombudsman Position
2. Victim Information and Notification Everyday (VINE)

Discussion of Major Closing Issues

1. Changes to Unclassified Ombudsman Position (E-811, ELECTED-132-133): The Executive Budget includes General Fund appropriations of \$17,507 in FY 2016 and \$17,543 in FY 2017 to provide a salary increase to the unclassified Ombudsman in this budget. The \$159,580 balance of the General Fund appropriations recommended in this decision unit are placed in reserve to balance the budget. Currently, the Ombudsman salary and operating costs are supported with court assessments and federal grant funds. During the budget hearing, the OAG requested this decision unit be eliminated. As such, this closing document reflects the elimination of this decision unit, resulting in General Fund reductions of \$97,272 in FY 2016 and \$97,358 in FY 2017.

Fiscal staff notes that elimination of this decision unit results in a negative fund balance in each fiscal year of the 2015-17 biennium. Fiscal staff has been working with the OAG and the Executive Budget Office to correctly fund the budget. Accordingly, based on revenue re-projections for the current fiscal year and the upcoming biennium, the OAG has submitted an FY 2015 non-IFC work program (C32449) that will assist in correcting the reserve and balance forward amounts for FY 2016, which are reflected on this closing sheet.

Does the Committee wish to approve the elimination of Decision Unit E-811 as requested by the Office of the Attorney General and noted in this closing document, resulting in a General Fund reduction of \$194,630 over the biennium, and the adjustment by staff to align reserves and balance forward amounts to correct the budget?

2. Victim Information and Notification Everyday (Summary, ELECTED-133): The 2013 Legislature approved S.B. 26 (NRS 228.205), which established the Victim Information and Notification Everyday (VINE) system within the OAG and the operational functions of the system were placed in this budget. The agency indicates that all local law enforcement agencies are contributing towards the support of the system through an assessment charged by the OAG, which supports contract costs to operate the system. The VINE system consists of a toll-free telephone number and a website that allows victims of crime and members of the public to register to receive automated information and notification concerning changes in the custody and status of an offender. A subcommittee of the Nevada Council for the Prevention of Domestic Violence provides the governance for the VINE system. Fiscal staff inquired if assessments collected on behalf of the VINE system could be utilized to support a portion of the Ombudsman position and operating costs in this budget for administering the system and the OAG indicated they would examine that possibility. Based on supplemental information provided by the

OAG, Fiscal staff has noted a discrepancy in the amount of revenue projected to be collected for the VINE system in the upcoming biennium, and the contract costs budgeted in the VINE expenditure category. Fiscal staff worked with the OAG and the Executive Budget Office to correct the discrepancy and has been advised that a transfer in federal grant funds of \$50,000 in each year from the Violence Against Women Grants budget (Budget 1040), which has historically supported this budget, is available for the upcoming biennium for the VINE program, and the Fatality Review Committee expenditures that were inadvertently omitted from the budget. Fiscal staff has included these adjustments in this closing document. Additionally, the OAG provided re-projections of the VINE assessment revenue resulted in an additional \$12,500 in VINE assessments, which has also been adjusted on this closing sheet.

Does the Committee wish to approve the technical adjustments noted by staff to increase grant authority transfer funds by \$50,000 each year to support the Fatality Review category and the VINE category; increase the VINE assessment revenue by \$12,500 each year; and allow staff to make other technical adjustments that may be necessary?

Title: AG - ATTORNEY GENERAL TORT CLAIM FUND
 Account: 715 - 1348

Budget Page: ELECTED-135, Volume I

	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
Revenues							
BALANCE FORWARD	(585,318)	3,202,354	(647.11)	3,681,759	14.97	3,666,706	(0.41)
INTERAGENCY TRANSFER	4,151,536	4,584,133	10.42	4,801,313	4.74	4,814,525	0.28
OTHER FUND	5,000	5,000		5,000		5,000	
Total Revenues	3,571,218	7,791,487	118.17	8,488,072	8.94	8,486,231	(0.02)
Total FTE		2.00		2.51		2.51	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Revenues				0	0

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Expenditures				0	0
Total				0	0
Grand Total General Fund Impact of Closing Changes				0	0

Overview

The Tort Claim Fund was established pursuant to NRS 331.187 for the payment of claims against the state, including claims arising from automobile accidents, injuries sustained on state property or highways, and violations of civil rights. The Tort Claim Fund is an internal service fund, financed through assessments on agencies and participating counties based on number of vehicles and positions.

Major Closing Issue

New Part-Time Deputy Attorney General Position

Discussion of Major Closing Issue

New Part-Time Deputy Attorney General Position (E-239, ELECTED-137): The Executive Budget includes \$124,811 in insurance premium assessments over the 2015-17 biennium to support the position and associated operating costs for a part-time Deputy Attorney General (DAG) to work on claims filed by the state district courts seeking reimbursement from the Tort Claim Fund. Currently, the following counties pay into the Tort Claim Fund relating to state district court employees: Clark, Elko, Humboldt and Pershing. Currently, the only pending claims are for Clark County.

According to supporting documentation included in The Executive Budget, although the counties are assessed by the Office of the Attorney General (OAG) for the Tort Claim Fund, the assessment includes the costs of claims (settlement) and other court costs such as travel, deposition costs, and copy charges but does not include attorney's fees. In instances when attorneys are required, in addition to utilizing the services of the OAG, the counties paying into the Tort Claim Fund may hire outside counsel to defend the

tort claims of their district court employees and then seek reimbursement from the OAG for the costs of outside counsel. Fiscal staff notes that the counties do not contribute toward the Attorney General Cost Allocation Plan (AGCAP), which is the funding mechanism for state agencies to pay for billable attorney hours within the OAG.

Pursuant to NRS 331.187, Clark County has sought reimbursement for the outside counsel costs incurred in employee tort claims. To date, the OAG reports that Clark County has been reimbursed a total of \$175,880 in outside attorney fees during the current biennium. The OAG provided follow-up information indicating that the OAG has assigned an existing DAG to work part-time on the Clark County cases during the current biennium in order to eliminate the need for additional outside attorney’s fees for Clark County and no more outside counsel fees are anticipated. In response to staff inquiry, the OAG has indicated that the recommended new part-time DAG would assist in the defense of state district court cases for those counties who contribute to the OAG Tort Claim Fund and reduce the need for reimbursement of outside counsel costs.

The OAG testified at the budget hearing that it considered other alternatives prior to the recommendation for a part-time DAG. In follow up with the agency after the budget hearing, the alternatives mentioned are shown below:

- a) Enter into a written agreement with the counties paying into the Tort Claim Fund pursuant to NRS 331.187(3) to 1) hold the OAG harmless and the counties assume the costs of defense; 2) reimburse the OAG for the costs of defense; or 3) include employees of the district courts under the county’s own insurance;
- b) For the counties paying into the Tort Claim Fund, include an additional assessment based on the average cost of tort claims on a per-employee basis. The average cost of a tort claim was determined by the OAG at \$122 per employee; and
- c) Assess an additional amount to the counties paying into the Tort Claim Fund for the costs of the part-time DAG based on a percentage of the full-time equivalent (FTE) positions per county.

Based on information provided by the OAG, alternative b) would double the assessment the counties currently pay (using FY 2013 FTE counts); and alternative c) could create an inequity if a county discontinued paying into the Tort Claim Fund, then the other counties would pay a larger share of the costs of the part-time DAG. The table below shows the estimated costs for each county currently paying into the Tort Claim Fund based on FY 2013 data for the part-time DAG costs in this decision unit. Fiscal staff notes, as included in *The Executive Budget*, these costs would not be assessed to the counties based upon the cost shares below. Rather, insurance premium revenue in the Tort Claim Fund would support the added expenditures.

Costs of Part-Time DAG over the 2015-17 Biennium			
County	FTE	Percent	\$ 124,811
Clark	702	91	\$ 113,578
Elko	33	4	\$ 4,992
Humboldt	36	4	\$ 4,992
Pershing	2.5	1	\$ 1,248

Fiscal staff inquired how the part-time DAG would be utilized if no state district court cases were pending, and the OAG indicated that there was a level of pending litigation relative to tort claims to support the addition of a part-time DAG. Accordingly, the DAG could perform work that is not directly related to the state district court cases of the participating counties.

Based on the alternatives outlined on the previous page, Fiscal staff provides the following options for the Committee's consideration:

1. Approve insurance premium assessments included in the Tort Claim Fund, which are not additionally assessed to the counties paying into the Tort Claim Fund, totaling \$124,811 over the 2015-17 biennium for a part-time DAG, including associated operating costs, to handle state district court tort claims as included in The Executive Budget.
2. Not approve a part-time DAG as included in The Executive Budget and instead direct the Office of the Attorney General to enter into agreements with the counties paying into the Tort Claim Fund pursuant to NRS 331.187(3) (alternative a).

Other Closing Item

Risk Management Information System (E-230, ELECTED-137): The Executive Budget includes \$10,000 in a reduction from reserves in FY 2016 to support the Attorney General's portion of the implementation costs for a new Risk Management Information System (RMIS). If approved, the RMIS would provide Risk Management, the Attorney General's Office, the State Public Works Division, and the Nevada Department of Transportation with a unified platform for the tracking and management of risk exposures related to assets, state-owned or leased locations, and employees. Total costs of \$50,000 to implement the RMIS are divided between the budgets mentioned above. Details of the recommended system are included in the Department of Administration's Risk Management budget. The Joint Subcommittee on General Government approved the recommendation in the Risk Management budget on April 23, 2015.

