MINUTES OF THE JOINT MEETING OF THE
SENATE COMMITTEE ON FINANCE
AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS

Seventy-fifth Session
March 10, 2009

The joint meeting of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Morse Arberry, Jr. at 8:12 a.m. on Tuesday, March 10, 2009, in Room 4100 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE COMMITTEE MEMBERS PRESENT:

Senator Bernice Mathews, Cochair
Senator Steven A. Horsford, Cochair
Senator Bob Coffin
Senator Joyce Woodhouse
Senator William J. Raggio
Senator Dean A. Rhoads
Senator Warren B. Hardy II

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Marcus Conklin
Assemblywoman Heidi S. Gansert
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Joseph (Joe) P. Hardy
Assemblyman Joseph M. Hogan
Assemblywoman Ellen Koivisto
Assemblywoman Kathy McClain
Assemblyman John Oceguera
Assemblywoman Debbie Smith

COMMITTEE MEMBERS ABSENT:

Assemblyman Mo Denis (Excused)

STAFF MEMBERS PRESENT:

Brian Burke, Principal Deputy Fiscal Analyst
Gary L. Ghiggeri, Senate Fiscal Analyst
Mark W. Stevens, Assembly Fiscal Analyst
Michael Bohling, Committee Secretary

OTHERS PRESENT:

Michael J. Willden, Director, Department of Health and Human Services

Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Dan Klaich, Executive Vice Chancellor, Nevada System of Higher Education
Maud Naroll, Chief Planner, Budget Division
Jodi Stephens, Legislative Director, Office of the Governor
James R. Wells, Deputy Superintendent, Department of Education
Frankie McCabe, Special Education, Elementary and Secondary Education and School Improvement Programs, Nevada Department of Education
Susan Martinovich, P.E., Director, Department of Transportation
Cindy Jones, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation
Ardell Galbreth, Deputy Director, Department of Employment, Training and Rehabilitation
Larry Mosley, Director, Department of Employment, Training and Rehabilitation

CHAIR ARBERRY:
We will open with a review of the American Recovery and Reinvestment Act of 2009 (stimulus package).

MICHAEL J. WILLDEN (Director, Department of Health and Human Services):
We have distributed three handouts: a spreadsheet (Exhibit C), a document discussing estimated Federal Medical Assistance Percentage (FMAP) increases in the final stimulus bill (Exhibit D) and a chart showing how FMAP works quarter by quarter (Exhibit E).

Exhibit C tracks several aspects of the stimulus package: the divisions within the Department of Health and Human Services (DHHS) impacted by the stimulus package; the subject area impacted; specific language and direction in the stimulus package; the impact on the *Executive Budget*; and the budget accounts that will need to be adjusted to implement the stimulus package. The last three columns in the spreadsheet show the General Fund impact by year. During fiscal year (FY) 2008-2009, the stimulus package will benefit the DHHS by almost $123 million; during FY 2009-2010 the benefit will be a little over $113 million; and in FY 2010-2011 the benefit will be just over $80 million. The total benefit over the biennium is $316 million. Fiscal staff calculated this amount is in addition to the $108 million already included in the *Executive Budget*. While building the budget, we estimated what the FMAP might do to help us. We used an FMAP rising up to 58 percent in federal fiscal year (FFY) 2009-2010 and falling off in FY 2010-2011. These are in addition to the FMAP already in the budget.

Below the $316 million Total General Fund Benefit row on the last page of Exhibit C, there are a number of add backs to be dealt with at budget closings. The first is a Medicaid supplemental appropriation of almost $37 million. As we have testified during the Special Sessions and in hearings, we are experiencing caseload growth and have a Medicaid shortfall in FY 2008-2009 that needs to be addressed. The Division of Child and Family Services (DCFS) was also identified as needing a supplemental appropriation of about $12.7 million to get through FY 2008-2009. In the Welfare Division, there is a shortfall in the Aged and Blind Budget of about $305,000 to $306,000 for the supplements we provide for aged and blind individuals. In the Health Division, due to cost allocation issues, there is about a $574,000 supplemental needed.

There are two additional issues for FY 2008-2009 we have discussed with various committees. A new federal rule on certified public expenditures will cause an issue in the DCFS of about $2.3 million. Additionally, there is the need to move children out of the acute beds of the Desert Willow Treatment Center in Las Vegas into the Muril H. Stein Hospital and the resultant need to remodel the Muril H. Stein Hospital. Assemblywoman Buckley and Senator Coffin toured that hospital a few weeks ago and looked at that plan. The cost there is about $622,000 which is an estimate we have obtained through various bids. The Department of Public Works estimates the cost at $2.4 million. We believe we can get the work done at $622,000.

There are two further add backs that will affect FY 2009-2010 and FY 2010-2011. The first is the Transitional Medical Assistance. The Welfare Division tightened eligibility for this program. As part of the stimulus package, we have to reinstate the earlier eligibility standards. The budget was reduced in the *Executive Budget* by $10.3 million, and the add back is about $8.3 million. The difference is because the reduction was calculated at 50 percent state, 50 percent federal FMAP, and the add back is at the new calculated federal matching percentages.

The last program we want to bring to your attention is the Children's Health Insurance Program Reauthorization Act (CHIPRA). To receive CHIPRA funding from the stimulus package, we are required to include dental coverage for the Check-Up program. We have identified a cost of about $500,000 over the biennium. That figure might increase as we work with the federal government to determine the extent of orthodontics coverage required.

In the summary page, the total benefit is about $316 million, and the add backs we know we have to deal with add up to about $62 million. The net benefit is about $254 million.

ASSEMBLYWOMAN LESLIE:
What is the FMAP number in the *Executive Budget*?

MR. WILLDEN:
It is $108 million.

ASSEMBLYWOMAN LESLIE:
To get the total impact, should we add the $108 million to the $254 million?

MR. WILLDEN:
Actually, it would be the $316 million added to the $108 million, but that is not just FMAP. The $316 million includes the benefit we will get in Temporary Assistance to Needy Families (TANF), food stamps and some of the other smaller items. If you look at the one-page FMAP sheet, the total savings over all three years is $236 million. Add the $108 million to that.

On page 1 of Exhibit C, there are two benefits in Aging Services. The Senior Employment Program has an additional $114,000 coming in that we will sub-grant to Catholic Charities. Out of that, there is an administrative allocation of a little over $10,000. There is a General Fund offset in FY 2009-2010. Also, we will get additional funds for congregate and home-delivered meals of about $976,000, of which there is a 10-percent administrative allocation of almost

$97,000. We have put these into each year of the 2009-2011 biennium based on our best guess as to where they would fit. They could be spread over different years. We have not had detailed discussions with staff from the Legislative Counsel Bureau (LCB) as to what year is best to place them.

The next item deals with Independent Living Services. We will receive additional money to pass through to the Independent Living (IL) Council of about $243,000. There is no General Fund impact there, but there will be additional services to the IL Council. The next is the Health Division. This is the Nevada Early Intervention Services Program impact. We will get about $3.9 million worth of additional Individual Disabilities Education Act (IDEA) Part C money. There has been discussion in the Assembly Committee on Ways and Means and the Senate Committee on Finance that the *Executive Budget* includes about $9 million in additional General Fund over the next biennium to address our Early Intervention Services waiting lists which currently have about 400 to 500 children on them. This new money, as we see it today, could offset part of that $9 million General Fund. Also, as we work through the stimulus package and the Early Intervention Services Program, I believe this money will not in itself require a Maintenance of Effort (MOE), but the $9 million we put into the *Executive Budget* would have an MOE issue attached with it.

Before we close out the budgets, we need to look at what we want to do: leave all the $9 million in or substitute the stimulus money against the $9 million. In working with the Autism Coalition, we could potentially carve out some of the autism services and run them as a separate State program, and that would decrease our MOE liability going forward.

ASSEMBLYWOMAN LESLIE:
Can you clarify which set of children this is? Would we have to move the services out of the Early Intervention Services Program and put it in the Office of Disability Services (ODS) or something?

MR. WILLDEN:
There are three ways we fund autism services. For the group including birth to age three, autism services, along with other disability services, are funded through the Early Intervention Services Program. We also provide autism services for all ages in the Mental Health and Developmental Services budget through the regional centers. That program has an income limiter. It used to be 500 percent of the federal poverty level, and it was recently changed to 300 percent of the poverty level. In 2007, $2 million went to the ODS, and it is provided to children under the direction of the Commission on Autism. The idea we are exploring would be to circle the money for autism services and put it in the ODS using their criteria. It decreases our MOE liability going forward, but there are pros and cons to this. As a financier of health care services, I believe we need to balance that with the program decisions.

CHAIR ARBERRY:
Yesterday in the Assembly Committee on Commerce and Labor, we had a hearing on Assembly Bill 162 regarding insurance on autism. How would it affect this issue if that bill passes?

