

**Brian Sandoval**  
*Governor*



**COMMITTEE**

**Dr. Rex Reed, Chair**  
NDOC

**Brian L. Davie, Vice Chair**  
LCB

**Karen Oliver**  
GCB

**Scott K. Sisco**  
NDOT

**Dr. Carlos Romo**  
RETIRED

**Carrie L. Parker**  
*Deputy Attorney General*

**Tara Hagan**  
*Executive Officer*

**Nevada Public Employees' Deferred  
Compensation Program**

**DEFERRED COMPENSATION COMMITTEE  
SPECIAL MEETING MINUTES FOR**

**Tuesday May 15, 2012, 1:00 PM**

The special meeting of the Nevada Deferred Compensation Committee was held on Tuesday, May 15, 2012, at 1:00 p.m. in Room 3137 of the Legislature Building, 401 S. Carson St., Carson City, NV. A copy of this set of "meeting minutes," including the agenda, the audio recording and other substantive exhibits, is available on the Nevada Deferred Compensation (NDC) website at: [http://defcomp.state.nv.us/NDC\\_MinutesMeetings.htm](http://defcomp.state.nv.us/NDC_MinutesMeetings.htm). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775.684.6835).

**STAFF, BOARD, and ATTORNEY PRESENT:**

Tara Hagan, Executive Officer  
Jenny Potts, Secretary  
Dr. Rex Reed, Chair  
Brian Davie, Vice Chair  
Karen Oliver, Member  
Scott K. Sisco, Member  
Dr. Carlos Romo, Retired  
Carrie L. Parker, Deputy Attorney General

**OTHERS PRESENT:**

Bill Abramowicz, Hartford  
Charlotte Anderson, RSCVA  
Jim Barnes, Retired  
Rob Bilo, Nationwide  
John Crawford, Retired  
Michael Hackett, Hartford  
Jake Honea, Hartford  
Mary Keating, Participant  
Julie Miramontes, Nationwide  
Jake O'Shaughnessy, Arnerich Massena (by phone)  
Jay Parmer, TIAA-CREF  
Steve Platt, ING  
Kimberlee Tarter, Purchasing  
George Taylor, Office of Attorney General  
Todd Theroux, Hartford (by phone)

These minutes are a draft subject to approval by the Deferred Compensation Committee at the next regularly scheduled meeting. The agenda for this meeting was posted according to the Nevada Open Meeting Law and was sent to groups and individuals as requested.

I. COMMITTEE ([Audio 1: 00:01](#))

A. Call to Order/Roll Call

The special meeting of the Deferred Compensation Committee was called to order by Chair Rex Reed at 1:06 pm, May 15, 2012, in Room 3137 of the Legislature Building, 401 S. Carson St., Carson City, NV. Members Present: Chair Rex Reed, Vice Chair Brian Davie, Karen Oliver, Scott K. Sisco, Dr. Carlos Romo, and Deputy Attorney General (DAG) Carrie L. Parker.

B. Public Comment ([Audio 1: 00:02](#))

No public comments at this time.

C. Meeting Dates ([Audio 1: 00:03](#))

Staff presented the current meeting dates to the Committee. This is an informational item only. (Please see [Exhibit A-1](#))

D. Discussion Regarding Nevada Open Meeting Law and Ethics in Government – Office of the Attorney General ([Audio: 00:03](#))

Mr. George Taylor, Senior Deputy Attorney General, provided details regarding the Nevada Open Meeting Law. Mr. Taylor noted that the 2011 Legislature made significant changes to the Open Meeting Law, including amending the public comments. He noted the requirements allow for public comment at both the beginning and ending of the meeting. He stated that the public body may also be provided the opportunity to comment after every agenda item in addition to the beginning and ending of the meeting. He noted meetings must allow one open public comment period to allow comments on any items related to the Committee regardless of the agenda. (Please see [Exhibit B](#) and [Exhibit D, Pages 1-5](#)) ([Audio 1: 00:04](#))

Mr. Scott Sisco asked if one member of the Committee discusses pertinent issues with another member of the Committee, if this is permissible if the information is not taken to a third member of the Committee. Mr. Sisco also asked where the line is drawn. Mr. Taylor indicated that the line is the quorum and that members can discuss anything within their jurisdiction and control. He also indicated that you can create a walking quorum by telephoning or emailing multiple members to express an opinion or obtain a straw poll. He noted anytime three members of this Committee are discussing public information they would be in violation of the Open Meeting Law.