Fiscal staff recommends the Other Closing Item be closed as included in The Executive Budget, with authority for staff to make technical adjustments as needed.

Informational Item – No Action Required

Reserve Balance (Summary, ELECTED-138): The Executive Budget includes a \$3.9 million reserve balance at the end of the 2015-17 biennium. Historically, this budget has maintained at least a \$3.0 million reserve balance in order to sufficiently pay claims that exceed the categorical tort claim expenditure category and to address the pay out of large claims.

As indicated, state agencies and participating counties are assessed an amount for the Tort Claim Fund based on number of positions and vehicles per agency. For the 2015-17 biennium, the Governor recommends \$115.67 per employee, per year, compared to \$120.38 per employee, per year for the 2013-15 biennium for the employee tort portion of the assessments (APPENDIX-8).

Although the reserve balance included in The Executive Budget appears reasonable, Fiscal staff inquired of the OAG regarding the status of a pending large settlement that would impact the reserve balance. Specifically, the OAG is in settlement negotiations regarding the case of the City and County of San Francisco vs. State of Nevada, Department of Health and Human Services regarding the "patient-dumping" lawsuit filed against the state. The OAG indicates that the settlement of this lawsuit would be paid from the Tort Claim Fund. Additionally, during the budget hearing, the OAG indicated that any settlement of the San Francisco case exceeding \$2.0 million would be covered by an excess insurance policy, including the costs to defend the lawsuit (currently handled by outside counsel). As of April 21, 2015, the OAG had not been notified if the excess insurance carrier has accepted the claim. Additionally, the OAG indicated that settlement negotiations have stalled and Nevada and California have both filed petitions requiring review by the U.S. Supreme Court. According to the OAG, the outcome of that review may not be known until June or September 2015.

Nevada Legislative Counsel Bureau
 Budget Closing Action Report
 Assembly Committee on Ways and Means
 W02 - WORKING VERSION 2

Title: AG - NATIONAL SETTLEMENT ADMINISTRATION
Account: 340 - 1045

Budget Page: ELECTED-140, Volume I

	2013-14 Actual	2014-15 WP	%	2015-16 GOV REC	%	2016-17 GOV REC	%
Revenues							
BALANCE FORWARD	54,218,576	30,448,672	(43.84)	17,510,342	(42.49)	10,515,428	(39.95)
FEDERAL FUND							
OTHER FUND	193,456	10,000	(94.83)	75,000	650.00	75,000	
Total Revenues	54,412,032	30,458,672	(44.02)	17,585,342	(42.26)	10,590,428	(39.78)
Total FTE		4.00		11.00		11.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16	2016-17
E501	00	2511	Adjust Balance Forward to Add Deputy Attorney General (DAG) position (PCN 390) to Transfer of Mortgage Fraud Unit from Administrative budget to this budget (E-901)		(123,711)
E501	00	3580	Adjust Wells Fargo Settlement Revenue to Add Deputy Attorney General (DAG) position (PCN 390) to Transfer of Mortgage Fraud Unit from Administrative budget to this budget (E-901)	(123,711)	(123,439)
E901	00	3580	Adjust Wells Fargo Revenue to Add Deputy Attorney General (DAG) position (PCN 390) to Transfer of Mortgage Fraud Unit from Administrative budget to this budget (E-901)	123,711	123,439
Sub-total				0	(123,711)
Line Item Changes to Revenues				0	(123,711)

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16	2016-17
E501	86	9000	Adjust National Mortgage Settlement Reserves to align with Revenue Adjustment to add PCN 390 to Transfer of Mortgage Fraud Unit from BA 1030 to BA 1045	(123,711)	(247,150)
E901	01	5000	Add Salary Costs for addition of PCN 390 to Transfer of Mortgage Fraud Unit from BA 1030 to BA 1045	123,358	123,082
E901	04	7000	Add Operating Costs for addition of PCN 390 to Transfer of Mortgage Fraud Unit from BA 1030 to BA 1045	116	116
E901	26	7000	Add IT Costs for addition of PCN 390 to Transfer of Mortgage Fraud Unit from BA 1030 to BA 1045	237	241
Sub-total				0	(123,711)
Line Item Changes to Expenditures				0	(123,711)
Total				0	0
Grand Total General Fund Impact of Closing Changes				0	0

Overview

The National Settlement Administration budget, established during the 2011-12 Interim, provides the Office of the Attorney General (OAG) a mechanism to provide for the general administration of the funds received from the National Mortgage Settlement (NMS) and the Bank of America Mortgage Settlement (BOA). Pursuant to the NMS stipulated order, the mortgage settlement funds were directed to the OAG to be used for the purposes of avoiding preventable foreclosure; ameliorating the effects of the mortgage and foreclosure crisis in Nevada; enhancing consumer protection and legal aid efforts; enhancing consumer financial and housing counseling assistance, including economic education and/or instruction on financial literacy for the benefit of Nevada residents; and enhancing law enforcement efforts to investigate, prosecute and prevent financial fraud or unfair or deceptive acts.

During FY 2013, the OAG received \$87.7 million in NMS funds pursuant to the stipulated order. The 2013 Legislature approved the Governor's recommendation to transfer \$53.2 million over the 2013-15 biennium to the Department of Business and Industry (B&I) and \$34.5 million over the biennium to the OAG for the Home Again program to address the mortgage and foreclosure crisis in Nevada. The tables below provide a summary of the allocations from the NMS for the 2013-15 biennium:

National Mortgage Settlement Funds Approved for the 2013-15 Biennium for the Department of Business & Industry				
Budget Account	Budget Account/Activity	FY 2014 Leg App	FY 2015 Leg App	Biennium Total
3823	B&I Real Estate Admin - Fraud Enforcement	\$ 406,618	\$ 495,009	\$ 901,627
3910	B&I Mortgage Lending - Fraud Enforcement	\$ 1,088,469	\$ 1,041,950	\$ 2,130,419
4681	B&I Director's Office - Housing Index	\$ 197,618	\$ 197,618	\$ 395,236
4681	B&I Director's Office - Consumer Affairs Unit	\$ 407,477	\$ 331,641	\$ 739,118
4679	B&I Nevada Home Retention Program	\$49,000,000		\$49,000,000
Total Transfers to B&I:		\$51,100,182	\$ 2,066,218	\$53,166,400

National Mortgage Settlement Funds Approved for the 2013-15 Biennium for the Office of the Attorney General				
Budget Account	Program Expenditures	FY 2014 Leg App	FY 2015 Leg App	Biennium Total
1045	Personnel & Operating Costs	\$ 503,719	\$ 506,940	\$ 1,010,659
1045	Call Center	\$ 387,122	\$ 387,122	\$ 774,244
1045	Financial Guidance Center	\$ 8,738,814	\$ 8,738,814	\$17,477,628
1045	Legal Services	\$ 1,199,210	\$ 1,249,236	\$ 2,448,446
Totals:		\$10,828,865	\$10,882,112	\$21,710,977

Note: This table excludes NMS Reserves budgeted for the 2013-15 biennium.

The Executive Budget recommends \$7.0 million in FY 2016 and \$5.6 million in NMS funds to continue the Home Again program. With the exception of \$1.2 million to the Consumer Affairs Unit within B&I, and \$1.4 million to the Foreclosure Mediation Program within the Judicial Branch (discussed below), the remaining NMS funds are retained in this budget for the 2015-17 biennium with a reserve balance of \$5.0 million projected at the end of FY 2017.

Major Closing Issues

1. Funding Changes for the use of National Mortgage Settlement Funds
2. Funding for the Foreclosure Mediation Program
3. New Request to Establish Litigation Expenditure Category for Financial Fraud
4. Transfer of the Criminal Mortgage Fraud Unit to this Budget

Discussion of Major Closing Issues

1. Funding Changes for the use of National Mortgage Settlement Funds (Base and E-244, ELECTED 140, 142): The Executive Budget includes National Mortgage Settlement (NMS) expenditures totaling \$2.2 million over the 2015-17 biennium to continue assisting Nevadans with the mortgage and foreclosure housing crisis. The funding includes \$1.2 million for the Consumer Affairs Unit (CAU) within the Department of Business & Industry (B&I) and \$1.0 million to adjust funding for the three program areas in this budget, which comprise the Home Again program established by the OAG: 1) Call Center; 2) Financial Guidance Center; and 3) Legal Services. The table on the next page compares FY 2014 actual expenditures to the FY 2014 legislatively approved amounts, and shows total recommendations (Base plus E-244) included in The Executive Budget for each of the three program areas:

Office of the Attorney General NMS Program Areas					
Program Area	FY 2014 Actual	FY 2014 Leg App	Percent Expended	FY 2016 Gov Rec	FY 2017 Gov Rec
Call Center	\$ 127,695	\$ 387,122	33.0%	\$237,500	\$237,500
Financial Guidance	\$ 2,266,806	\$ 8,738,814	25.9%	\$2,095,000	\$2,095,000
Legal Services	\$ 978,543	\$ 1,199,210	81.6%	\$1,542,742	\$1,542,742

Home Again Program: Call Center, Financial Guidance, Legal Services

In follow up with the OAG as to why actual expenditures were lower than projected, the OAG determined, in consultation with the HUD-Housing Counseling Agencies, that the Home Again program would use all outside funds, such as federal, state, foundation, financial institution grants, first before accessing funds through the Home Again program. Additionally, the OAG indicated that the Home Again program has provided the necessary match requirement for additional federal dollars to the state, and by utilizing other funds first, the Home Again program could be extended beyond the original intent. Further, the OAG states that partners within the three program areas are paid on a reimbursement basis, and only after each service has been justified.