ASSEMBLY BILL 162: Requires certain policies of health insurance and health care plans to provide coverage for screening for and treatment of autism. (BDR 57-44)

MR. WILLDEN:
If that bill passes, health insurers would be required to provide coverage for autism services as a health benefit, excluding Medicaid and the State Children's Health Insurance Program (SCHIP), as I understand the current version of the bill and the intent. Theoretically, that could decrease the costs we now spend on autism services, assuming we could bill the insurance companies for that coverage. The difficulty in IDEA Part C, according to staff, is families can choose not to have us bill their insurance companies. Although insurance carriers may be mandated to provide the insurance coverage, the families can choose to have the State not bill that health carrier. In that case, we have to pay for it out of State services as we have been doing. That is an issue we are continuing to explore.

CHAIR ARBERRY:
Part of that issue is they are afraid their premiums will increase if they use it.

MR. WILLDEN:
That is correct.

At the bottom of page 1 and into page 2 of Exhibit C is information on the FMAP. Exhibit E shows the assumptions we made in the Agency request, the Governor's recommendations and what we can rebuild the *Executive Budget* on. There are three tiers in the FMAP: the hold-harmless provision which allows us to maintain our 52.64-percent FMAP from last year; a 6.2-percent across-the-board FMAP; and a tiered system for unemployment. All calculations lead us to the highest tier, with the result that we will get the maximum benefit. If our unemployment rate drops, we will not get the full benefit. It is a quarter-by-quarter calculation. If our economy improves, the calculation changes.

ASSEMBLYWOMAN LESLIE:
The FMAP only goes halfway through FY 2010-2011. Where there is a decrease down to 50 percent, does that indicate the point at which we come to the end of the stimulus package money?

MR. WILLDEN:
That is correct. The FMAP starts October 2008 and runs through December 30, 2010.

ASSEMBLYWOMAN LESLIE:
Do you have any idea if it would be increased again? We had been advocating for increased FMAP before the stimulus package, based on our population.

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):
The FMAP is a complex formula. I have worked with it for a number of years. The formula considers the wealth of the State, poverty and other issues.

ASSEMBLYWOMAN LESLIE:
Is this a conservative estimate?

MR. DUARTE:
It is as good an estimate as we can do right now.

MR. WILLDEN:
Page 3 of Exhibit C summarizes the numbers we see in the FMAP. In the Department of Health Care Financing and Policy, we have an increase of about $111 million in FY 2008-2009, $94 million in FY 2009-2010 and $62 million in FY 2010-2011. In the Department of Child and Family Services, we have an increase of about $3.9 million in FY 2008-2009, $2.6 million in FY 2009-2010 and $1.9 million in FY 2010-2011. In Mental Health and Developmental Services, there is an increase of $7.2 million in FY 2008-2009, $8.2 million in FY 2009-2010 and $5.9 million in FY 2010-2011.

All three tiers of the FMAP affect the Medicaid populations. However, the unemployment tier does not affect Child Welfare; they only get the benefit from the lower two tiers of the FMAP. Title IV-E is calculated at a lower percentage, and the Medicaid is calculated at the higher percentages. Also, the FMAP does not apply to Disproportionate Share of Hospitals (DSH) or to SCHIP. The SCHIP gets no benefit from the revised FMAP. They have other provisions in the stimulus package dealing with those.

SENATOR RHOADS:
Are the rural clinics included for funding?

MR. WILLDEN:
I assume you are talking about the 11 rural clinics eliminated in the budget cuts. They are not included in these calculations, but we have had several meetings looking at ways to add back what we call a bare-bones rural clinics option. We have been working with the LCB staff costing that out. It is not in these calculations, but we have identified what that add back would be to maintain those clinics.

At the bottom of page 3 of Exhibit C, there is a line dealing with Medicaid DSH. The federal DSH ceiling goes up by 2.5 percent a year for 2009 and 2010. We have not included a separate calculation. There will be some benefit to the State. In the DSH, the intergovernmental transfer account gets some benefit, and that benefit has been netted into our FMAP calculations. We go through the calculation of increasing the DSH allotment, looking at the benefit in the intergovernmental transfer account. We hold in that account what we need to support the DSH in the federal Upper Payment Limit Program, then we transfer everything out of the intergovernmental transfer account into Medicaid, and it offsets the need for General Fund.

On pages 4 and 5 of Exhibit D is Health Information Technology, Electronic Medical Records and all the broadband issues. We know it will have some impact and benefit on our programs, but we do not yet know where we are going on that. It does not look like we will have instructions for that until about June, though some instructions will come at the end of March. We will have to have a plan as a State, and we have to designate a statewide coordinator. If we want to take full advantage of Health Information Technology in the stimulus package, we will need a 10-percent match to do so. There is some 100-percent money and some 90-percent/10-percent money. If we want to do what is available to us in Health Information Technology, we must get a plan and identify a match source.

On page 5 of Exhibit C, we have listed the Health Division. This is another unknown. We know there is money for Prevention and Wellness, for the Women, Infants and Children (WIC) program, for Primary Care training and for Research. However, we do not yet have guidance from the Centers for Disease Control (CDC) or federal health programs. There will be some money for information technology (IT) improvements in the WIC program, and there is a large federal reserve created in case the WIC caseload increases so they will be able to support that caseload growth. However, we do not have good data on the Health Information at this point.

In the Welfare Division, there are several issues. In the Child Care program, we are going to get an additional $14.3 million block grant. That does not require any new State match. There are some earmarks and what we call "quality dollars" we have to set aside, but the balance of that money can be used to put more money into child care subsidies. We recommend doing that. There are two issues we need to resolve regarding child care information. First, during the last year of budget cuts, we eliminated the two higher tiers of low-income families from the list of families we support with child care. We are advocating to add the lowest-income families to the program, then add back the tiers we removed previously. Second, one of my fears is that we will increase activity and put $14 million more into the system, and then we will have a long way to come back down at the end of the biennium. We need to talk about what kind of reserve we plan to extend the money transition into the next biennium.

CHAIR ARBERRY:
Does that mean you will restore funding for the families eligible at the 20- or 30-percent subsidy level in the Welfare Division Supportive Services?

MR. WILLDEN:
I recommend not doing that until we look at the income levels of the people on the waiting list, pull the lowest-income people off the waiting list first and then, if there is money left, we add back the tiers.

ASSEMBLYWOMAN BUCKLEY:
How many people on the current waiting list would come off the list and get services?

MR. WILLDEN:
We have not yet surveyed the waiting list.

ASSEMBLYWOMAN BUCKLEY:
How many people are on the waiting list?

MR. WILLDEN:
There are 1,860 people on the waiting list.

ASSEMBLYWOMAN BUCKLEY:
How many of those would be able to come off the waiting list based on the amount of money available in the stimulus package?

MR. WILLDEN:
That has not been calculated. We can get that quickly.

ASSEMBLYWOMAN BUCKLEY:
Please let us know. Your priority is to take as many individuals of the lowest income off the waiting list first. Would you then try to take the next income level off the waiting list? Is it your priority to provide some service to more people rather than deepening the subsidies?

MR. WILLDEN:
Yes, though that is a policy decision. If you take the higher tiers, we spend less of our money because they have a higher co-pay. If you take the lower-income people, we pay all of their child care, so the cost to the State per case is steeper.

ASSEMBLYWOMAN BUCKLEY:
But the need is greater. We want a parachute when the money ends, but this is the time when people need child care in order to look for employment or to find a way to manage with lower-paid employment. What is your current recommendation on the level of reserve?

MR. WILLDEN:
Our recommendation is the reserve should be about $3 million to $3.5 million coming out of the biennium.

At the bottom of page 5 of Exhibit C is the Supplemental Nutrition Assistance Program (SNAP), formerly known as the food stamp program. One thing not shown on this chart is that all SNAP recipients will receive a 13.6-percent increase in their benefit level starting April 1, 2009. Our computer system is ready, and we will start loading those benefits April 1. Over the next couple of years, that is expected to pump $84 million into Nevada's economy. That is because as the benefits increase, participants in the program will go to grocery stores and spend that increased benefit. Also, roughly $1.7 million has been added to fund the administrative costs of this program. It is unclear how this works, but it will save the General Fund about $413,000 in the first year of the biennium and roughly $400,000 in the second year. There are some increased costs related to our Electronic Balance Transfer (EBT) costs we have to net out, and then we will get some benefit out of the SNAP administrative cost.

SENATOR COFFIN:
As I understand it, the SNAP recipients receive debit cards now. Is that correct?

MR. WILLDEN:
Yes.

SENATOR COFFIN:
Are there any charges to them through banks?

MR. WILLDEN:
The recipient is not charged anything.

SENATOR COFFIN:
Are we using debit cards in the unemployment program as well?

MR. WILLDEN:
I do not know. You will have to ask the Department of Employment Training and Rehabilitation (DETR).

ASSEMBLYWOMAN LESLIE:
Our information is the increase starts on April 1, 2009, and ends on September 30, 2009. Is that correct?

MR. WILLDEN:
That is not my understanding. I understand the 13.6 percent will be loaded starting April 1, 2009, and will remain in place until the normal Consumer Price Index (CPI) increases exceed that.

ASSEMBLYWOMAN LESLIE:
I hope that is correct. We will double-check that.

MR. WILLDEN:
Basically, they are accelerating a couple years of the CPI increases and giving it now, and they will not get CPI increases later.