Mr. Sisco asked if more than two members are at a public event, even though it is related to the Committee, how members can protect themselves to ensure they are in compliance with the Open Meeting Law. Mr. Taylor indicated that it isn't a meeting if a quorum gathers in a social function as long as members are not discussing public information and deliberating toward an outcome. He stated that the key to the Open Meeting Law is if the meeting, communications or other events are a means to take action or deliberate in order to take action, as this is clearly a violation of the law. Mr. Sisco stated if members attend staff participant educational seminars and there is a quorum, can members answer participant questions. Mr. Taylor noted this would be a delicate situation, as answering participant questions on specific topics could be influencing other members in attendance. Mr. Taylor indicated that Mr. Sisco's question is complicated and he will get back to him with an answer in the future.

Dr. Carlos Romo asked Mr. Taylor if a Committee member receives information via email, is it a problem to forward the information to everyone else on the Committee. Mr. Taylor noted that specific intent is at issue and also noted that it is fine to communicate through the Executive Director. Mr. Taylor suggests that if the quorum is not being constructively gathered, to only respond to the Executive Director and to not reply to all in the email.

Dr. Romo asked Mr. Taylor if he receives an email from the Executive Director, can he share this email with others. Mr. Taylor stated that the information must not deliberate towards a decision, also that this is a decision is best made by the Executive Director.

Mr. Sisco noted to Mr. Taylor if one member can talk to another member as long as a third member does not get passed the information, this is allowable. Mr. Taylor noted this is generally acceptable.

Ms. Carrie Parker, Deputy Attorney General (DAG), discussed Ethics in Government. (Please see [Exhibit C](#)) ([Audio 1: 00:38](#))

Mr. Sisco asked DAG Carrie Parker if members need to declare the preliminary interest every time there is a vote, because there is no interest greater than the participant. Ms. Parker noted that this is correct.

Vice Chair Davie noted that the Governor appointed the Executive Order of Ethics and the Committee adopted this Executive Order. Vice Chair Davie asked how this is different from the regular law. Ms. Parker indicated that she currently does not have a copy of the Executive Order in order discuss in detail.

Staff stated that the Executive Order noted a zero tolerance policy for any gifts received.

Vice Chair Davie noted that in the past there were free trips and gifts from the consultants to the Board Members. He also mentioned that, since the Committee has been in compliance with the Administrative Manual, there was a \$25 limit when the prior to the Governor's Executive Order. Vice Chair Davie noted the current Executive Order eliminated the receipt of benefits all Committee Members from third party contractors and others.

DAG Ms. Parker noted that Ms. Karen Jenkins with the Ethics Commission can do a presentation to educate more, if the Committee wishes, at a future meeting.

## II. INVESTMENT REPORT

- A. Update and Discussion Regarding the Hartford General Account, including participant feedback from educational seminars and cash flow statistics. ([Audio 1: 00:50](#))

Staff presented the capital preservation options to the Board. (Please see [Exhibit A-2](#) and [Exhibit A-4, Pages 1-6](#))

Mr. Sisco inquired as to the number of participants who are associated with the dollar amounts which have left the General Account. Staff will work with the Hartford to obtain these numbers.

Dr. Romo asked Staff to provide a number breakdown of those who are retirees versus those who have simply terminated. Staff noted it will work with the record-keepers to provide this information.

Dr. Romo asked the Arnerich Massena (AM) Representative to provide information on the type of capital preservation options utilized by the State of Oregon and State of Kansas, specifically if they invest with a general insurance account. The Representative noted that both organizations have separately managed stable value funds. The Representative also noted that these securities have wrap contracts which is insurance to help prevent market losses. He noted that plans still do utilize general insurance accounts but have heightened their level of due diligence following the financial crisis and other plans have chosen to move away from these constructs to mitigate issuer and credit risk and allow for greater transparency of performance, fees and underlying holdings. He noted the default risk in a general account structure is much higher than that of the separate account or synthetic guaranteed investment contracts.

Dr. Romo questioned the AM representative regarding if the firm is advising other clients to move away from the general account structure. The Representative noted that yes the firm does generally recommend a move away from the balance sheet risk of a general insurance product particularly when assets are over \$100 million. He noted though that the firm takes these issues on a case by case basis.