As shown in the table above, legal services are recommended to increase from the amount approved for FY 2014. The OAG reports that the two partners, Nevada Legal Services (NLS) and Legal Services of Southern Nevada (LSSN) provide free legal services under the Home Again program including the “Ask a Lawyer” program and no-cost representation at foreclosure mediation hearings. The OAG indicates that during the current biennium, NMS funds were utilized strictly for salaries and benefits of the legal partners while administrative and operating costs were supported by grant funds. Per the OAG, the increase in NMS funds is recommended to cover the administrative and operating expenses of the legal partners over the 2015-17 biennium. Additionally, the OAG anticipates that as foreclosure issues begin to decline, ancillary legal issues such as bankruptcy, short sales, deficiency judgments and credit problems will remain. Per the OAG, services provided by the Home Again program include:

- Foreclosure prevention
- Creation and submission of modification packets on behalf of homeowners and follow up with lenders/servicers on behalf of the homeowner until a decision is rendered
- Financial Counseling/budgeting
- Credit report review/correction
- Credit Restoration
- Packaging and referral to nonprofit legal service providers
- First time homebuyer education
- Establishment of asset development programs such as Individual Development Accounts

In addition to the above services, the OAG indicates the following programs are anticipated to be added over the 2015-17 biennium:

- Down payment assistance program targeting buyers of condominiums and giving precedence to seniors and members of the military
- An outreach program to reach the 48,000 current Nevada homeowners already deemed eligible for HARP 2, a federal program targeting homeowners who are current on their payments. HARP 2 does not require an appraisal and does not verify equity in the home, credit scores, or income. The program allows for a refinance of the current mortgage for homeowners at current market rates, reducing mortgage payments at an average of \$250 each month.

- Expansion of credit restoration and assistance to ensure a consumer's credit report is accurate, to allow those seeking to become homeowners to meet current more stringent credit requirements or to enable consumers to qualify for other major purchases.

Fiscal staff notes that at the close of this budget by the 2013 Legislature, the money committees issued a letter of intent directing the OAG to submit quarterly reports to the Interim Finance Committee regarding the status of the program and the use of NMS funds. The OAG has complied with the letter of intent during the interim period, and also provided the following statistics regarding the Home Again program covering the period of July 1, 2013, to December 31, 2014:

Call Center & Financial Guidance			
Month	Calls	Online Inquiries	# Receiving Counseling
2013 - July	166	11	419
2013 - August	416	49	358
2013 - September	283	31	311
2013 - October	158	34	766
2013 - November	120	22	566
2013 - December	96	12	445
2014 - January	102	17	587
2014 - February	66	7	340
2014 - March	74	8	411
2014 - April	228	38	351
2014 - May	508	105	423
2014 - June	368	80	507
2014 - July	210	29	370
2014 - August	293	48	387
2014 - September	225	51	342
2014 - October	130	39	414
2014 - November	52	18	283
2014 - December	74	30	316
Totals	3,569	629	7,596

Legal Services # of Open Cases		
	NLS	LSSN
Jul-13	42	179
Aug-13	47	169
Sep-13	63	166
Oct-13	59	165
Nov-13	46	180
Dec-13	63	189
Jan-14	53	192
Feb-14	55	202
Mar-14	42	184
Apr-14	43	176
May-14	39	169
Jun-14	56	149
Jul-14	62	134
Aug-14	82	137
Sep-14	88	130
Oct-14	90	110
Nov-14	66	112
Dec-14	96	106

NLS=Nevada Legal Services
LSSN=Legal Services of Southern Nevada

In response to follow-up questions after the budget hearing, the OAG indicates that in addition to the housing and financial counseling programs, legal services and resources provided to Nevadans through the Home Again program, other terms included within the NMS stipulated order have been met. Specifically, the OAG reports that pursuant to the Independent Monitor of the multi-state NMS agreement, 20,413 Nevadans received consumer relief totaling \$1.9 billion as of August 2013, and the average benefit/relief realized per borrower was \$96,199. (See Attachment A). Attachment A shows that consumer relief was achieved in the form of loan modifications; loan forgiveness; short sales; deeds in lieu of foreclosure; servicer payments to unrelated lien-holders; forbearance for unemployed borrowers; deficiency waivers; refinances. The consumer relief document can be accessed at <https://www.jasmithmonitoring.com/omso/wp-content/uploads/sites/4/2013/08/nevada2013.pdf>

During the budget hearing, the Committee questioned why new components for the Home Again program (HARP 2, Down Payment Assistance, expanded credit assistance) were not included in The Executive Budget. The OAG responded that the new OAG administration wanted to review the existing programs and determine any changes or additions that should be recommended for the program. Fiscal staff notes that should new programs be determined necessary over the 2015-17 biennium, the OAG would submit work programs to transfer reserve balances to new expenditure categories, which would require approval by the Interim Finance Committee.

Does the Committee wish to approve National Mortgage Settlement funds totaling \$237,500 for the Call Center; \$2,095,000 for the Financial Guidance Center; and \$1,542,742 for Legal Services in each year of the 2015-17 biennium to continue the Home Again program for the upcoming biennium as included in The Executive Budget?

Consumer Affairs Unit

As indicated previously, the 2013 Legislature approved \$739,118 over the 2013-15 biennium to support positions and operating costs of the Consumer Affairs Unit (CAU) within B&I to meet the goals of the NMS stipulated order to enhance consumer protection and consumer financial and housing counseling assistance. The recommendation of \$1.2 million for the CAU over for the 2015-17 biennium would continue the existing positions (one Administrative Law Judge, one Compliance/Audit Investigator, two Administrative Assistant positions) and expand the operations of the CAU (one Chief Compliance Investigator, one Compliance/Audit Investigator, one part-time Administrative Assistant). Fiscal staff notes that the prior OAG administration supported this transfer and indicated the continuation of the CAU was within the purview of the NMS agreement.

During testimony at the budget hearing, the transfer to the CAU was not supported by the new OAG administration and the OAG requested the transfer be eliminated. On April 23, 2015, the Joint Subcommittee on General Government approved the Governor's recommendation to transfer \$1.2 million in NMS funds from this budget to the B&I Administration budget to continue and expand the CAU over the 2015-17 biennium. Fiscal staff notes that the continuation of the CAU is contingent upon the passage and approval of Assembly Bill 481, which among other items, would extend the sunset of the CAU from June 30, 2015, to June 30, 2017. Additionally, the Joint Subcommittee approved a technical adjustment to Operating Expenditures, which reduces the total transfer amount by \$2,063 over the 2015-17 biennium.

Does the Committee wish to approve the Governor's recommendation to transfer National Mortgage Settlement funds totaling \$1.2 million over the 2015-17 biennium to the Department of Business and Industry's Administration budget to support the continuation and expansion of the Consumer Affairs Unit, with a technical adjustment reducing the transfer amount by \$2,063 over the biennium pursuant to the closing action for the Business & Industry budget?

2. Funding for the Foreclosure Mediation Program (E-250, ELECTED-142): The Executive Budget includes \$1.4 million in FY 2016 for transfer to the Foreclosure Mediation Program (FMP) within the Judicial Branch. The Foreclosure Mediation Program was established by the 2009 Legislature (A.B. 149) to establish a statewide foreclosure mediation program for owner-occupied residential properties. The program is supported by Notice of Default fees and Mediation Service Fees. According to supporting documentation provided by the FMP, the program is experiencing budget shortfalls and cannot sustain its operations. The \$1.4 million recommended in this decision unit for transfer to the FMP includes \$595,997 to fund contract services and equipment to support a web-based portal enhancement, and the remaining funds to help sustain the program through the end of FY 2017. The FMP states that there is a continuing need for mediation between lenders and homeowners as Nevada remains in the top five states nationally for foreclosures.

During testimony at the budget hearing, the transfer to the FMP was not supported by the new OAG administration and the OAG requested this decision unit be eliminated. Discussion regarding this enhancement was held during the budget hearing for the Foreclosure Mediation Program on March 11, 2015, which is scheduled to close by the Joint Subcommittee on General Government on May 6, 2015.

Does the Committee wish to approve the Governor's recommendation to transfer National Mortgage Settlement funds totaling \$1.4 million over the 2015-17 biennium to the Judicial Branch to support the Foreclosure Mediation Program?

3. New Request to Establish Litigation Expenditure Category for Financial Fraud (Not included in The Executive Budget): During the March 23, 2015, budget hearing before the Assembly Committee on Ways and Means, the OAG proposed establishing a new expenditure category in this budget for Litigation Costs such as travel and court costs associated with Financial Fraud cases. According to follow-up information, the OAG recommends expenditure authority of \$100,000 in each fiscal year of the 2015-17 biennium funded with NMS revenues to enable fraud prosecutors to pursue criminal cases at trial, including the use of witnesses and expert witnesses. The estimated expenditures are based on three to four cases per year with witness and expert witness costs at \$25,000 per case.

Does the Committee wish to approve National Mortgage Settlement funds totaling \$100,000 in each year of the 2015-17 biennium as requested by the Office of the Attorney General to establish a Litigation Costs expenditure category for travel and court costs, including witness fees and expert witness fees for Financial Fraud cases?