Child Support does not have a General Fund impact, but we have an opportunity for incentive funds of about $5 million if we go through the Child Support matching system which will now be allowable. That will generate a total spending capacity of about $15.6 million. Our intent is to work with the district attorneys to use that money for statewide improvement for the Child Support program working off that legislative audit list, what we call the Maximus list.

The last program is the TANF program which is on page 6 of Exhibit C. The TANF gets a benefit of $18.1 million to $18.3 million from the stimulus package in additional block grant dollars. From that amount, we recommend about $4.9 million of that go to caseload increases we have calculated. The balance of the money, roughly $13.2 million, could be used to offset the General Fund in lieu of the TANF that we put into the *Executive Budget*. If you recall, the caseload growth and expenditures in the TANF program were outstripping the block grant and our MOE requirement, so we had to put some General Fund in to support the TANF program. We can now remove some of that money. We would recommend it be done in budget account (B/A) 101-3230, about $4.4 million in FY 2009-2010 and $7.5 million in FY 2010-2011. We also have a major IT project in B/A 101-1325, and we could offset some General Fund dollars in that project also.

HUMAN SERVICES

WELFARE

Welfare - TANF – Budget Page WELFARE-17 (Volume II)
Budget Account 101-3230

FINANCE AND ADMINISTRATION

ADMINISTRATION

Information Technology Projects – Budget Page ADMIN-26 (Volume I)
Budget Account 101-1325

That is our overview of what we know at the moment. We will continue to work on these. We are on federal conference calls almost every day trying to work out the details.

CHAIR ARBERRY:
Since you are still working out the details, will that hold up any of this funding?

MR. WILLDEN:
We are moving forward. The biggest thing that worries me now is we are starting to have some cash-flow problems. At the end of this month, we will have cash-flow problems in a number of places. On page 6 of Exhibit C, there are some supplemental add backs listed. I recommend we do not process those supplementals and get ourselves positioned so our staff can do the additional Medicaid draws. We have $44 million sitting in a bank account we could draw tomorrow, assuming we can get the Governor's certification letter signed off and some attestations to the federal government that we are in compliance. The $44 million is earmarked for the fourth quarter of FFY 2007-2008. There is $49 million earmarked for the first quarter of FFY 2008-2009. In the 25th Special Session, I was given flexibility to move money around in State FY 2008-2009 to solve budget shortfalls and process work programs to fix these add backs as soon as possible. I am not sure we can make it till the IFC meeting on April 20. I am hoping we can get through the attestations and the Governor's certification this week or next.

CHAIR ARBERRY:
If it gets to that point, please talk to our staff. We can call an IFC meeting if it is needed; we do not need to wait until April 20.

MR. WILLDEN:
I understand.

ASSEMBLYWOMAN BUCKLEY:
With regard to the change needed to draw down the additional money, do we have to do a regulation on the earned income disregard, or is the assurance enough? Does there need to be a change to the State Plan? What is the process?

MR. DUARTE:
The changes do not require regulation changes, but they will require some State Plan amendments we need to subsequently send. I do not believe the State Plan amendments will hold up the draws of the money. I believe those issues will be quickly resolved with some operational changes at the Division of Welfare and Supportive Services.

ASSEMBLYWOMAN BUCKLEY:
As I understand you, you will make the operational changes, then set the hearings for the State Plan amendments. In the meantime, you will be able to draw down the money. Is that correct?

MR. DUARTE:
Yes. There are other issues in the attestations we have to resolve, including issues affecting political subdivisions of State government that contribute to the Medicaid match. We need to work with Clark County on some of those.

ASSEMBLYWOMAN BUCKLEY:
At this time, the federal government is not requiring additional action with regard to the hospital decrease, the pediatric decrease and the Indigent Accident Fund. The other cuts are not being required to be reinstated, just the earned income disregard. Is that correct?

MR. DUARTE:
The changes in eligibility need to be corrected. Issues affecting contributions by county government need to be resolved. Hospital rate reductions and physician rate reductions are not affected by the stimulus package. The issue of the Indigent Accident Fund is primarily a state determination, but we do have a question before the Centers for Medicare and Medicaid Services (CMS) legal counsel as to what that might mean for the State in terms of a new contribution to the Medicaid program. We do not think that will be problematic.

ASSEMBLYWOMAN BUCKLEY:
What is the issue with regard to the county match program?

MR. DUARTE:
In the discussion with the CMS yesterday, it was determined that Clark County cannot contribute a fixed percentage of the total amount of supplemental payments we make to the University Medical Center of Southern Nevada. That is how their interlocal agreement is currently worded: they pay a fixed percentage of the total amount we pay the hospital. The percentage needs to be adjusted in a new interlocal agreement so they see a proportional benefit of the reduction in the state match rate associated with the stimulus package.

COCHAIR HORSFORD:
Where is the funding for the Head Start Program?

MR. WILLDEN:
The funding for the Head Start Program flows directly to the Head Start agencies from the federal government. It does not go through us. The only Head Start money we have in the Department is what we call collaboration funding. It is a small block grant of about $125,000. Since the funding we get for child care is closely tied to the funds for Head Start, we try to stay informed about their funding and make sure our child care policies make sense with what they are doing.

COCHAIR HORSFORD:
Do you know what those funds can be used for?

MR. WILLDEN:
I do not, but I can get that information for you.

DAN KLAICH (Executive Vice Chancellor, Nevada System of Higher Education):
I testified at an earlier hearing regarding our understanding of the State Fiscal Stabilization Fund and the allocation of those between K-12 and Higher Education. Not much has changed since our last meeting. The total amount of funds is approximately $396 million. Of that, about 82 percent, or $324 million, is allocated to education, K-12 and Higher Education. There is an MOE requirement that will require the infusion of some funds into Higher Education. We are working with your staff, the Budget Office and K-12 to define that. Previously, I said the number to meet the MOE requirement was $269 million over the biennium; I am sure that number is high, but it is not high by much. We originally thought there would be guidance on this from the Department of Education last Friday. The latest communication from them indicates we will receive it by the end of March.

We are finding with the stimulus package that the devil is in the details. When we look at the exact statutory wording and try to apply it to numbers, they change. From discussion with Mr. Willden, we understand there was some FMAP money that could be freed up to be used as the Subcommittee decides. Other than that, I have nothing to add to my previous testimony.

CHAIR ARBERRY:
Do we have someone here from the Budget Division this morning?

MAUD NAROLL (Chief Planner, Budget Division):
Yes, sir.

CHAIR ARBERRY:
Has a decision been made on whether a waiver will be requested from the Secretary of Education on the MOE requirement?

MS. NAROLL:
To the best of my knowledge, that decision has not been made.

CHAIR ARBERRY:
Do you have any idea when it will be made?

MS. NAROLL:
There is a meeting this Thursday in Washington, D.C., with governors' representatives and heads of federal agencies involved in the stimulus package. The Office of the Governor is sending a representative who will bring back more information.

ASSEMBLYWOMAN BUCKLEY:
Is the Governor seeking a waiver or not?

MS. NAROLL:
To the best of my knowledge, that decision has not been made. I would be surprised if the decision were made before the meeting in Washington, D.C.

ASSEMBLYWOMAN BUCKLEY:
If the waiver is either not sought or not granted, we need to take advantage of this education stimulus money. With a shortfall of $1.8 billion and a worsening economic condition in Nevada, any reasonable person would conclude we need to take advantage of the education stimulus dollars.

MS. NAROLL:
We agree.

ASSEMBLYWOMAN BUCKLEY:
It would seem that what we need to do is analyze whether we can use the freed-up General Fund dollars to meet the MOE. Can we begin to explore whether the freed-up funds would allow us to claim these dollars? Considering we still have critical shortfalls in many of our major need areas, how do we allocate these additional funds?

MS. NAROLL:
We have been meeting with K-12 and the Nevada System of Higher Education to look at the MOE numbers and the split between them. The Office of the Governor is holding weekly meetings; I believe your staff was asked to attend and declined the invitation.

ASSEMBLYWOMAN BUCKLEY:

> Well, just for the record, okay? Our staff is providing support to us. Some of them are working 20 hours a day putting together the best numbers that—and I'd put their work against anybody, and they don't—while they declined to participate in your internal weekly meeting, they indicated that they would be available any time, anywhere, to receive any information. And I—I really take offense to that characterization.

MS. NAROLL:
Your staff is very professional and knowledgeable. I understand you are keeping them busy. They are welcome any time they have time to come to our meetings.

ASSEMBLYWOMAN BUCKLEY:
Has the Governor made a decision whether or not to take the education stimulus money? Would he support our efforts to accept the education stimulus money?

MS. NAROLL:
I would be shocked if the Governor did not accept the education stimulus money.

JODI STEPHENS (Legislative Director, Office of the Governor):
Ms. Mendy Elliott, the Deputy Chief of Staff of the Office of the Governor, is on her way to Washington, D.C., to get answers to our questions regarding MOE. We will have a better understanding of the stimulus package when she returns at the end of the week. We are definitely looking at taking these funds, but a final decision has not yet been made.

SENATOR COFFIN:
What about the unemployment insurance component of the stimulus package? The newspapers are reporting a reluctance on the part of the Governor to accept money in that area.