The Hartford Representative commented on Staff's presentation and the AM Representative's comments. The Representative noted the negative feedback from the participants is due to the information that was supplied in the NDC Newsletter and employee presentations. He noted that the rate of return is important to participants and not just transparency and issuer risk of an investment option. He stated the monies that have left the General Account are immaterial when the total assets of the Plan are taken into consideration. ([Audio 1: 01:10](#))

Mr. Sisco noted that there were several people who consulted with him with regards to the information in the NDC Newsletter. He indicated that the Committee scared some participants with the information contained in the newsletter.

Vice Chair Davie stated that the Committee seems to be making assumptions based on a small number of vocal participants and the majority of participants simply do not concern themselves with the details of the Plan. Vice Chair Davie asked what information exactly scared the participants in the NDC Newsletter so as to avoid this in the future. Vice Chair Davie noted he received an email from a participant who's main concern was the information regarding Hartford selling off its retirement business. He stated that the news of Hartford selling its retirement business is the main reason participants are rolling their monies to the other provider or outside sources.

The Hartford Representative stated that some information at the last meeting regarding the publication of the sale, the comparisons, and the NDC Newsletter increased the number of participants moving their money from Hartford to other sources.

Chair Reed asked the Hartford Representative if it is possible for the Hartford to identify the assets in the General Account at market value and if they can construct a separate General Account for this program. The Representative did not have an answer but will present this to the product team.

Chair Reed asked the Hartford Representative what will happen to the NDC assets in the General Account as a result of the sale of the retirement business. He questioned the liability for the General Account and whether it stays with Hartford or will be the responsibility of the buyer. The Representative stated that there are several scenarios that could take place.

Mr. Sisco noted that during the current Request for Proposal (RFP) questions if firms provide investment counseling and believes that the participants need to feel comfortable with a provider. Vice Chair Davie noted that all major companies provide investment advice as part of their overall services to Participants.

Dr. Romo asked the Hartford Representative what the status of the proposed sale of the retirement business. He noted ten or eleven companies are interested in purchasing the block of business and these companies can sign a confidentiality agreement to look at the financials and then have 30 days in which to submit an offer. He noted that the process is moving forward and they anticipate an announcement in the near future. Dr. Romo asked if Hartford anticipates the sale to be completed prior to the end of the year. The Representative stated that is a possibility based on the interest and a purchaser may be identified within a few months.

Dr. Romo asked the Hartford Representative if the current stated crediting rate on the General Account will remain in effect until the end of the calendar year. The Representative indicated that this is correct.

Chair Reed asked the AM Representative if we requested the firm to conduct a search for stable value options which utilized plan data and best practices in the industry if would result in an increase in the current consulting costs. The AM Representative noted that the search, similar to any other search would be included in the retainer. Chair Reed requested Arnerich work with Staff to conduct a preliminary search regarding stable value separate account options.

### III. ADMINISTRATION

#### A. Discussion with Purchasing Regarding the Request for Proposals (RFP) Process, including documentation and scoring ([Audio 1: 01:39](#))

Staff introduced Ms. Kimberlee Tarter from Purchasing to discuss the process of the RFP. Ms. Tarter explained in detail the ongoing process of the RFP. (Please see [Exhibit A-4, Page 7](#))

Chair Reed noted that he is pleased to be able to work with Ms. Tarter with the current RFP.

Dr. Romo asked Ms. Tarter to discuss in detail what Purchasing does with regards to the ongoing process of the RFPs. Dr. Romo also asked Ms. Tarter if in the past, the NDC Committee worked with State Purchasing with regards to the RFP process. Ms. Tarter indicated that they have worked with NDC in the past, prior to NDC having staff, but on a limited basis as they did not conduct the entire RFP process but rather served to help gather bids and keep records. She indicated Deputy Attorney General George Campbell who represented the Committee in the past believed the Committee was not subject to Nevada Revised Statute (NRS) 333 due to the lack of general or public fund money used to fund the Plan.

Mr. Sisco noted that the Committee was told back in February that Purchasing was involved with the RFP and asked Ms. Tarter if she did not see the current RFP until problems arose. Ms. Tarter noted that this was correct and also stated that she discussed some concerns with Staff. Mr. Sisco also asked Ms. Tarter if they found some issues of concern, inconsistencies and contradictions within the documents. Ms. Tarter noted that she did find some inconsistencies. He then asked Ms. Tarter to stay for the next agenda item.

Vice Chair Davie noted with problems scoring RFPs is trying to be consistent with all of the bids. He asked Ms. Tarter if this is normal or if there is a process on how to score equally since each vendor has their own way of presenting. Ms. Tarter noted one way to mitigate is to work with the vendors to present their bids consistently.