4. Transfer of the Criminal Mortgage Fraud Unit to this Budget (E-501/E-901, ELECTED-143,144,145): The Executive Budget includes the transfer of seven positions from the Administrative budget to this budget where the positions and associated operating costs would be funded with NMS funds totaling \$1.3 million over the 2015-17 biennium rather than Byrne grant funds and Wells Fargo Settlement funds, which previously supported the unit. The seven positions recommended for transfer include one Deputy Attorney General (DAG); four Investigators; one Legal Secretary; and one Administrative Assistant, to continue the Criminal Mortgage Fraud unit over the 2015-17 biennium.

The OAG indicates that the Criminal Mortgage Fraud Unit (MFU) plays an integral role in supporting the Home Again program by investigating complaints from homeowners victimized by mortgage fraud schemes. The OAG further indicates that supporting the MFU using NMS funds falls within the scope of the stipulated order. The OAG notes that while the number of "underwater" homes is declining, the incidents of mortgage fraud is not.

As background information, the MFU was approved at the December 17, 2010, meeting of the Interim Finance Committee using federal Edward Byrne Memorial Justice Assistance Grant (JAG) funds received by the OAG and established in the Consumer Advocate budget (1038). When the JAG funds expired, the MFU was moved to the Administrative budget (1030) and supported by Wells Fargo Settlement Funds. The Wells Fargo settlement funds are set to expire at the end of FY 2015, and this decision would transfer the MFU to this budget (1045). Below is a summary of the MFU staffing since the unit was established in December 2010 and the proposal for the 2015-17 biennium.

MFU Approved Dec 2010		BA 1038
DAGs	2	
Investigators	4	
Grants Analyst	1	
Legal Secretary	1	
Total	8	
MFU 2013-15 Biennium		BA 1030
DAGs	2	
Investigators	4	
Grants Analyst	1	
Legal Secretary	1	
Admin Asst	1	
Total	9	
MFU 2015-17 Biennium		BA 1045
DAGs	1	
Investigators	4	
Legal Secretary	1	
Admin Asst	1	
Total	7	

As shown in the table above, the OAG has changed the composition of the MFU since the unit was approved with grant funds in December 2010. Fiscal staff notes that the Grants Analyst position is recommended for elimination in the OAG Administrative budget (E-601, ELECTED-89-90).

Subsequent to the budget hearing, the OAG indicated that the DAG position previously approved for the MFU was inadvertently included for elimination in the Administrative budget (E-226, ELECTED-87) and should have been included in this transfer decision unit. Fiscal staff has corrected the budget to include the DAG position (PCN 390) in the transfer as reflected in this closing sheet, which brings the total transfer of positions for the MFU to eight full-time positions. With the adjustment, the MFU costs funded with NMS funds would total \$1.5 million.

Does the Committee wish to approve the use of \$1.5 million in National Mortgage Settlement funds over the 2015-17 biennium to support the transfer-in of eight positions that comprise the Mortgage Fraud Unit from the Administrative budget, which includes the technical adjustment noted by staff to restore the DAG position inadvertently omitted from the transfer?

Other Items

1. Replacement Equipment (E-710, ELECTED-143,144): The Executive Budget includes reduced reserves totaling \$6,518 over the 2015-17 biennium to replace three desktop computers, one printer, and associated software. **This recommendation appears reasonable.**
2. Salary Increase for Legal Researcher Position (E-806, ELECTED-144): The Executive Budget includes reduced reserves totaling \$25,039 over the 2015-17 biennium to increase the one unclassified Legal Researcher position in this budget to be comparable to the salary of a classified Legal Research Assistant position. The decision to increase the salaries of the Legal Researcher positions in this budget will be made when other statewide decision units are considered. **Fiscal staff seeks authority to make technical adjustments that may be necessary based on the outcome of statewide decisions involving unclassified positions.**

Staff recommends the Other Closing Items be approved as included in The Executive Budget, with authority for staff to make technical adjustments as needed.

ATTACHMENT (1 PAGE)

State Consumer Relief Information Nevada, Program to Date

	BANK OF AMERICA			CITI			CHASE			WELLS			TOTAL CONSUMER RELIEF - ALL SERVICERS					
	Aggregate Amount of Relief/Benefit	No. of Borrowers	Average Amount of Relief/Benefit	Aggregate Amount of Relief/Benefit	No. of Borrowers	Average Amount of Relief/Benefit	Aggregate Amount of Relief/Benefit	No. of Borrowers	Average Amount of Relief/Benefit	Aggregate Amount of Relief/Benefit	No. of Borrowers	Average Amount of Relief/Benefit	Aggregate Amount of Relief/Benefit	No. of Borrowers	Average Amount of Relief/Benefit			
CONSUMER RELIEF																		
Completed 1st Lien Modification Forgiveness ¹	\$3,075,544	25	\$123,022	\$157,106,296	866	\$181,416	\$7,169,976	51	\$140,588	\$50,859,819	304	\$167,301	\$28,383,746	250	\$113,535	\$246,594,981	1,496	\$164,836
Completed Forgiveness of pre 3/7/2012 Performance ²	\$4,072	2	\$2,536	\$5,314,239	89	\$59,711	\$10,023,091	154	\$65,085	\$7,792,956	108	\$72,157	\$8,705,338	207	\$42,055	\$31,882,696	560	\$56,933
Completed 2nd Lien Modification Forgiveness ³	\$26,000	2	\$13,000	\$3,102,336	52	\$59,660	\$1,275,104	34	\$37,503	\$452,715	18	\$25,151	\$759,947	28	\$27,143	\$5,616,102	134	\$41,911
Completed 2nd Lien Extinguishments ⁴	\$2,645,236	42	\$62,982	\$284,277,330	4,136	\$69,216	\$30,816,897	466	\$66,131	\$27,428,420	383	\$71,615	\$4,715,055	608	\$68,810	\$98,882,938	5,635	\$69,072
Short Sales Completed/Deficiency Forgiveness ⁵				\$796,340,360	5,741	\$138,711	\$36,034,479	382	\$94,251	\$253,817,709	1,825	\$139,078	\$34,963,187	1,538	\$87,752	\$1,221,155,735	9,486	\$128,732
Deeds in Lien Completed/Deficiency Forgiveness ⁶													\$987,268	10	\$98,727	\$987,268	10	\$98,727
Enhanced Borrower Transitional Funds Paid by Servicer (cease of \$1,500) ⁷				\$5,697,651	1,159	\$4,916	\$78,279	6	\$13,047	\$5,144,986	292	\$17,620	\$643,534	209	\$3,079	\$71,564,450	1,666	\$6,941
Servicer Payments to Unrelated 2nd Lien Holder for Release of 2nd Lien ⁸							\$102,091	16	\$6,381	\$482,798	54	\$8,941	\$251,633	36	\$6,990	\$836,522	106	\$7,892
Forbearance for Unemployed Borrowers ⁹																		
Deficiency Waivers ¹⁰																		
Forgiveness of Principal associated with a Property When No Foreclosure ¹¹							\$2,687,667	22	\$122,167							\$2,687,667	22	\$122,167
Cash Costs Paid by Servicer for Demolition of Property ¹²										\$1,439,519	14	\$102,823	\$19,500	2	\$9,750	\$1,439,519	14	\$102,823
REO Properties Donated ¹³																		
Refinances Completed - Estimated Consumer Relief ¹⁴	\$562,359	10	\$56,236	\$15,655,606	309	\$44,193	\$5,602,830	207	\$27,067	\$11,382,136	292	\$38,980	\$20,858,989	464	\$44,955	\$52,061,921	1,282	\$40,610
Total Consumer Relief	\$6,356,212	81	\$78,472	\$1,267,493,818	12,382	\$102,614	\$93,790,414	1,338	\$70,097	\$358,800,658	3,290	\$109,058	\$237,270,647	3,352	\$70,785	\$1,963,711,749	20,413	\$96,399
CONSUMER RELIEF - IN PROCESS																		
1st Lien Modification Trials Offered/Approved ¹⁵	\$1,286,725	5	\$257,345	\$245,168,592	1,313	\$186,724	\$6,404,047	50	\$128,081	\$71,185,437	504	\$143,225	\$42,838,671	389	\$110,225	\$367,885,472	2,261	\$162,708
1st Lien Modification Trials Started/In Process ¹⁶	\$1,286,725	5	\$257,345	\$210,937,926	1,121	\$188,187	\$7,187,754	54	\$133,107	\$68,498,972	468	\$146,365	\$34,686,667	319	\$108,742	\$372,620,044	1,967	\$184,076
TOTAL CONSUMER RELIEF - ALL SERVICERS	\$1,963,711,749																	

	BANK OF AMERICA			CITI			CHASE			WELLS			TOTALS - ALL SERVICERS		
	Average Loan Balance	No. of Borrowers	Average Rate Reduction	Average Loan Balance	No. of Borrowers	Average Rate Reduction	Average Loan Balance	No. of Borrowers	Average Rate Reduction	Average Loan Balance	No. of Borrowers	Average Rate Reduction	Average Loan Balance	No. of Borrowers	Average Rate Reduction
Refinance Solicitations/Offers/Approvals ¹⁷	\$277,635	17	2.44%	\$294,413	804	1.96%	\$198,544	423	1.74%	\$272,362	384	1.78%	\$225,870	1,295	2.07%
Refinances Completed	\$293,599	10	2.44%	\$287,228	309	1.96%	\$198,161	207	1.74%	\$278,966	292	1.78%	\$228,156	464	2.51%

* Refinance Solicitations/Offers/Approvals represents the first lien mortgages considered for refinancing where loan to value exceeds 80% and would not qualify for Servicer's generally available refinancing program as of 9/30/11. This includes mandatory solicitation borrowers under 9% of Exhibit D.