MS. STEPHENS:
We are looking at what would be required of the State if we accept those funds, especially with regard to long-term changes to the State and our ongoing budget. As we delve into it, we are getting closer to understanding exactly what is in the stimulus package. Ms. Elliott's trip to Washington, D.C., will certainly help our understanding.

MR. KLAICH:
We understand that K-12 is the beneficiary of these stimulus package funds. I have asked our staff to share any calculation we have with the Legislative and budget staff. It is in our best interest to at least be talking about the same numbers when we can. We will give every worksheet and the assumptions behind those worksheets to your staff. I know the numbers seem to be changing. There are many numbers we have agreed on, and we are trying to narrow the field of those we still have questions on so we can nail them down as well.

COCHAIR HORSFORD:
Mr. Stevens, could you give us some background on this subject?

MARK W. STEVENS (Assembly Fiscal Analyst):
The stimulus package fund is broken into two pieces. The 81.8-percent piece is the pool of funds Mr. Klaich is talking about, and it is anticipated to be $324.5 million. The 18.2-percent piece is to be used for public safety and other governmental services which may include education; it totals about $72.2 million over a 2-year period. It has been indicated there is an MOE requirement to receive these funds. That is, we must maintain FY 2008-2009, FY 2009-2010, and FY 2010-2011 funding at FY 2005-2006 levels. At this point, K-12 meets that requirement, but Higher Education does not. There is a waiver requirement; as we discussed, a decision has not yet been made on whether to request a waiver of the MOE requirement. What we have done in our assumptions is take the FMAP savings from Medicaid, DCFS and Mental Health and Developmental Services and apply them to the Higher Education MOE requirement. The additional FMAP will free up General Fund money. The fiscal years do not match, so you would have to roll or balance forward some of those monies in FY 2008-2009, FY 2009-2010 and FY 2010-2011, since as we learned today in FY 2010-2011 the FMAP increase only goes through the first half of the year. If we balanced all that forward, the amount of FMAP savings available would be pretty close to meeting the General Fund requirement for the MOE for Higher Education. Once you have done that, you can access the stimulus package funds.

The stimulus package indicates if you cannot get to the greater of the FY 2007-2008 or FY 2008-2009 level where it should be and return all those funding levels to those amounts, the stimulus package funds must be proportionally allocated between K-12 and Higher Education. That would provide substantial additional funds for Higher Education in FY 2009-2010 and FY 2010-2011, and would also provide additional funds for K-12. If all of this takes place, decisions will have to be made on how those additional funds would be allocated in the budget.

ASSEMBLYMAN HOGAN:
Ms. Stephens, could you give us more information about the meetings in Washington, D.C.? They seem to be important to what we are trying to do, and we are in a time bind to get it all done. With whom are you meeting? Is it the congressional delegation or the U.S. Department of Education? What questions are you hoping to resolve?

MS. STEPHENS:
The meetings are being put on by President Obama's administration. They will include the U.S. Departments of Education and Transportation, as well as anyone else who has a stake in the stimulus package funds. All the departments and the state representatives will be in the same room asking the questions we are all trying to figure out: How do we get to the money? How are the decisions going to be made? Will waivers be needed? Those are the kinds of open-dialogue meetings that are taking place. Ms. Elliott is meeting with the congressional delegation as well, having conversations with them to make sure we are all on the same page.

ASSEMBLYWOMAN BUCKLEY:
Assuming we draw down every education dollar, what percentage of the education budget, both K-12 and Higher Education, is still unfunded?

MS. STEPHENS:
That depends on the answers Ms. Elliott gets to the questions.

ASSEMBLYWOMAN BUCKLEY:
Does that still apply if we do not get the waiver?

MS. STEPHENS:
I do not have those specific percentages. I would be happy to work with Mr. Clinger's staff to get those for you.

ASSEMBLYWOMAN BUCKLEY:
Do staff have any preliminary calculations on what we could draw down and what the hole would be?

MR. STEVENS:
It depends on how the money is proportionally allocated, because there are questions on how K-12 state support should be calculated and there are different methods that can be used. Our analysis indicates the Higher Education funding would be in the range of $600 million to $625 million. In 2009, the University System received $677 million in State funds. They incurred some budget reductions this fiscal year. If you take those into account, they will receive approximately $618.8 million in State funds, depending on how much salary adjustment money they receive. They would be in much better shape than they are right now, based on the recommendation in the *Executive Budget*.

ASSEMBLYWOMAN BUCKLEY:
What is the recommendation in the *Executive Budget*?

MR. STEVENS:
The Governor recommends State funding of $423.4 million in the first year and $418.6 million in the second year of the biennium.

On the K-12 side, I have not calculated what the total shortfall is. The way we have calculated it, K-12 would receive somewhere between $87 million and $112 million each year from the stimulus package. That is the 81.8-percent allocation, not the 18.2-percent allocation. The 18.2-percent allocation is about $72 million over the biennium and can be used for a variety of things, including education. Some of the monies could be put into education.

ASSEMBLYWOMAN BUCKLEY:
It would be helpful to compare it to the overall shortfall. This money will be helpful in both education and the FMAP, but it is important to realize the hole is large and getting larger. There are some essential elements these committees have been discussing that would still be left unfunded. I would like to see that with specificity per the major budgets so we can post that on our Website. It should be open and transparent to anyone who would like to see what is still not going to be funded, assuming the stimulus package money is successfully utilized.

MR. STEVENS:
If you increase basic support to the FY 2008-2009 level before the textbook reduction, it would be in the range of $325 million. That does not count anything related to teacher incentives, remediation or any of those items.

COCHAIR HORSFORD:
If the cuts to Higher Education were not that drastic, would we have the FMAP dollars available to expand services in that program? It seems that we are being forced into using the FMAP funds to shore up the budget because of the severity of the cuts to Higher Education recommended by the Governor. Am I correct in that assumption?

MR. STEVENS:
I believe that assumption is correct. To the extent that the Governor's recommended General Fund amounts for Higher Education increased, that would reduce the amount of the MOE. That in turn would reduce the amount of FMAP savings needed to shore it up.

COCHAIR HORSFORD:
Under that scenario, what could the FMAP funds be used for? Because of slow growth and other issues, we had planned to increase services to Health and Human Services.

MR. STEVENS:
The FMAP is an increased federal share. That frees up General Fund money which means the FMAP savings can be used for any purpose.

COCHAIR HORSFORD:
Is that because we went from 50 percent to 58 percent?

MR. STEVENS:
We actually went to 63.93 percent. The Governor had anticipated a 58-percent FMAP.

COCHAIR HORSFORD:
Are there any other scenarios whereby Higher Education can receive their MOE, but the increased FMAP allocation can be considered for dedication to those health programs for expansion?

MR. STEVENS:
You have to have the MOE requirement. You have a few choices: One, you can request a waiver and it would have to be granted. That would eliminate the MOE requirement. Two, the State would have to come up with support up to the FY 2005-2006 level which is in the range of $250 million to $260 million for that 2-year period. You could do it with the General Fund, except there is no General Fund unless we cut the budget further or additional revenues are generated. Three, you could use the FMAP savings.

COCHAIR HORSFORD:
Could you repeat for me the MOE amount?

MR. STEVENS:
The MOE amount is still being calculated. We are assuming it is about $127.9 million in FY 2009-2010 and about $131 million to $132 million in FY 2010-2011.

SENATOR RAGGIO:
If the waiver is not granted, does that apply to the MOE requirement for the FY 2005-2006 level of funding? Is that what the waiver would obviate if granted?

MR. STEVENS:
I believe it would.

SENATOR RAGGIO:
There is a second requirement that pertains to the higher of the FY 2007-2008 or the FY 2008-2009 budgets. Does the waiver apply to that also?

MR. STEVENS:
No. First you must meet the MOE requirement, and after that you can access the stimulus package funds.

SENATOR RAGGIO:
But to access the other funding would require the budget be at the higher of those two levels. Is that right?

MR. STEVENS:
Then you take the stimulus package money and calculate between FY 2005-2006 and FY 2008-2009 the amount of money it would take to get to the FY 2008-2009 level without reduction. If there is not sufficient stimulus package money, then you have to proportionately allocate that between K-12 and Higher Education based on their share of what would get them to the FY 2008-2009 level.

ASSEMBLYWOMAN BUCKLEY:
I believe Senator Horsford is correct. If the Governor had not requested a cut of 36 percent in the Higher Education budget, some of the stimulus package money could be used to put back a number of the proposed cuts in Health and Human Services. Some of those items include restoring funding for the personal care assistants, the pediatrician and obstetrician/gynecologist rates, the Indigent Accident Fund, the Mental Health Budget, the DCFS budget and the autism program. All these cuts represent extreme hardships.

At this point, we have a choice. If we want to draw down the education stimulus money, we have to put the freed-up General Fund money into the MOE. The only other options are to either get a waiver or let the education stimulus money go. Certainly, the health care advocates are going to say some of this money needs to be used for health care add backs. Those are the decisions we have to make if we are to present a balanced budget that does not set Nevada back 40 years.