Dr. Romo asked Ms. Tarter if there are any administrative costs with regards to helping with the RFP. She noted that there is no billable charges and does not know if they are allowed to charge with regards to the RFP.

Mr. Sisco stated that since the Committee only goes out to bid every 5 years, there have been no charges in the past.

Dr. Romo asked how State Purchasing becomes involved with the RFP process initially. Ms. Tarter indicated it is at the commission's request.

- B. Provide information regarding firms which bid and met minimum qualifications and discuss reissuing the Service Provider/Administrator Request for Proposal (RFP), specifically the consideration to review and modify the minimum qualifications to elicit a greater number of responses. ([Audio 2: 00:01](#))

Staff presented the 6 bidders to the Board. Staff noted Hartford certified that it did not meet all the necessary minimum requirements of the bid. (Please see [Exhibit A-3](#) and [Exhibit A-4, Page 8](#))

Mr. Sisco recited a portion of the meeting minutes from March 22, 2012, indicating that there is conflicting information regarding statements made about the RFP. Mr. Sisco would like to stop the current RFP and have Purchasing conduct the RFP instead. He also recommends extending the contract another year with the current vendors. ([Audio 2: 00:05](#))

Dr. Romo asked what the consequences are with regards to opening up the RFP or not opening up the RFP. Ms. Tarter stated that there are two courses of action. She noted that one course is that they continue with the current RFP and Hartford would be disqualified because they do not meet the minimum required qualifications. If this is the case, then the Committee would award the contract and the Hartford could then protest, which can take up to 60-90 days. Ms. Tarter also noted that if the decision by the Committee is upheld, then the contracts will move forward for approval as drafted. Ms. Tarter noted the second course of action would be to cancel the RFP and re-issue the RFP.

Chair Reed asked Ms. Tarter if the 5 bidders could protest as well if the Committee allows the one who does not qualify to bid. Ms. Tarter stated that this could happen but in order to protest, the bidder must have submitted a proposal.

Vice Chair asked Ms. Tarter to further explain the inconsistencies she noted in the current RFP and question how material the inconsistencies are in the document. Ms. Tarter stated that, in her opinion, according to the Purchasing process that the inconsistencies may not compromise the process but the Committee could still have a company challenge it and file a protest. She continued that the determination would fall under the hearing officer for the Department of Administration to decide the document did have a fatal flaw.

Mr. Sisco asked Ms. Tarter in the appeal process, the Committee have a more difficult time assuming it did not following NRS 333 to the letter. Ms. Tarter agreed that it is of concern in some areas when agencies are not subject to the procurement statute and attempt to pick and choose which portion of the statute in which to comply. She noted that you want to either follow a process that is appropriate, or follow NRS 333, but recommended not blending the two.

Vice Chair Davie asked if the procurement process not completed by Staff, what expertise would Purchasing bring to the process. Vice Chair Davie also asked Ms. Tarter if Purchasing would have found the inconsistencies she noted and inquired as to what Purchasing would have done differently in this process. Ms. Tarter noted that they would not have had the knowledge that the minimum qualifications would have ruled out an incumbent contractor. Ms. Tarter stated she would have made it clearer that the bidder must meet the minimum requirements as noted in the bid.

Chair Reed stated to Ms. Tarter that there was an opinion from the formal Deputy Attorney General that the Committee was not subject to NRS 333. Ms. Tarter indicated that she did not see it in writing but did note an argument made by Deputy Attorney General George Campbell that the Committee's lack of public funds allowed it to be exempt. She noted that the Committee operates using private funds and it therefore does not fall under the requirements.

Dr. Romo asked if State Purchasing is utilized for the RFP, who creates the evaluation committee. Ms. Tarter stated they would work with Staff to establish an evaluation committee. She also stated that the majority of the evaluation committee must be state employees.

Chair Reed asked Staff if it received all of the descriptions of the inconsistencies and contradictions in the RFP. Staff noted that State Purchasing did not go through the entire document but rather Staff noted the areas of concern. Purchasing concur with Staff's concerns but did not indicate these were material inconsistencies.

Mr. Sisco stated that he would like to reserve the decision for the Committee to involve the consultant with the RFP. He noted that if they turn over the RFP to Purchasing, he would like the Committee to re-evaluate the bid. ([Audio 2: 00:25](#))

Vice Chair Davie noted that it is required in the statute to include the consultant in the process. Chair Reed stated that the Committee would be exposing itself to additional liability if it chose not to continue to utilize the consultant in the RFP process.