¹ 1st Lien Modification Forgiveness represents finalized first lien principal reduction permanent modifications (including converted trial modifications).

² Completed Forgiveness of pre 3/7/2012 forbearance represents forgiveness of delinquent principal from pre-settlement permanent modification of first lien mortgages. This line is distinct from Completed 1st Lien Modification Forgiveness line item.

³ Completed 2nd Lien Modification Forgiveness represents finalized second lien principal reduction permanent modifications. Chase amended its Schedule Y amounts from March 1, 2012 through Dec. 31, 2012 as a result of its decision to no longer seek credit for 478 previously submitted second lien loans. As a result, it reports a decline in its program to date numbers of \$6.6 million.

⁴ Completed 2nd Lien Extinguishments represents finalized second lien mortgage extinguishments (forgiveness of the entire balance and release of lien).

⁵ Short Sales Completed/Deficiency forgiven represents the forgiveness of first or second lien mortgage remaining balances to facilitate short sale transactions and releases of liens.

⁶ Deeds in Lien Completed/Deficiency forgiven represents the forgiveness of first or second lien mortgage remaining balances to facilitate transactions in which borrower died in lieu of foreclosure and release of liens.

⁷ Enhanced Borrower Transitional Funds Paid by Servicer represents transitional funds in an amount greater than \$1,500 provided to homeowners to facilitate completion of short sales or deeds-in-lieu transactions.

⁸ Forbearance Payments to Unrelated 2nd Lien Holder represents payments made to 2nd lien holders in lieu of 2nd lien principal reduction permanent modifications.

⁹ Deficiency Waivers represents waiver of 2nd lien claims on borrower deficiency balances on first or second lien mortgages and release of lien.

¹⁰ Forgiveness of Principal Associated with a Property When No Foreclosure represents forgiveness of principal associated with a property and release of lien in connection with a decision not to pursue foreclosure.

¹¹ Cash Costs Paid by Servicer for Demolition of Property represents payments to municipalities, nonprofits, disabled servicemembers or families of deceased servicemembers.

¹² REO Properties Donated represents properties owned by Servicers/investors that are donated to municipalities, nonprofits, disabled servicemembers or families of deceased servicemembers.

¹³ Refinances Completed represents eligible loans refinanced with reduced rates. The estimated benefit to borrowers from refinancing is the estimated annual benefit multiplied by 785, which represents the average unpaid principal loan balance, and the number of borrowers. See below for information on Refinance Solicitations/Offers/Approvals and Refinances Completed by each Servicer.

¹⁴ Refinances are reporting in their filings with the U.S. Securities and Exchange Commission. The estimated annual benefit to borrowers is the product of the average annual interest rate reduction, and the number of borrowers. See below for information on Refinance Solicitations/Offers/Approvals and Refinances Completed by each Servicer.

¹⁵ 1st Lien Modification Trials Offered/Approved represents all first lien mortgages where firm modification offers were made to the borrower.

¹⁶ 1st Lien Modification Trials Started/In Process represents all first lien mortgages for which any payment had been made in a trial modification after March 1, 2012. Trial may have been Offered/Approved in current or past quarter.

**Nevada Legislative Counsel Bureau
Budget Closing Action Report
Assembly Committee on Ways and Means
W02 - WORKING VERSION 2**

Title: SOS - SECRETARY OF STATE
Account: 101 - 1050

Budget Page: ELECTED-159, Volume I

	2013-14 Actual	2014-15 WP	%	2015-16 GOV REC	%	2016-17 GOV REC	%
Revenues			Chg		Chg		Chg
BALANCE FORWARD	124,677	843,744	576.74	833,144	(1.26)	984,470	18.16
FEDERAL FUND	57,708	213,376	269.75	61,419	(71.22)	61,333	(0.14)
GENERAL FUND	13,288,785	13,945,557	4.94	19,798,715	41.97	23,030,448	16.32
INTERAGENCY TRANSFER	51,525						
OTHER FUND	294,511	442,057	50.10	414,185	(6.31)	412,148	(0.49)
REVERSIONS	(159)						
Total Revenues	13,817,047	15,444,734	11.78	21,107,463	36.66	24,488,399	16.02
Total FTE		130.00		135.00		136.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16	2016-17
B000	00	2501	Reduce General Fund appropriations as a result of eliminating funding for an expired contract.	(21,170)	(21,170)
B000	00	2501	Reduce General Fund appropriations as a result of eliminating funding for expired contracts.	(95,606)	(65,856)
B000	00	2501	Reduce General Fund appropriations as a result of eliminating funding for an expired contract.	(24,790)	(24,790)
B000	00	2501	Reduce General Fund appropriations as a result of reinstating the funding transfer from the non-executive Notary Training budget for PCN 0123.	(56,581)	(58,046)
B000	00	2511	Increase Balance Forward as a result of the elimination of contract expenditures no longer needed with new positions in D/U E-232.		1,650
B000	00	4677	Reinstate funding transfer from the non-executive Notary Training budget for PCN 0123.	56,581	58,046
E232	00	2511	Increase Balance Forward for a reduction of costs from 4 positions to 2 positions recommended in Decision Unit E-232.		396
E232	00	2511	Increase balance forward for equipment adjustment.		3,095
E237	00	2511	Reduce balance forward for adjustment of funding source to reserves instead of fees.		(500)
E237	00	3722	Adjust funding source to reserves instead of fees.	(500)	(500)
E710	00	2511	Reduce balance forward for adjustment of funding source to reserves instead of fees.		(299)
E710	00	3722	Adjust funding source from fees to reserves for replacement equipment.	(299)	
E720	00	2511	Reduce balance forward for adjustment of funding source to reserves instead of fees for new equipment.		(1,810)
E720	00	3722	Adjust funding source to reserves instead of fees.	(1,810)	
Sub-total				(144,175)	(109,784)
Line Item Changes to Revenues				(144,175)	(109,784)

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16	2016-17
B000	23	7000	Reduce base contract funding for expired contracts.	(53,213)	(23,463)
B000	23	7000	Reduce base contract funding for expired contracts.	(12,290)	(12,290)
B000	26	7000	Reduce base contract funding for expired contract.	(21,170)	(21,170)
B000	26	7000	Reduce base contract funding for expired contracts.	(42,393)	(42,393)
B000	26	7000	Reduce base contract funding for expired contracts.	(12,500)	(12,500)

B000	42	7000	Reduce contract expenditures no longer needed with new positions in Decision Unit E-232.	(1,650)	(1,650)
B000	86	9000	Increase Reserves due to elimination of contract expenditures no longer needed with new positions in Decision Unit E-232.	1,650	3,300
E232	42	7000	Reduce costs from 4 positions to 2 positions recommended in Decision Unit E-232.	(275)	(361)
E232	43	8000	Align PC/Monitors/Phone with correct number of positions.	(291)	
E232	44	7000	Reduce costs from 4 positions to 2 positions recommended in Decision Unit E-232.	(121)	(159)
E232	44	8000	Align PC/Monitors/Phone with correct number of positions.	(2,804)	
E232	86	9000	Increase Reserve from adjustment to costs from 4 positions to 2 positions recommended in Decision Unit E-232.	396	916
E232	86	9000	Increase reserve balance for equipment adjustment.	3,095	3,095
E237	86	9000	Reduce reserves for modification to funding source to reserves from fees.	(500)	(1,000)
E710	86	9000	Reduce reserves for equipment replacement.	(299)	(299)
E720	86	9000	Reduce reserves for modification to funding source to reserves from fees.	(1,810)	(1,810)
Sub-total				(144,175)	(109,784)
Line Item Changes to Expenditures				(144,175)	(109,784)
Total				0	0
Grand Total General Fund Impact of Closing Changes				(198,147)	(169,862)

Overview

The Secretary of State (Office) maintains the official records of the acts of the Nevada Legislature and of the Executive Branch of state government. The Office is responsible for ensuring the integrity of elections, receiving and recording business entity filings, administering the uniform commercial code, protecting consumers against securities fraud, preserving public records, registering document preparation services and promoting public awareness and education in these areas. The Office is supported primarily by General Fund appropriations. Other funding sources include, but are not limited to, domestic partnership and advanced directive (living will) fee revenues, fines associated with the enforcement of securities statutes, and negotiated settlements from Auction Rate Securities (ARS) violations.

Major Closing Issues

1. eSoS System Rewrite/Replacement TIR
2. Two New Positions for the State's Business Portal
3. Two New Positions for the Securities Division

Discussion of Major Closing Issues

1. eSoS System Rewrite/Replacement TIR (E-231 and E-550, ELECTED-163 and 165):
The Executive Budget recommends a technology investment request (TIR) to rewrite/replace the existing eSoS application software and related hardware, which has been reviewed and approved by the Enterprise Information Technology Division. The total estimated cost of the TIR is \$21.9 million over five years and is scheduled to be fully implemented by January 2020. Ongoing annual costs are estimated at \$65,000 each year, which the Office indicates would be for vendor support once the new eSoS system is deployed.

For the 2015-17 biennium, the Governor recommends General Fund appropriations of \$3.9 million in FY 2016 and \$7.9 million in FY 2017. Inclusive of the three new Information Technology (IT) positions directly correlated with the TIR and recommended in Decision Unit E-231, the total recommended biennial cost of the project would be \$12.1 million.