ASSEMBLYWOMAN GANSERT:
In the original budget, I understood there were some MOE requirements for the FMAP. Is that why the budget was built at that level?

MR. STEVENS:
The *Executive Budget* was built at an FMAP of 58 percent, and we are going to get a little under 64 percent for that same period. When that FMAP goes away, we will have to build the FMAP at 50 percent state, 50 percent federal.

ASSEMBLYWOMAN GANSERT:
Do we not have minimum requirements for money we have to put into that system?

MR. STEVENS:
There is one section that was recommended for reduction in the *Executive Budget* that must be added back based on the stimulus package language. That is earned income disregards. The cost is $10.4 million over the biennium. There are some hazy areas that look like they will work themselves out. One is the Indigent Accident account, but it does not look like we will have to add that back in to get the stimulus package money. Another is the MOE requirement on the Stabilization Fund in the stimulus package.

ASSEMBLYWOMAN GANSERT:
For the original budget, were there minimums we need to meet to pick up federal dollars on these different programs we have?

MR. STEVENS:
Not that I know.

CHAIR ARBERRY:
We will now hear from K-12.

JAMES R. WELLS (Deputy Superintendent, Department of Education):
On Friday afternoon, we received our first guidance on the use of the stimulus package funds from the U.S. Department of Education (Exhibit F, original is on

file in the Research Library). This document lays out their assessment of the stimulus package's principles, goals and responsibilities.

I also have a presentation titled "The Department of Education" (Exhibit G, original is on file in the Research Library). Page 3 shows the allocation of funds for the Department. From Title I, we have $70,605,242 coming to the school districts, half under targeted grants and half under incentive grants. From our reading of the stimulus package, these are all funds for school year 2010 with a 27-month life attached to them. Usually Title I funds would be available July 1, but we are being told stimulus package funds will be available early and through September 30, 2011. Page 4 of Exhibit G shows a preliminary estimate of the allocation between the 17 school districts in Nevada.

Page 11 of Exhibit F talks about the requirements for the usage of Title I money. Page 12 shows how that money will be awarded. The first 50 percent of that money, Part A, will come under our existing Title I application. To receive the other half of the money, we have to provide an amendment to our application documenting how we will address the record-keeping and reporting requirements of the stimulus package. These funds are considered an addition to our normal federal fiscal year 2009 allotment, so they are available as part of school year 2010. We are encouraged to award these funds to the local education agencies (LEAs) as soon as possible. The Part A funds can actually go out before July 1. Similarly, the LEAs should use their funds expeditiously but sensibly. It is anticipated that 85 percent of these funds will be used between now and September 30, 2010, with any remaining funds available for the following 12 months.

Page 13 of Exhibit F talks about some requirements. Nevada must reserve 4 percent of its Title I funds for school improvement activities. The other key piece of this is there is no additional administration money for the Nevada Department of Education, despite the significant reporting and data-collection requirements associated with this money. Page 13 also talks about the uses of the Title I Part A recovery funds. They are supposed to be aligned with the core goals to save and create jobs and to advance school reform.

On page 14 of Exhibit F, there are some examples of potential uses of Title I funds such as establishing a system for identifying and training highly-effective teachers.

SENATOR RAGGIO:
The budget has proposed suspending all professional development programs. Would this money be available for reestablishing our professional development programs, or is it just for Title I usage?

MR. WELLS:
This is specifically for Title I teachers. There could be an argument for using some of this money to offset the amount that would need to be put into the Regional Professional Development Programs (RPDPs), but it would create some additional accounting at the RPDPs to make sure the money they get is being used specifically for Title I.

ASSEMBLYMAN GOICOECHEA:
Is this money going to get to the ground? I have some school districts that are really suffering. They are talking about laying off teachers. Is this going to keep that from happening? If not, how do we get there?

MR. WELLS:
We are supposed to receive the initial funding by the end of this month. These funds are specific to Title I schools. If there are teachers at Title I schools who are going to be laid off, yes, this would help. As far as backfilling for non-Title I teachers, these funds will not help.

ASSEMBLYMAN GOICOECHEA:
They are not all Title I teachers. When we start talking about laying off 15 to 20 percent of the teachers in a district because of where we are between the 2-year hold-harmless provision and the 1-year hold-harmless provision, it is a big issue in a small school district. I am trying to find out where we are going to get these dollars, stimulus package or otherwise, to fill that hole.

MR. WELLS:
The stabilization money will start to put back some of the funds into core basic-support services. There are a couple of requirements we will discuss when we get to that topic. The 2-year hold-harmless provision versus the 1-year hold-harmless provision is a State law.

ASSEMBLYMAN GOICOECHEA:
I am aware of that, but it does not help.

ASSEMBLYWOMAN BUCKLEY:
Assuming K-12 receives 67 to 70 percent of the stimulus package funding, what is the hole still going to be? Do we have a number? If staff can get that number, it will show us what the stabilization will cover and what is still a shortfall. It is then our job to prioritize and say, again, what we can cut and what we cannot. A 20-percent layoff of teachers in a single district is not acceptable; we cannot do that to a community.

SENATOR RHOADS:
On page 4 of Exhibit G, how is this money calculated? You show Nye County receiving $568,178 and Lander County receiving $48,196. Is this based on the area or the population of the county?

FRANKIE MCCABE (Special Education, Elementary and Secondary Education and School Improvement Programs, Nevada Department of Education):
The grants are formula driven for both IDEA and the Title I funding. The federal government gives us the formula, and for Title I it is based on poverty levels. When you see more significant funding, there is more significant poverty of students in that district.

SENATOR RHOADS:
That seems like an extreme jump, from $568,000 to less than $50,000 for two rural counties that are pretty much identical. I question those figures.

MS. MCCABE:
We use the figures from the free and reduced-price lunch program count to determine the poverty level for Title I eligibility.

ASSEMBLYWOMAN SMITH:
The criteria laid out in Item B relate directly to the department budget rather than the money going to the school districts. Are we able to move money from one place to another, and then use stimulus package money where we would have used the other funding?

MR. WELLS:
We will talk about the assurances, but you are correct. Almost all of the assurances for the stabilization money come from the Department of Education. They are not assurances that come from Higher Education. There are quotes throughout Exhibit F stating there will be additional guidance on what the Department will do to alleviate some of the burden this data collection and reporting is going to place on them. They have been unclear on that except to say there will be no more administration money out of this.

ASSEMBLYWOMAN SMITH:
If, for example, we needed to put money into the System of Accountability Information in Nevada to get to their item that requires a good tracking system, that is not money that goes to the districts. That is money that goes to the Department. Are we able to move funding to make those things happen so we can get stimulus package money into the districts and into the classrooms?

MR. WELLS:
We do not believe we will be able to take Title I funds and use them in a manner that would free up other funds. We believe they all have to go out to the local districts with the exception of whatever guidance is forthcoming on the reporting requirements.

ASSEMBLYWOMAN SMITH:
Could you use Title I funds for the RPDPs, the remediation trust fund or full-day kindergarten in Title I schools? Can we rearrange some of that to get the best bang for our buck with this stimulus package money?

MR. WELLS:
Those are the same discussions we have had internally: whether we could use some of these monies, for example, to continue the remediation programs at Title I schools, thus not requiring the total amount of remediation funds we identified in FY 2008-2009. As long as they are instructing teachers and administrators from Title I schools, I do not see anything that prohibits us from using those funds for that purpose.

ASSEMBLYWOMAN SMITH:
Is the same thing true for special education?

MR. WELLS:
I believe so.

MS. MCCABE:
I want to clarify these are grants that go directly to school districts. We have been talking about how we could creatively pair some of these funds with some of the initiatives already going on in Nevada. However, these are funds the State does not control. We flow these funds through to the districts.

COCHAIR HORSFORD:

> I need to be clear on this on the record. One is, what assurances does the Department make that the funds for Title I students get to that student? We keep talking about the districts, but what assurances and guarantees does the Department have that the funds that are allocated to the district get allocated to the schools from where these students qualify?

MS. MCCABE:
We would use the same process we use now. The districts determine Title I-eligible schools and Title I eligibles served. It is based upon poverty count with guidance and guidelines from the U.S. Department of Education. When they turn in their budgets to us, we have to make sure those schools do indeed qualify for utilization of those funds. The funds that flow to the school districts now go to Title I-eligible served schools. It is based on the district's declaration of the poverty count at that particular school. We cross-reference that with the data we receive for free and reduced-price lunch program counts at the Department.

COCHAIR HORSFORD:
Do you follow up on that data, or do you just rely on the information they provide? Is there an audit of those records to guarantee the funds, as proposals get to those schools? I hear from principals and teachers in underserved Title I schools that the allocation of funds to their schools, as proposed by the district, is not the same. I want some assurances, before we give $60 million to the Clark County School District for Title I, that the money is going to those Title I schools and the students who need those programs the most.

I am also concerned about this discussion of using the money for programs that already have State funding. I do not want the stimulus package funds to supplant where we have had State funding in the past. This is one-shot money. What do we do when these dollars go away? I want to be very clear on this.

MS. MCCABE:
We monitor Title I districts with our staff, every district, every year. We have an electronic grant system where we can monitor their expenditures and see where the funds are going. If you receive concerns through your office, we would invite you to involve us. We are in every district every year to make sure funds are spent in the manner they are supposed to be spent.