Mr. Sisco noted that he disagreed and would like to hold the votes to the Committee members and State Purchasing. The AM Representative noted that when they help the Committee it is as a facilitator to help the decision making body to make the appropriate decision. The Representative also noted it is not the consultant's job to be part in the decision making.

Dr. Romo stated that there will be consequences either way if they open the RFP or do not open it. Chair Reed concurred with this as well.

Chair Reed stated that he has all faith and confidence in Staff and notes the process and staff's conduct has been professional throughout.

Vice Chair Davie stated that he agreed with Chair Reed. He also noted that he has full confidence with the RFP and how Staff conducted it.

Dr. Romo noted that Staff did the RFP the best way that it could be done and there should be no concern whether it was done properly. Dr. Romo thanked Staff.

DAG Carrie Parker stated that some research was done with regards to previous appeals through the state. ([Audio 2: 00:33](#))

Ms. Parker recited the Non Meeting Law statutes (NRS 241.015 Subsection 2(b)(2)). ([Audio 3: 00:01](#))

Chair Reed declared a Closed Meeting at 3:48 pm.

Chair Reed called the meeting back in session at 4:15 pm.

Dr. Romo asked why Hartford applied if it appeared that they didn't meet the required minimum qualifications.

DAG Ms. Parker cautioned that the details of the proposals of the RFP are confidential.

The Hartford Representative noted that once they received the minimum qualifications, it caused some concerns. He indicated that the initial language of the requirements was of concern and also noted that an email regarding this was sent out to the AM Representative and Staff. The Representative noted that the pre-bid questions and Attachment B were not answered by Staff or the consultant. ([Audio 4: 00:04](#))

Staff stated that all questions asked by the bidders were answered and submitted to all potential bidders. Staff indicated that responses were not sent out to specific bidders but rather all potential bidders received the set of questions and answers.

Mr. Sisco asked if Attachment B is a document to allow any exceptions. Staff stated that the attachment is meant to allow bidders to disclose any issues they may have for the State's Professional Services contract.

IV. COMMENTS/UPDATES ([Audio 4: 00:17](#))

A. Investment Consultant/Service Providers

- The Hartford Representative asked if they qualify or do not qualify for the bid. Chair Reed stated that if Hartford believes they qualify and the Committee didn't read the bid correctly, they are to contact Staff and indicate that it was done in error. Chair Reed stated that as it stands right now, Hartford does not qualify but encourages Hartford to present any errors to Staff. Staff indicated that it will work with the AM consultant and Legal to review Hartford's concerns and updated the Committee. DAG Ms. Parker agreed to review with Staff. Mr. Sisco asked to have Purchasing review as well. ([Audio 4: 00:18](#))
- The AM Representative concurs with Staff.

B. Deputy Attorney General had nothing to comment

C. Committee Members

- Chair Reed asked that all members consider their level of interest in attending the NAGDCA Conference in San Diego, CA from September 29-October 3. He requested staff add this item to the June meeting agenda.
- Mr. Sisco requested:
  1. to have all items on the agenda listed for possible action
  2. to have public comments after each agenda item
  3. to have a closed door personnel session during the June meeting and take an in-depth look at the budget.
- Chair Reed noted that the Chair sets the agenda and will determine which items should be noted for possible action. Chair Reed also noted that it is a great idea to have public comments after every agenda item. He asked staff to make these changes for the June meeting.
- Brian Davie noted the changes to the Open Meeting Law in the past few Legislative Sessions specifically noted the need to be more clear for the public regarding the items discussion and actions taken. He noted to simply add 'potential action' to all items is exactly what the spirit of the law is attempting to avoid.

D. Staff had nothing to comment

V. PUBLIC COMMENTS ([Audio 4: 00:30](#))

No public comments

VI. ADJOURNMENT

The meeting was adjourned at 4:45 PM.

Respectfully Submitted:

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Jenny Potts  
Administrative Assistant

Approved by:

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Tara Hagan  
Executive Officer

**LIST OF EXHIBITS**

- Exhibit A-1      Staff booklet, Meeting Dates
- Exhibit A-2      Staff booklet, Update Regarding Hartford General Account
- Exhibit A-3      Staff booklet, Discussion Regarding Provider/Administrator RFP
- Exhibit A-4      Staff Presentation, Pages 1-8
- Exhibit B        Open Meeting Law 2011 Legislative Changes
- Exhibit C        Chapter 281A-Ethics in Government
- Exhibit D        Open Meeting Law and Legislative Amendments Presentation