- *Decision Unit E-550* – According to supporting documentation, the eSoS system is the primary application used by the Office for processing, archiving, and receipting Commercial Recording business entity filings, which generates over \$135.0 million annually in General Fund revenue. The Office states that the eSoS system is over ten years old and is failing more frequently as the complexity and volume of filings increase. The eSoS system was developed and partially implemented in 2002, with the final implementation occurring in 2006. The Office further indicates that increasingly, work stoppages occur, because the legacy eSoS software platform is fragile, unstable and is not easily adaptable or supported by emerging technologies. The instability, coupled with delays and limitations, impacts not only the revenue generated by entity filings, but also threatens Nevada’s reputation as an efficient, predictable filing state, according to the Secretary of State. The Office indicates that a system developed by an experienced outside vendor, using existing software licensing and hardware infrastructure, would be the best option for the Office and the state. Due to the complexity of the existing eSoS application, an in-house rewrite of the program is not deemed to be a viable option as internal staff does not have the technical expertise.

The Office estimates the useful life of the new eSoS system to be seven years until approximately 2027. After seven years, plans to upgrade or replace the system should be considered. However, the Office advises the actual retirement date will not be known for some time and could be later than the 2027 projection. Additionally, with the TIR project anticipated to span over five years, enhancement funding will be requested for the remaining unfinished portion of the TIR in the 2017-19 biennial budget.

Additionally, in response to Fiscal staff’s inquiry of whether there may be duplicate equipment between Decision Unit E-710 and equipment included in the TIR, the Office indicated it reviewed both the TIR equipment request and the equipment recommended in Decision Unit E-710 and confirmed there is no duplication of replacement equipment.

Further, the Office notes that with a project of this size and complexity, there is the possibility that actual costs in a given year could differ from the appropriated funding. Therefore, the ability to transfer TIR funding between fiscal years in the biennium would provide flexibility to respond to potential delays in the project as well as the ability to continue the project in the event it would be ahead of schedule. Should the Subcommittee approve the TIR and the flexibility to transfer TIR funding between fiscal years, Fiscal staff would include this provision as back language in the Appropriations Act.

- *Decision Unit E-231* – As noted above, in conjunction with the TIR, The Executive Budget recommends General Fund appropriations of \$84,313 in FY 2016 and \$243,059 in FY 2017 to support three new IT Professional positions. Supporting documentation states that additional resources and specialized skills are needed to maintain the eSoS system. The Office indicates that the three new IT Professional positions would assist in modernizing and updating the eSoS system proposed in the recommended TIR. However, according to details provided in the TIR document, the majority of the project costs are related to the costs of utilizing an outside vendor. According to the Office, currently there are two positions assigned to support the eSoS system, and in addition to supporting the eSoS system, these two positions are also assigned other duties. The Office further indicates one new position is needed to help develop the system specifications for the new eSoS system, help with the vendor selection, and perform other project related tasks. The Office advises the person hired for this position may be an internal candidate of someone already familiar with the existing eSoS system. Testimony provided at the budget hearings indicated that the two IT staff to be hired in FY 2017 would primarily function to maintain the new eSoS system. Lastly, the Office notes that any additional staff time freed up due to increased eSoS efficiency would be needed to

support any new and existing projects. The Office advises that the Secretary of State currently supports over 80 applications; 50 web services; 140 servers; 30 network switches and numerous printers, desktop PCs and laptops.

Does the Committee wish to approve General Fund appropriations of \$3.9 million in FY 2016 and \$7.9 million in FY 2017 to replace the existing eSoS application software and related hardware, as recommended by the Governor in Decision Unit E-550?

If so, does the Committee wish to add back language to the Appropriations Act to allow the Office the ability to transfer TIR funding between fiscal years of the 2015-17 biennium to provide the project flexibility, as well as issue a letter of intent for the Secretary of State's Office to report semi-annually to the Interim Finance Committee concerning its progress on the implementation of the eSoS replacement project?

Does the Committee wish to approve General Fund appropriations of \$84,313 in FY 2016 and \$243,059 in FY 2017 to support three new IT Professional positions directly correlated with the TIR, as recommended by the Governor in Decision Unit E-231?

2. Two New Positions for the State's Business Portal (E-234 and E-235, ELECTED-164): The Governor's budget recommends the addition of one new IT Professional position in each fiscal year of the 2015-17 biennium to support functions related to SilverFlume, the state's business portal. General Fund appropriations of \$58,573 in FY 2016 and \$153,859 in FY 2017 are recommended to fund the personnel and associated operating costs of these positions. According to the Secretary of State's organizational chart, there are five existing positions currently supporting the state's business portal, which include one Portal Administrator, one IT Manager, one Master IT Professional, one IT Professional and one Business Process Analyst.

According to the Office, since its launch in 2012, the business portal has significantly expanded its features therefore requiring additional developers to support existing functionality and to undertake new functionality. The Office notes that proper staffing levels for the business portal ensures that development of new functionality can be safely undertaken while supporting existing functionality. The position questionnaires (NPD-19s) submitted as supporting documentation state that both of the positions would be assigned to develop new and support existing Java features for the business portal, be the primary technical contact, and serve as a backup developer on other business portal features. The Office indicates that both positions would be located in Carson City and space is sufficient to accommodate the positions.

Additionally, the NPD-19s indicate that the developer duties to be assigned to these two new IT positions were previously assigned to several technical team members, including three full-time IT staff and two IT contractors. Fiscal staff would note that although the NPD-19s state the new positions would assume some duties performed by contractors, the enhancement decision unit does not reflect a funding decrease for contractors, which could be used to offset a portion of the costs of the new positions.

During the budget hearing and in subsequent information provided to Fiscal staff, the Office noted that it has a contract with two Master Services Agreement (MSA) contractors that conduct the same work as the two new recommended developer positions. However, the Office advised the two contractors alternate covering nights, holidays, and weekends to ensure that SilverFlume has off-hour coverage. The Office states that without the MSA contractors, it would not be able to have the same off-hours support due to overtime and other restrictions for state employees.

At the request of staff, the Office provided a breakdown of the invoices paid to each MSA contractor in FY 2014, which indicates the two MSA contractors are each paid at a rate of \$80 per hour and combined, worked a total of 4,006 hours in FY 2014. Additionally, 4.7 percent or \$7,600 of the total annual billing of \$161,440 for MSA #1 and 1.7 percent or \$2,640 of the total annual billing of \$159,040 for the MSA #2 was for off-hours support, while the remainder of the billing for each MSA was for developer hours. The Executive Budget continues the same level of funding for each MSA contractor for a combined total of 4006 hours at \$80 per hour, which totals \$320,480 in each year of the 2015-17 biennium.

With two new recommended IT positions assuming some developer duties currently performed by contractors, Fiscal staff questioned how the significant number of MSA developer hours would be impacted. The Office responded that the functionality of the business portal is growing and there are several large agencies planning on joining the portal in the upcoming biennium, including the Department of Employment, Training and Rehabilitation. The Office advises it needs the existing staff, contractors, and the two new positions to support the current portal functionality, as well as to develop additional functionality as new partner agencies join.

Options for the Committee's Consideration:

- A. Approve General Fund appropriations of \$58,573 in FY 2016 and \$153,859 in FY 2017, as recommended by the Governor to fund the personnel and associated operating costs of adding one new IT Professional position in each fiscal year to support functions related to SilverFlume, as recommended by the Governor.**
 - B. Approve General Fund appropriations of \$58,573 in FY 2016 and \$153,859 in FY 2017, as recommended by the Governor to fund the personnel and associated operating costs of adding one new IT Professional position in each fiscal year to support functions related to SilverFlume, with a corresponding reduction of \$58,573 in FY 2016 and \$153,859 in FY 2017 for MSA contracts. If this option is approved, remaining MSA contract funding would be \$261,907 in FY 2016 (3,274 hours at \$80 per hour) and \$166,621 in FY 2017 (2,083 hours at \$80 per hour).**
3. Two New Positions for the Securities Division (E-232, ELECTED-163): The Executive Budget recommends the addition of two new Compliance/Audit Investigator positions to support an increased workload associated with civil and criminal investigations in the Securities Division. The Office advises one Compliance/Audit Investigator position would be located in Reno, and one would be located in Las Vegas. The Governor recommends funding these new positions and associated operating costs with reserve reductions totaling \$228,968 over the 2015-17 biennium.

According to the Office, changes in federal law have resulted in increased regulatory responsibilities and enforcement. Specifically, in June 2012, the Office became responsible for the licensing, regulation, and inspection of mid-size investment adviser firms and their representatives who have assets under management valued between \$25.0 million and up to \$100.0 million. Prior to the changes in the federal law, states were responsible for investment advisers who managed assets up to \$25.0 million. As a result of this change, the Office gained jurisdiction over 40 additional investment adviser firms. The Office further advises that the number of compliance investigations has increased over the past four years, which directly impacts the amount of time the investigators are able to devote to each inspection.

The Office indicates that the Securities Division currently has one Compliance Audit/Investigator position in the Reno office and two Compliance Audit/Investigator positions along with one Chief Compliance Audit/Investigator position in the Las Vegas office. At the close of FY 2008,

the Office reports that the Securities Division had a total of seven Compliance Audit Investigator positions. Two of the positions were assigned to the Reno office to service the Northern Nevada area, and five positions (including the Chief Compliance/Audit Investigator) were located in the Southern Nevada area. Due to budget reductions, three of the Compliance/Audit Investigator positions were eliminated in FY 2009. The Office reports that as of the end of FY 2014, there were 214 open cases (active matters, which include investigations).