With regard to how the stimulus package funds would be spent, you have all the information we have received. We are hoping to get clarification. The manner in which these funds can be spent, as identified by the U.S. Department of Education, is consistent with how Nevada has chosen to spend funds in the past. Examples include mentors for principals who might need it in a Title I school and coaches for reading and math. We have utilized State funds for all of those activities in the past. If those State funds go away, these are certainly permissible uses of these funds, according to the guidance we have been given.

COCHAIR HORSFORD:
Before we decide how to use the stimulus package funds, we need to have a robust discussion about how we preserve those programs when the stimulus package funds go away. Let us not just use the stimulus package funds to fill a hole that will still be there when the stimulus package fund runs out.

MS. MCCABE:
We agree.

ASSEMBLYMAN GOICOECHEA:
It is my understanding that Title I grants to LEAs would be disbursed in the order shown on page 4 of Exhibit G. If that is correct, the troubled districts I have, even if they could get the Title I grant, would only be able to hire one teacher.

MR. WELLS:
That is a preliminary estimate, but we believe it will be relatively close to the allocations.

ASSEMBLYWOMAN SMITH:
We have a hole to fill, one way or another. Right now, the *Executive Budget* proposes to cut most of the Remediation and Innovation Trust Fund. If we do not restore any of that, they are gone anyway. It seems we are cycling through the same problem. Either we do not have the money now, or we will not have the money when the stimulus package funds are gone.

With regard to the hold-harmless provision, that hole in the budget has nothing to do with our funding situation. It is all about student enrollment and the hold-harmless provision. Could you clarify that? Getting more money is not going to fix that particular problem.

MR. WELLS:
What the hold-harmless provision does is figure a district's funding based on the greater number: students enrolled this year or students enrolled in the immediately preceding year. If enrollment falls by more than 5 percent, it is the greater of this year's enrollment and the enrollment of the previous two years. This is a response to declining student enrollment, and 13 of our 17 school districts are experiencing this. This budgetary hole has nothing to do with declining enrollment.

ASSEMBLYWOMAN SMITH:
With regard to the competitive money, it seems with the Innovation and Remediation Trust Fund programs, our districts should be well positioned to bid and apply for those grants. They have already had these grants going on now for four to six years. What is the process, and how are we going to make sure we are providing everyone with good information so they can be ready to apply for these grants?

MR. WELLS:
We will touch on the two big Competitive Grant Programs. As far as I know, the U.S. Department of Education is putting out very little guidance on the applications for those programs at this point.

There are provisions in both IDEA and Title I regarding supplement and not supplanting provisions. Those are not being waived for either of those two programs, so we have to be cautious about our use of these programs. We are having internal discussions about what this means, especially in light of the fact that some of these programs are being eliminated and whether or not that constitutes supplanting.

Page 5 of Exhibit G talks about Fiscal Stabilization Funds. That page notes $324,404,728 goes to education. The bottom half of the page discusses reporting requirements for stabilization money, including how we use and distribute the funds; how many jobs we create or save; tax increases we avert; progress reducing inequities in distribution of highly-qualified teachers; tuition and fee increases in Higher Education and action taken to limit increases; changes in Higher Education enrollment; and a description of modernization and renovation projects.

Page 6 of Exhibit G discusses the assurances we must make. Most of these funds are tied to improving the equity in teacher distribution between high-poverty and low-poverty schools, improving the collection and use of data for a K-16 Longitudinal Data System, enhancing standards and assessments and supporting struggling schools identified for corrective action and restructuring.

Pages 7 and 8 of Exhibit G list two competitive funds in the stabilization money. These are funds set aside at the federal level for two competitive programs. The first is $4.3 billion and is called "Race to the Top." Basically, these are grants to states to drive substantial gains in student achievement by supporting states making dramatic progress on the four assurances on page 6. There will be two rounds of grants, one in the fall of 2009 and one in the spring of 2010. The second competitive grant is $650 million and is called "Invest in What Works and Innovation." These grants go to organizations that significantly close achievement gaps between groups of students, exceed measurable objectives for two or more consecutive years, make significant improvements in other areas such as graduation rate or recruitment of high-quality teachers, or establish private-sector partnerships and matching funds.

ASSEMBLYWOMAN SMITH:
Do we know whether these grants are going to districts, departments or individual schools?

MR. WELLS:
We do not have any specific guidance on that. Most of this money comes to the Department of Education.

Page 9 of Exhibit G talks about the reporting requirements. If we accept Title I funds, by December 1, 2009, every school district must report per-pupil spending at every school to us, and we must compile that information and send it to the U.S. Secretary of Education by March 31, 2010. We are in discussions now about the potential use of the In$ite school financial analysis program to collect this data. I will let you know as soon as we have a definitive answer as to whether that will work for us.

COCHAIR MATHEWS:
What do you mean by "whether that will work for us"? You have to submit the data by March 31 regardless.

MR. WELLS:
The In$ite timelines are not as strict as the requirements for the U.S. Department of Education.

COCHAIR MATHEWS:
We will try to make that work for you, and you will try to make it work. Is that right?

MR. WELLS:
Yes. That is what the discussions are about.

MS. MCCABE:
We also have an electronic grant system we use for our Title I schools. We are now in discussions to see if we can collect this data through the electronic grant system. We will collect the data, one way or another. We are exploring different options now.

COCHAIR MATHEWS:
I want to make sure it was working for the children. We will make it work for the rest of us.

ASSEMBLYWOMAN SMITH:
We have an advantage because we have In$ite in place, and hopefully it will answer the questions. Are they providing funding if you do not have data tracking? That is expensive. I know this is an awkward question, but we cannot find out if we do not have the means to collect the data.

MR. WELLS:
There are very little administrative funds for the Department throughout this entire package.

ASSEMBLYWOMAN SMITH:
That means we need to make In$ite work.

MR. WELLS:
Correct.

Page 10 of Exhibit G describes the small School Lunch funds to purchase equipment. The total allocation is about $100 million, and the allocation to Nevada is about $608,000. This must be granted to school food authorities which are primarily school districts. Allocation amounts and guidance on this program are still forthcoming.

Pages 11 and 12 of Exhibit G touch on a couple of bond programs that are part of the stimulus package under the U.S. Treasury. There is $11 billion in qualified school construction bonds. My understanding is these are based on Title I allocations, with a small caveat that 40 percent of that $11 billion goes to the 100 largest, poorest school districts in the country. In size, Clark County is ranked about 6 and Washoe County is in the high 50s, but I do not know how they will rank in poverty levels.

Pages 13 and 14 of Exhibit G talk about a Qualified Zone Academy Bond (QZAB) program. This program has been in existence for a while. The Department has received and allocated most of the historical money for these programs. It is a zero-interest bond program the school districts can access for renovation projects and such things as buying computers. There are some restrictions, but funding for this program has increased substantially, from $400 million to $1.4 billion. We would expect Nevada's allocation to increase proportionately.

Going back to stabilization, page 7 of Exhibit F touches on how this money is going to be awarded. It will be awarded in two phases. To get the initial allocation, we must submit an application providing four things: the assurances we talked about, baseline data on those assurances, how the funding will be used and the MOE. The U.S. Department of Education believes we have met the MOE requirements for 2006. Within 2 weeks of receipt of an approvable application, they should send us 67 percent of our stabilization allocation. We will get the remaining 33 percent when they approve our plan to meet the objectives described in the assurances. They are telling us now that guidance on completing applications will not be available till the end of the month, and I believe the first application is to be submitted in early April. They are hoping to release the funds for the first phase in early April and for the second phase starting in early July.

COCHAIR HORSFORD:
With regard to the QZAB program which schools qualify? Does that include charter schools?

MR. WELLS:
We have never had a charter school apply for the QZAB program. I do not know if they qualify. We will look into it.

COCHAIR HORSFORD:
They may not know about it.

MR. WELLS:
They would still have to meet the requirement that 35 percent of the student body is on a free- or reduced-lunch program. That could be part of the problem, since a lot of the charter schools do not provide a school lunch program.

COCHAIR HORSFORD:
They would qualify based on how we initially passed that legislation.

MR. WELLS:
They would have to have students and parents fill out and submit the applications.

COCHAIR HORSFORD:
I know the Andre Agassi College Preparatory Academy has done that. We should at least let them know about the possibility. This is an important program and could be helpful. I would appreciate it if you could get more details for the Subcommittee.

MR. WELLS:
Certainly.

ASSEMBLYWOMAN SMITH:
Can a charter school do this process on its own, or does it have to go through the school district? I would like to continue to work on this.

MR. WELLS:
Page 9 of Exhibit F includes discussion of the usage of the stimulus package funds by the LEAs. It is primarily for any activity under the Elementary and Secondary Education Act of 1965, the IDEA, the Adult Education and Family Literacy Act, or the Carl D. Perkins Career and Technical Education Act of 2006.

CHAIR ARBERRY:
We will now go to the presentation by the Nevada Department of Transportation (NDOT).