In addition, the Secretary of State advises that the two new positions would allow the Securities Division to conduct more compliance examinations and audits of brokerage firms, investment advisor firms, and securities issuers, thereby increasing revenues without having to increase fees and partially offsetting the cost of the new positions.

At the February 3, 2015, and the February 5, 2015, budget hearings, the Office testified that the two additional Compliance Auditor/Auditor positions would help to prevent the inspection/investigations backlog from increasing and enable the Securities Division Office to keep pace with its regulatory responsibilities and enforcement duties. The Office further noted that contract services had been utilized in FY 2014 to assist the Securities Division with its inspection/investigations backlog. **A technical adjustment to remove base contract expenditures of \$1,650 in each fiscal year of the 2015-17 biennium has been made and is included in the closing document. The Office indicated it is in agreement with this technical adjustment, contingent upon the approval of the two new Compliance Auditor/Auditor positions.**

Additionally, although the Office requested four positions in its agency budget request, the equipment and operating expenditures were not adjusted to match the reduction in the number of positions from four to two positions recommended in the Governor's budget. **Accordingly, the closing document reflects a technical adjustment to align the recommended equipment and operating expenditures with the two positions recommended by the Governor, resulting in an increase to reserves of \$3,095 in FY 2016.**

Does the Committee wish to approve the Governor's recommendation to fund two Compliance/Auditor positions and associated operating expenses, funded with reductions to reserves totaling \$225,873 over the 2015-17 biennium, inclusive of the technical adjustments noted by staff?

Other Closing Items

1. **Contract Funding in the Adjusted Base Budget (BASE, ELECTED-159 and 160):** During the review of the Adjusted Base budget, Fiscal staff identified several IT contracts that had either expired or had completed the assigned projects for which the funding should be removed from the base budget. The prior Secretary of State administration requested the contract funding remain in the base budget until such time as the new administration could review and make recommendations. The Office has identified nine contracts that will not be continued in the 2015-17 biennium and concurs with staff's recommendation to eliminate the funding for these contracts. **Fiscal staff has made technical adjustments, as reflected in the closing document, to eliminate funding for the contracts that will not be continued, which results in a General Fund savings of \$253,382 over the 2015-17 biennium.**
2. **Position Funding Source Change (BASE, ELECTED-159 and 160):** In the base budget, the Office has substituted General Fund appropriations in place of funding transfers from the non-Executive Notary Public Training budget in the amount of \$56,228 in FY 2016 and \$57,688 in FY 2017 for the costs of an Administrative Assistant position. A total of \$51,525 was transferred in FY 2014 from the non-Executive Notary Training budget to this budget for the support of the position. **According to the Office, the position provides direct support for mandatory training of notaries public.**

By way of background, during the 2011 Legislative Session, as requested by the Secretary of State, The Executive Budget proposed the transfer of one Administrative Assistant position and associated costs to the non-Executive Notary Public Training budget in Decision Unit E-900 to achieve desired General Fund savings. Instead of transferring the Administrative Assistant position to the non-Executive Notary Public Training budget, as recommended by the Governor, the 2011 Legislature approved retaining the position in the main operating budget and funding the position costs with transfers from the non-Executive Notary Public Training budget.

Fiscal staff would note that after further discussion of this issue with the Office of the Secretary of State and the Executive Budget Office, the Office agrees that the Administrative Assistant position should continue to be 100 percent supported by transfers from the non-Executive Notary Public Training budget. **Fiscal staff has made a technical adjustment, as reflected in the closing document, to restore transfers from the non-Executive Notary Public Training budget to this budget, with a corresponding decrease of General Fund appropriations in the amount of \$56,581 in FY 2016 and \$58,046 in FY 2017 to fund the Administrative Assistant position and associated costs.**

3. Credit Card Processing Fees (E-225, ELECTED-161 and 162): The Governor recommends General Fund appropriations of \$393,533 over the biennium to fund credit card processing fees associated with an anticipated increase in credit card usage by online customers. The 2013 Legislature approved credit card processing fees totaling \$3.8 million over the 2013-15 biennium. Total recommended funding in the Secretary of State's budget for credit card processing fees is \$4.3 million over the 2015-17 biennium, representing a 13.1 percent increase over the legislatively approved amount for the 2013-15 biennium. The Secretary of State cites a steady increase in usage of online services by customers dating back to 1998.

During the February 5, 2015, budget hearing, the Subcommittee questioned the increasing cost of credit card processing fees and whether these fees could or should be passed on to the customer as a convenience fee. The Department of Administration has committed to studying the acceptance of credit cards and allowing state agencies to charge a convenience fee from a statewide perspective over the 2015-16 Interim. **This recommendation appears reasonable.**

4. In-State Travel Increase (E-226, ELECTED-162): The Governor recommends General Fund appropriations of \$5,108 in each year of the 2015-17 biennium for additional travel due to increased compliance needs for the Office's Document Preparation Services section. Through the passage and approval of Assembly Bill 74, the 2013 Legislature added registration of document preparation services to the responsibilities of the Office of the Secretary of State. The Office reports that as of the end of FY 2014, 142 businesses that perform document preparation services were registered.

The Office advises that when the bill was passed, no additional funding or positions were added to operate the new program, as the fiscal note was removed by the Office upon bill amendment. However, the Office reclassified a vacant Administrative Assistant position in Las Vegas to a Compliance Investigator position, which was approved by the Interim Finance Committee on December 9, 2013. Because the Office does not have an agency vehicle, the Compliance Investigator utilizes his own vehicle and submits a request for mileage reimbursement. As such, \$2,762 out of the \$5,108 recommended in Decision Unit E-226 would be for mileage reimbursement. The remaining \$2,346 would fund four trips each year for the Compliance Investigator to travel to Northern Nevada to conduct compliance visits in the Reno/Sparks, Carson City area. Each trip would be for two days and one night. The Office advises that although a Management Analyst position in Northern Nevada conducts some compliance visits for the Document Preparation Services section, the position has other assigned duties and as a result, the enforcement level in Northern Nevada is not as robust as it is in

Southern Nevada. With the recommended funding for travel, the Office intends to increase its enforcement level in Northern Nevada. **This recommendation appears reasonable.**

5. Out-of-State Travel Increase (E-227, ELECTED-162): The Governor recommends General Fund appropriations of \$2,012 in each year of the 2015-17 biennium for one additional staff to attend the annual conference of the International Association of Commercial Administrators (IACA), bringing the total number of staff attending the conference to three. The Office indicates that for the past two years, the Office has received a full scholarship for two positions to attend the annual conference of the IACA. When asked how the Office would fund the costs of two positions to attend the IACA conference in the event the scholarship funding is not awarded to the state, the Office indicated, travel expenses for the two positions would be funded out of the Office's existing travel budget. In support of sending a third staff member to the annual IACA conference, the Office notes that the conference has three separate tracks (three separate classes occurring at the same time) so the Office would like to have three staff attend in order to not miss any important information provided. **This recommendation appears reasonable.**
6. Online Search Program (E-237, ELECTED OFFICIALS-165): The Executive Budget includes a Miscellaneous Program Fees of \$500 in each fiscal year to fund an online search program for use by criminal investigators in the Securities Division. The Office indicates this technology would be utilized to investigate and research people, locations and companies during Securities investigations. The Office has notified Fiscal staff that \$500 online search program should be funded by a reduction to reserves instead of Miscellaneous Program Fees. **A technical adjustment has been included in the closing document to change the funding source from Miscellaneous Program Fees to reserves.**

With the technical adjustment, this recommendation appears reasonable.

7. Position Elimination (E-600, ELECTED-165 and 166): The Governor recommends a reduction of General Fund appropriations totaling \$96,245 over the 2015-17 biennium due to the elimination of one Administrative Assistant position. The Office advises that the position remained vacant during FY 2014 thereby generating salary savings, which were utilized to fund the reclassification of five positions throughout FY 2014. The Office further indicates that the Administrative Assistant position was assigned mailroom duties, which have since been redistributed to other mailroom staff. **This recommendation appears reasonable.**
8. Reduction in Training Funds (E-601, ELECTED-166): As requested by the Office of the Secretary of State, the Governor recommends a reduction of General Fund appropriations in the amount of \$39,669 in each year of the 2015-17 biennium for staff training. According to supporting documentation, the reduction of training funds is the result of specialized training that occurred in FY 2014 that will not be required at the same level in future years. By way of background, the 2013 Legislature approved an increase of \$64,750 in each fiscal year of the 2013-15 biennium for IT staff training, bringing the total approved funding for training to \$89,619 in each fiscal year. Actual training expenditures in FY 2014 were \$84,670. The Executive Budget includes \$45,001 per fiscal year (net of the recommended funding reduction) to fund ongoing training for the 2015-17 biennium. **This recommendation appears reasonable.**
9. Equipment Replacement (E-710, ELECTED-167): The Governor recommends Miscellaneous Program Fees of \$299 in FY 2016 and General Fund appropriations of \$1.0 million in FY 2016 and \$360,801 in FY 2017 to fund replacement hardware, software, and operating equipment. Replacement equipment includes: 137 desktop computers; 11 laptop computers with docking stations; 6 Equalogic Drives; 2 Dell Switches; 33 Dell Servers; 3 Dell Server Enclosures; 30 printers; 24 chairs; 1 camera; 1 shredder, 4 projectors and 1 fax machine. The Office has notified Fiscal staff that the \$299 for

equipment replacement in FY 2016 should be funded by a reduction to reserves instead of additional Miscellaneous Program Fees. **A technical adjustment has been included in the closing document to change the funding source from Miscellaneous Program Fees to reserves.**

The Office also reports that in FY 2009, it changed from a three-year to a five-year replacement cycle, with all equipment on the same replacement schedule. When asked by Fiscal staff whether the Office could postpone the replacement of any equipment until the 2017-19 biennium so as to split the refresh cycle, the Office responded that it does not recommend postponing any of the recommended replacement equipment in this decision unit as the Office contends that replacing all computers in the same year is good technology management.