SUSAN MARTINOVICH, P.E. (Director, Department of Transportation):
I have written testimony (Exhibit H) explaining NDOT's access to the stimulus package funds. The stimulus package provides $27.5 billion nationally to transportation. Of that, Nevada's share is approximately $201 million, allocated in sub-allocations with NDOT receiving approximately $140 million, Clark County $39 million, Washoe County $9 million, enhancements $6 million and areas less than 200,000 and more than 5,000 approximately $7 million.

One condition of the stimulus package was to make sure funds have an immediate impact to give our economy a jolt. Fifty percent of the NDOT's sub-allocation must be obligated within 120 days. That equates to $70 million of projects. In this context, what obligation means is that all the certifications need to be accepted and the money encumbered through the Federal Highway Administration (FHWA).

The stimulus package gives priority to projects meeting specific criteria, including completion by February 2012 and location in economically-distressed areas. A current map we saw which is incorrect, identifies only five counties in Nevada as economically distressed. We have been working with the U.S. Department of Transportation and the congressional delegation, and we feel all the counties in Nevada fit the category, especially given our unemployment rates and the challenges we currently face. We do not think this is an issue; we just need to justify it and provide background as to why we selected those projects.

The other criteria is that the projects can be started and completed expeditiously. The projects eligible under this criterion have to be those doing restoration, repair and construction that are normally eligible under the federal surface transportation program. What that means is the project's scope must include a structural improvement to the pavement with no seals or general maintenance activities; the project must be environmentally cleared under the National Environmental Policy Act (NEPA); it must be certified for right-of-way ownership; and it must be on a statewide transportation plan. The projects chosen under Nevada's allocation were projects that have gone through an established process and are either on the interstate or on the national highway system. There is also an MOE letter the Governor will need to sign; it basically states NDOT will still proceed with our program at levels we had planned. That letter is due March 17. A subsequent letter, due on April 3, certifies the funds will be used to create jobs and promote economic health.

We have worked with our local metropolitan planning organizations, Washoe Regional Transportation Commission (RTC) and the RTC of Southern Nevada. We have talked to the Nevada League of Cities (NLC) to develop a list. We have still not finalized the National Association of Counties (NACO) and NLC projects and are still working with the local RTCs on their priorities. We will be making a presentation this afternoon to a joint meeting of the Assembly Committee on Transportation and the Senate Committee on Energy, Transportation and Infrastructure. On Thursday, the RTC of Southern Nevada is adopting their project list at a commission meeting, with the NDOT meeting on the following Tuesday. Any feedback I receive from the Legislature and the local RTCs will be passed on to the Board for adoption.

Our plan is that we are looking to advertise the projects and start them as early as next week. The current project list was developed based on the above parameters. The financial distribution of the funds is approximately 54 percent to Clark County, 14 percent to Washoe County and 32 percent for the rest of Nevada. Most of the projects are pavement preservation projects, and they are ready to go. We have an existing backlog of $500 million to $600 million. By being proactive on pavement preservation, we get a return of almost four to one on the money.

There is a large reporting requirement for the projects. We are waiting for guidance on this. In the interim, we are required to have contractors and subcontractors provide monthly numbers on existing staff, newly-hired staff and hours and wages. We also need to report to the local FHWA office on money allocated and spent.

The stimulus package also talks about disadvantaged business enterprises (DBEs), and we are working with FHWA to get more guidance on this. We also met with Senator Horsford last week to find ways to facilitate getting DBEs into these projects.

CHAIR ARBERRY:
As Ms. Martinovich noted, she will be attending a joint meeting of the Assembly Committee on Transportation and the Senate Committee on Energy, Transportation and Infrastructure this afternoon and giving them a much more detailed presentation.

ASSEMBLYWOMAN SMITH:
When you speak of preservation projects, are those overlay projects like repaving?

MS. MARTINOVICH:
Yes. That is primarily what they are: mill and overlay projects, with some safety enhancements.

ASSEMBLYWOMAN SMITH:
Did you weight the amount of people employed on preservation projects versus actual construction projects?

MS. MARTINOVICH:
Yes, but it is a little complicated. Construction projects had to be NEPA compliant, so they are still in the pipeline and not ready to go. Also, those projects tend to be costly, hundreds of millions of dollars. We had a project in Las Vegas that is on the list and could be ready to go, but it would use all the money. What we tried to do was distribute the money to a lot of projects statewide. One of Washoe County's priorities was the Meadowood Interchange, and that is a capacity-improvement type of project. There are some other projects we have identified that provide a balance of capacity where we can widen shoulders with some operations projects that are not being funded with the stimulus package. With our regular federal allocation, that will follow quickly behind. Pavement preservation projects have a lot of diversity in them. Not only do you have the contractors and the paving operations, but you still have signing, striping, guard rails and bridges.

There is additional discretionary funding that could be available. There is $1.5 billion available nationally for projects ranging from $20 million to $300 million. We intend to apply for those larger-capacity projects mentioned by Assemblywoman Smith, specifically on Interstate 15, U.S. 95 and U.S. 395 in Washoe County.

ASSEMBLYWOMAN SMITH:
Is there any MOE requirement on these highway projects?

MS. MARTINOVICH:
Yes. We have to commit that we will still spend the amount of money we would have spent anyway. That is definitely not an issue for NDOT. It was part of our budget, and we still have projects ready to go to spend our budget. We do not need to find new money; it was funding we were obligated to spend anyway.

ASSEMBLYMAN HOGAN:
You mention that the criteria for the discretionary grants has not yet been set forth. Is it your understanding these grants could be enhancements of the projects, or could they allow for training the workforce to help us meet the needs of this large burst of construction?

MS. MARTINOVICH:
I believe it is the broader definition. There is opportunity in some of the initial criteria we have seen, that it is not just a highway project. There would be the transit component, there would be other components of a corridor, and definitely putting people to work. I think they would be more favorable if all those components and the broader picture are able to be identified and addressed by the states.

ASSEMBLYMAN HOGAN:
Is there a mechanism to let the citizens help decide which projects are undertaken? With a minimum of $20 million, there is a potential for some large grants. We do not usually get that much for training.

MS. MARTINOVICH:
Yes, that is a great idea.

CHAIR ARBERRY:
We will now have a presentation from DETR.

CINDY JONES (Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation):
I can answer Senator Coffin's question regarding debit cards, if you would like.

SENATOR COFFIN:
Please do. I would also like to have any information you have about the report of the Governor not wanting to capture additional unemployment funds.

MS. JONES:
The debit card program which was initiated a year ago last fall, allows unemployment benefits to be paid through a debit card system. Over 94 percent of our claimants receive payments using that methodology, and that is approximately 91,000 people a week. Implementation of that system has allowed Nevada to save approximately $1 million in administrative costs that would otherwise be dedicated to postage, printing of checks and envelopes and so on. The result is we can use those funds for other purposes such as hiring staff to answer phones in the call center. Claimants have a variety of ways to access the funds on the debit cards free of charge. They can pull money from the cards free of charge at any bank that accepts Visa. They can also use the cards at retail establishments that accept Visa to pay for purchases and get cash back. Claimants are also allowed two free ATM withdrawals a month at Wells Fargo or 7-Eleven ATMs. If they choose to access funds through a different ATM or more than twice a month, they can realize a fee of about $1.25 per transaction.

SENATOR COFFIN:
Will they also get dinged by their home bank for using these ATMs?

MS. JONES:
No. With regard to your second question, no decision has been made by the Governor on whether to accept those funds. I would imagine we will have more information on that after this week's meeting in Washington, D.C.

SENATOR COFFIN:
Is there still a possibility that we will not accept funds for unemployed Nevadans?

MS. JONES:
The funds are stimulus package funds that would be deposited in the trust fund. It would not affect the benefits payable. It only affects the trust fund balance in the long run.

ASSEMBLYWOMAN BUCKLEY:
The Assembly Committee on Commerce and Labor heard a good deal of testimony on this. The key question we wanted answered was how many people would be affected by the alternate base period. I think it was between 2,000 and 10,000, and we are still waiting for the final number and the cost. In my mind, it makes absolute sense to accept the stimulus package money for unemployment because so many people are out of work in Nevada. The economy will turn around; in the meantime, we want to get help to our citizens in need. We wanted to get the final numbers so we could do a cost-benefit analysis. My preliminary math shows the stimulus package money more than makes up for any potential increase in benefits, and I think it would last us eight years. My preliminary figures show there would be no increase in cost to employers because by then the economy will be expanding.

ASSEMBLYMAN HARDY:
I need details on how unemployment insurance works. Does Nevada have a price to pay versus the private insurance funding of that? What is the amount a family of four with one or two people unemployed get? Does the debit card share with the SNAP program?

MS. JONES:
The SNAP program is a separate program run by the Department of Health and Human Services. How their debit card program interacts with vendors I do not know. With regard to unemployment benefits, they can range from $16 to $393 per week for each unemployed worker. That is regardless of dependents, since Nevada does not have a dependent's allowance on the program. If there were two workers unemployed in the family, it would be twice that amount. Benefits are calculated as a function of the money earned by the worker during the base period which is the first four of the last five completed quarters. The longest period a worker can receive benefits is 26 weeks, or 33 percent of their earnings, and the weekly benefit amount is 4 percent of the highest quarter wages. No State funds are involved in the payment of unemployment insurance benefits. They are paid through State Unemployment Tax Act funds. This tax is paid by employers on employee wages.