Upon review of the equipment schedule recommended for replacement, Fiscal staff has concerns with the combined total of 188 desktop computers and laptop computers recommended for replacement in the Governor’s budget for the 2015-17 biennium, considering the total number of full-time staff is anticipated to be 135 FTEs in FY 2016 and 136 FTEs in FY 2017 as shown in the following table:

Recommended Funding for Computers	FY 2016	FY 2017	2015-17 Biennium
FTEs recommended in the Governor's Budget	135	136	136
Desktop Computers with Monitors	22	117	139
IT High-End Workstations	2	22	28
Laptops with Docking Stations	0	11	11
IT High-End-User Laptop Workstations	0	10	10
Total	24	160	188

According to information provided by the Office, The Executive Budget recommends a total of 167 replacement desktop computers, which includes 139 regular desktop computers and 28 high-end desktop workstations for the IT and business portal staff. Also recommended for replacement are 11 laptop computers and docking stations along with 10 high-end laptop workstations for IT staff. The Office indicates that the high-end desktop workstations (\$1,906 each) are recommended to be replaced for IT staff in addition to the replacement of 10 high-end laptop workstations (\$2,264 each), which would be assigned to the same IT staff to use in the Reno office or to take home for work purposes. It is unclear to Fiscal staff why these IT positions would not be able to utilize the high-end laptops for work in the office, as well as for work at home, thereby eliminating the need to replace a desktop computer for each IT staff to which a laptop is assigned.

The Office notes that the other 11 laptop computers with docking stations recommended for replacement are not assigned to specific individuals but are available for checkout on an as-needed basis. The Office also indicates there are 7 desktop computers for use in its IT testing lab. Further, according to the computer inventory report provided by the Office, the Office maintains approximately 25 computers as spares in the event a computer breaks. However, the Office reports a total of 6 spare desktop computers. Staff is unable to reconcile the difference at this time. The Office further reports that in FY 2014, 30 computers were swapped out due to software or hardware issues. According to the Office, spare computers allow the Office to have a computer configured and ready to swap to avoid downtime and loss of productivity.

Based upon the information above, at this time, Fiscal staff is unable to support the total number of computers that are recommended for replacement in the Governor’s budget. The Office recommends no reduction in the number of replacement desktop computers. However, with uncertainty as to the

number of actual computers that should be approved for replacement, an alternative option the Subcommittee may wish to consider would be to approve the funding recommended by the Governor, but place the funding for equipment replacement into a special reserve category in this budget. The Office would be required to submit a more detailed plan for equipment replacement to the Interim Finance Committee for review and approval. Any unexpended funding remaining in the special reserve category at the end of the respective fiscal year would be reverted to the General Fund.

With regard to Other Closing Item 9, does the Committee wish to approve the Governor's recommendation of Miscellaneous Program Fees of \$299 in FY 2016 and General Fund appropriations of \$1.0 million in FY 2016 and \$360,801 in FY 2017, inclusive of the technical adjustment noted by staff for equipment replacement? If so, does the Subcommittee wish to create a special reserve category to be accessed through the Interim Finance Committee work program revision process, and place the General Fund appropriations of \$1.0 million in FY 2016 and \$360,801 in FY 2017 in the special reserve category?

10. New Equipment (E-720, ELECTED-167): The Executive Budget recommends Miscellaneous Program Fees of \$1,810 in FY 2016 and General Fund appropriations of \$296,004 over the 2015-17 biennium to fund software and maintenance renewals and upgrades, disaster recovery disk backups, performance drives, and one document shredder. The Office has notified Fiscal staff that the \$1,810 for new equipment in FY 2016 should be funded by a reduction to reserves instead of additional Miscellaneous Program Fees. **A technical adjustment has been included in the closing document to change the funding source from Miscellaneous Program Fees to reserves. With the technical adjustment, this recommendation appears reasonable.**

Fiscal staff recommends that Other Closing Items 1 through 8 and 10 be closed as recommended by the Governor, with the technical adjustments noted by staff, and requests authority to make other technical adjustments, as necessary.

Additional Information – No Action Required

1. Transfer Administration of Business License Fee to Department of Taxation (Volume I, INTRODUCTION 8): The Executive Budget, under "Additional Revenue Reforms," recommends the restructuring of the Business License Fee to a tiered structure based on company size as determined by revenues. Since FY 2010, the Secretary of State's Office has administered and collected the Business License Fee. In conjunction with this proposed restructuring of the Business License Fee, beginning in FY 2016, the Governor recommends the transfer of the administration of this function back to the Department of Taxation. Senate Bill 252, as amended, discussed in the Assembly Taxation Committee on April 14, 2015, would revise the provision governing the state business license fee.

Although The Executive Budget recommends General Fund appropriations of \$3.8 million over the 2015-17 biennium in the Department of Taxation's budget to implement the Governor's recommendation to restructure the Business License Fee, no offsetting reductions for the proposed transfer of the Business License Fee function were recommended in the Secretary of State's budget.

At the February 3, 2015, budget hearing, the Office testified that when the administration and collection of the Business License Fee was transferred to the Office from the Department of Taxation beginning in FY 2010, no additional staffing resources were provided to the Office. As a result, if the proposed transfer of the Business License fee function were approved, there would be no offsetting reductions in the Secretary of State's budget. The Secretary of State estimates there would be a fiscal impact to the Office. According to the fiscal note submitted by the Office, the total estimated fiscal impact of Senate Bill 252 on the Office of the Secretary of State would be \$451,410 in FY 2016 and \$238,661 in FY 2017 (for a total of \$690,071 over the 2015-17 biennium) for programming changes, customer

service support, and two additional revocation and reinstatement staff to process the increased volume of revocation and reinstatements of business licenses.

2. Senate Bill 60: Senate Bill 60, amended and referred to the Senate Finance Committee on April 14, 2015, would transfer the Confidential Address Program from the Office of the Secretary of State to the Office of the Attorney General. The Office submitted a letter of support to the Committee Chairman expressing support of the movement of the Confidential Address Program to the Office of the Attorney General. If this measure is approved, funding for the program (\$11,388 annual operating) that resides the Secretary of State's operating budget would need to be transferred to the Attorney General's operating budget.

Title: SOS - HAVA ELECTION REFORM
 Account: 101 - 1051

Budget Page: ELECTED-170, Volume I

Revenues	2013-14 Actual	2014-15 WP	% Chg	2015-16 GOV REC	% Chg	2016-17 GOV REC	% Chg
BALANCE FORWARD	802,660	2,396,440	198.56	1,650,165	(31.14)	988,221	(40.11)
FEDERAL FUND	178,800	378,927	111.93	100,000	(73.61)		
GENERAL FUND	100	100		100		100	
OTHER FUND	2,038	11,576	468.01	2,036	(82.41)	2,036	
Total Revenues	983,598	2,787,043	183.35	1,752,301	(37.13)	990,357	(43.48)
Total FTE		2.00		2.00		2.00	

Adjustments to Revenue

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Revenues				0	0

Adjustments to Expenditures

Dec Unit	Cat	GL	Description	2015-16 Gov Rec	2016-17 Gov Rec
Sub-total				0	0
Line Item Changes to Expenditures				0	0
Total				0	0
Grand Total General Fund Impact of Closing Changes				0	0

Overview

The Secretary of State HAVA Election Reform budget was created by the 2003 Legislature for the receipt and expenditure of federal and state funds to implement the provisions of the Help America Vote Act of 2002 (HAVA). The HAVA legislation mandates that states take significant actions to improve their election systems and authorizes federal funding to implement the HAVA requirements. Some of the elements included in HAVA are improvement of election administration; replacement of antiquated voting equipment; implementation of voting systems that allow voters the opportunity to check for and correct ballot errors in private; implementation of voting systems with manual audit capacity providing a permanent paper record; improvement of access and ability for disabled individuals to vote; provision of alternative language materials; implementation of an interactive, computerized statewide voter registration list; and allowance for the casting of provisional ballots.

Major Closing Issues

There are no major closing issues.

Other Closing Item

Voter Registration and Data Matching Initiatives (E-229, ELECTED-172): The Governor recommends federal Title II reserves of \$51,036 in FY 2017 for the administration of the statewide voter registration lists. Of this amount, projected printing and postage costs of \$5,477 and \$45,559, respectively, are recommended. According to the Office of the Secretary of State, the data matching initiatives involve the identification of duplicate and invalid records through record comparison with Nevada's Department of Motor Vehicles, Vital Statistics lists, and against other states' voter registration information, as well as providing outreach to potentially eligible but unregistered individuals throughout the state. **This recommendation appears reasonable.**

Fiscal staff recommends this budget be closed as recommended by the Governor and requests authority to make any necessary technical adjustments.