ASSEMBLYMAN HARDY:
Private employers obviously are trying to figure this same thing out for them as far as rehiring the person or starting a new business and trying to determine how to get that into their business pro forma.

MS. JONES:
The tax portion of it gets quite complicated. Whether their experience rating with the unemployment insurance tax will follow them or not depends on the transfer of assets, transfer of ownership and transfer of business. If someone were to close one business and open a similar one, their experience rating follows them. Tax rates can run anywhere from 0.25 percent to 5.4 percent for the average tax. A new employer tax is 2.95 percent. All states are required to have an experience-rated system in which the risk to the fund is reflected in the rate the employer pays in unemployment insurance.

I have a presentation regarding DETR's assessment of the impact of the stimulus package (Exhibit I, original is on file in the Research Library). Page 2 notes the stimulus package extends the period during which a worker can apply for extensions on unemployment benefits. There are two federal extensions currently available that add up to 33 weeks. The stimulus package does not add additional payable weeks; it simply extends the time to apply for an extension.

Page 3 of Exhibit I discusses the $25 additional benefit. We are working diligently to implement that extra payment. It has some peculiar twists and turns in the requirements, so we are essentially having to create a stand-alone system to get those payments out. Once we get it implemented, anyone who received a payment back to the week of February 22, 2009, will receive an additional $25 for each week they were paid unemployment benefits.

Page 4 of Exhibit I notes that as a result of Nevada's economic conditions, the State Extended Benefits program was triggered on February 22, 2009. This makes an additional 13 weeks of benefits available. With the federal extensions, this makes possible a total of 72 weeks of benefits. The stimulus package provides the opportunity for states to receive 100-percent reimbursement for the State Extended Benefits Programs based on certain triggering mechanisms. Nevada has gone back and forth with the U.S. Department of Labor, and they believe we qualify. There was some discussion in the Assembly Committee on Commerce and Labor of changing the trigger by which we could add an additional 7 weeks of benefits for a total of 79 weeks. We are looking at the cost of that.

I wanted to make one point we discovered last Friday. When it comes to the 100-percent reimbursement of the State Extended Benefits, the stimulus package will only pay for experience-rated employers. There are two types of employers: experience-rated employers, who have a tax rate assigned to them, and reimbursable employers, who are those who are basically self-funded. Only certain types of entities can choose to be a reimbursable employer, and those are typically states, municipalities, local governments and nonprofit organizations. Nevada employers, whose previous workers would have an opportunity to access those additional benefits, would be 100-percent federally funded. Reimbursable employers would have to bear those costs themselves.

We have been delving into the numbers. The amount of claims Nevada pays as an employer could increase by $400,000 to $600,000 over the $2 million we pay now. Those costs are spread to other State agencies by an assessment of the Department of Personnel.

ASSEMBLYMAN CONKLIN:
Is that amount over the biennium?

MS. JONES:
That would be to the end of the calendar year.

ASSEMBLYMAN CONKLIN:
If it were $600,000 for the rest of this calendar year, that would be $300,000 in this fiscal year and $300,000 in the next fiscal year. Is that correct?

MS. JONES:
Yes.

ASSEMBLYMAN CONKLIN:
Would that be from the General Fund?

MS. JONES:
About a third of the State's budget is General Fund, so a third of that number would come from the General Fund.

ASSEMBLYMAN CONKLIN:
We would pay roughly $100,000 in each fiscal year to get access to $77 million. Is that right?

MS. JONES:
The 7-week extension is not related to the $77 million. The amounts we have been discussing are related to the alternate trigger that would add seven weeks of unemployment insurance benefits.

ASSEMBLYMAN CONKLIN:
What is that amount?

MS. JONES:
We expect we could access approximately $200 million in benefits available to unemployed Nevada workers.

ASSEMBLYMAN CONKLIN:
Based on our previous discussions, studies estimate the multiplier in terms of economic effect is 2.15. That means roughly $450 million of economic activity for a payment of $100,000. That's a bargain.

MS. JONES:
I agree.

Page 6 of Exhibit I describes the opportunity for states that must borrow money to pay unemployment benefits to do so interest free through December 2010. That will be good for Nevada because we will go into the red by the end of this calendar year.

Page 7 of Exhibit I describes the temporary suspension of federal income taxes on the first $2,400 of unemployment benefits for each recipient. This will be handled through federal income tax and has no impact on how business is conducted or benefits are paid.

Page 8 of Exhibit I gets into the Unemployment Insurance Modernization Act. That is the $76.9 million to which Nevada may have access to deposit in its unemployment trust for benefit payments or other investments in its Unemployment Insurance Program. To access $51 million of this money, states have to implement two of four optional provisions that are shown on page 12. Nevada currently has two of these provisions in place. First, benefits are allowed if a claimant limits his or her work search to part-time work. Second, benefits are allowed if a claimant quits work for compelling family reasons.

However, to get that $51 million, we have to implement what is called the alternate base period. That is where if a claimant did not have enough wages to qualify for benefits in the normal base period (the first four of the last five completed quarters), a change in the law would allow us to look at their earnings in the most recently completed quarter. The intent is to make more people eligible for benefits. Our most recent rough projections are that between 11,000 and 23,000 additional claimants will be eligible by the end of December 2009 depending on the participation rate. We are narrowing it down to an increase between 3 and 5 percent in the number of those who would be eligible. This is described on page 13 of Exhibit I.

CHAIR ARBERRY:
On page 9 of Exhibit I, it states: "Statutory changes and permanent program expansion is [sic] required in order to access these funds." Do you have a bill you are requesting to move on this?

MS. JONES:
A bill draft request (BDR) has been submitted with the budget bills, along with a decision unit requiring funding for staff and programming to implement this. It was intended to be a placeholder so we could begin this discussion.

As shown by the graph on page 14 of Exhibit I, it appears that at the lower participation rates, the stimulus package funds will pay for the first eight to nine years of the expanded benefit payments resulting from the alternate base period. If we have a higher participation rate, the funds will not last as long. If our claimant base increases by 6 percent, the funds will only last 3 years. If it increases by 3 percent, they will last 8 to 9 years. It will probably fall somewhere in between those two.

ASSEMBLYWOMAN BUCKLEY:
Based on your experience, if the funds last four years and the economy turns around in two years, it is conceivable that no increase in the assessment will be needed and the increase will be covered by growth in the number of participants. Is that true?

MS. JONES:
That is true, yes. In the point in the business cycle where we begin collecting more than we pay out, the extra could be absorbed. Unemployment rates are quite fluid over time, and by 2014 or 2015 our participation rates could be down to 5,000 to 10,000 rather than 11,000 to 23,000. That impact will be smaller over time. The greater impact will be during periods of economic difficulty when the unemployment rate is high to start with.

ARDELL GALBRETH (Deputy Director, Department of Employment, Training and Rehabilitation):
I have a handout (Exhibit J) explaining the Workforce Development Economic Stimulus Implementation Plan. We expect to receive notice of obligation of the funds on March 19, and we do not anticipate any delays. The funding allocation of which we have been notified is $7,570,211 for youths, $3,392,179 for adults, $14,311,733 for dislocated workers and $3,471,160 for Wagner-Peyser funds.

COCHAIR HORSFORD:
On page 20 of Exhibit I, it shows that $500 million is designated for worker training in energy efficiency and renewable energy industries. Is that based on a formula allocation? If so, how much is Nevada getting?

MR. GALBRETH:
No. Those are competitive grants. We will be able to apply for those grants, and they will be allocated based on the proposal we submit.

COCHAIR HORSFORD:
With regard to youth employment, with the high overall unemployment, it will be harder than ever to place older youth in employment. Are there some strategies to develop those jobs? I do not see a lot of employers having jobs available, even through the federal government is providing this additional funding.

LARRY MOSLEY (Director, Department of Employment, Training and Rehabilitation):
We are partnering with Clark County in a program specifically geared to juniors and seniors to place them in intern programs. In addition, we are having conversations with Dr. Bill Sullivan at the University of Nevada, Las Vegas, regarding internships for young people there. There will also be a collaboration of community-based and faith-based organizations to provide mentoring, tutoring and community service. That may include installing energy-efficient light bulbs for senior citizens.

ASSEMBLYWOMAN SMITH:
On the formula grants, there is 15 percent set aside. How is that used, and what budget is that in?

MR. GALBRETH:
Those funds are used for statewide activities or discretionary use for the Governor's Workforce Investment Board. What we normally would do is solicit proposals from different agencies throughout the State to make sure the use of those funds serves those particular workforce needs in different areas.

CHAIR ARBERRY:
Are there anything further matters to come before the Committee? Hearing none, I will adjourn this meeting at 10:57 a.m.

RESPECTFULLY SUBMITTED:

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Lynn Hendricks,
Committee Secretary

APPROVED BY:

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Senator Bernice Mathews, Cochair

DATE:______________________________

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Assemblyman Morse Arberry, Chair

DATE:______________________________