

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

**Seventy-Fifth Session
February 4, 2009**

The Joint Assembly Committee on Ways and Means and the Senate Committee on Finance was called to order by Chair Morse Arberry Jr. at 8:08 a.m. on Wednesday, February 4, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Marcus Conklin
Assemblyman Mo Denis
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 Ocegüera
Assemblywoman Debbie Smith

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

GUEST LEGISLATORS PRESENT:

Senator Randolph J. Townsend, Washoe County Senatorial District No. 4

STAFF MEMBERS PRESENT:

Gary Ghiggeri, Senate Fiscal Analyst
Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst



Tracy Raxter, Principal Deputy Fiscal Analyst
Brenda J. Erdoes, Legislative Counsel
Linda Blevins, Committee Secretary
Vickie Kieffer, Committee Assistant

Chair Arberry called the meeting to order and recognized Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau.

Mr. Stevens distributed [Exhibit C](#), a comparison of two versions of the federal stimulus package. He explained that the table listed the categories of funds included in the stimulus bill now being considered in the U.S. Senate and in the bill which had passed the House of Representatives.

Mr. Stevens also provided an analysis from the Center on Budget and Policy Priorities ([Exhibit D](#)). The document provided a short explanation of the major funding categories within each of the federal stimulus bills, how they were calculated, and what they could be used for. [Exhibit D](#) also identified the state-by-state allocations from each of the measures.

Chair Arberry requested the Committee members work with the Fiscal staff regarding the federal stimulus package. The bill was voluminous and was not finalized. Fiscal staff was working to digest the information as quickly as possible and would provide information to the Committee as it became available.

Chair Arberry acknowledged the presence of Senator Randolph Townsend.

DEPARTMENT OF HEALTH AND HUMAN SERVICES STIMULUS PLAN REVIEW

Michael J. Willden, Director of the Department of Health and Human Services (DHHS), distributed a Summary of Impacts of HR 1—American Recovery and Reinvestment Plan (ARRP) ([Exhibit E](#)) and Federal Medical Assistance Percentage (FMAP) Scenarios ([Exhibit F](#)). He advised that the DHHS had been attempting to keep in close contact with various organizations regarding the federal stimulus bill and what the bill meant to the DHHS. He cautioned the Committee to carefully review all of the information in the federal stimulus bill because the language indicated much of the money was to be used to supplement and not supplant state funds.

According to Mr. Willden, there were many Maintenance of Effort (MOE) issues addressed in the bill. There was a key section on Medicaid eligibility, methods, and standards which required the DHHS to return to September 2008 eligibility and standards. Federal guidance had not been issued, but the DHHS had been advised that, in some cases, plans would have to be submitted before funds were released. He pointed out there would be reorganization issues, particularly surrounding eligibility. Certain service-delivery systems had been shutdown over the past year because of the downturn in the economy, and significant issues relating to the restart of these systems would have to be addressed.

Mr. Willden began the presentation of [Exhibit E](#), page 1, Aging Services Division, noting the two areas of impact were senior employment and congregate and home-delivered meals. There was money in HR 1 to enhance both areas. These programs were run by the DHHS through Title V and Title III-C, respectively, and HR 1 would enhance the amount of pass-through dollars available to local community-based or senior organizations. Budgets would have to be amended either prior to the budget closings or through work programs to accept additional federal funds.

In the Division of Child and Family Services (DCFS), Mr. Willden explained the largest impact would be in Title IV-E Assistance. The FMAP was an important area of concern because it affected the Title IV-E foster care and adoption assistance funding stream. There were three triggers in FMAP—hold-harmless, 4.9 percent baseline, and unemployment. Only the hold-harmless and the 4.9 percent baseline applied to child welfare programs. If the House version of the stimulus package was approved, it would be necessary for the DHHS to adjust the budget based on the FMAP built into the budgets. It would also be necessary to review the Washoe County and Clark County integration budgets.

Continuing on page 2 of the exhibit, Mr. Willden noted there was substantial money for independent living which could affect the community-based services budgets, but the effect was unclear at this time.

The Community Services Block Grant was administered by the DHHS Director's Office. According to Mr. Willden, the dollars were passed through to the Community Action Agencies in Washoe County, the Urban League in Clark County, and other agencies in the rural areas. There could be up to \$5 million in additional funds that would be passed through to the community action agencies through a formula-driven grants process.

Mr. Willden noted there was Head Start money in HR 1 that did not affect the DHHS but was being monitored because of childcare money.

There was a considerable amount of money identified for lowering healthcare costs that included prevention and wellness programs. Mr. Willden stated he was unclear about the effect on the DHHS in this area of funding.

Moving forward to page 3 of the exhibit under the area of alleviating hunger, Mr. Willden explained that money for the Women, Infants and Children's (WIC) programs primarily involved the improvement of state management information systems.

In the area of health, money was allotted for scientific research and for training primary care providers to lower healthcare costs. The impact of these funds on the DHHS was unknown, according to Mr. Willden.

Mr. Willden believed there would be money to assist the state in serving children with disabilities under the age of three. Money would be allocated by the U.S. Department of Education based on a census formula. The percentage for Nevada was unknown. The MOE would be a significant issue in this area.

Mr. Willden introduced Charles Duarte, Administrator for the Division of Health Care Financing and Policy, to continue the presentation. On page 4 of the exhibit, Mr. Duarte noted the increase of the FMAP rate would affect budget accounts for Medicaid, Community Health Services, Division of Child and Family Services and many others.

There were three important pieces to the House bill as previously indicated by Mr. Willden. Mr. Duarte estimated the "hold-harmless" piece would allow Nevada to maintain the 2008 federal matching assistance level of 52.64 percent through December 31, 2010.

The next component of assistance was an "Across-the-Board" FMAP increase. States would receive a temporary increase of 4.9 percentage points in the FMAP. It would be retroactive to October 1, 2008, and would extend through December 31, 2010. Mr. Duarte stated that an important difference between this proposal and The Executive Budget was the length of time assumed for the FMAP increase and the hold-harmless provisions to hold true for Nevada. A longer length of time for these provisions resulted in a significant increase in federal funding.

Another important piece, according to Mr. Duarte, was the Maintenance of Effort (MOE). One of the MOE provisions in the bill had to do with the receipt of increased federal matching funds. Any changes made by the DHHS that would have reduced eligibility after July 1, 2008, would have to be reversed. There was one item in The Executive Budget that met the criteria and would have to be reversed. That recommendation totals approximately \$10 million in General Fund support over the 2009-2011 biennium.

It was Mr. Duarte's understanding that the MOE provisions addressed eligibility issues, but did not have an impact on items such as reduction of reimbursement rates or other kinds of benefit changes that were made in The Executive Budget.

Senator Horsford inquired whether there were any projections on the increase in caseload if those eligibility standards were restored to the original format.

Mr. Willden responded that the DHHS was in the process of preparing those projections. With the unemployment rate climbing to an unprecedented 9.1 percent and Department of Employment, Training and Rehabilitation (DETR) unemployment projections at 11.4 percent, there would be a substantial increase on all M200 decision units for caseload growth. The projection data would be available soon.

In response to Senator Horsford's question regarding when the caseload data would be available, Mr. Willden stated the data would not be available by the February 6, 2009, Committee meeting.

Assemblywoman Buckley clarified that the eligibility change reversals concerned the earned income disregard which was \$10 million over the biennium. She asked whether a reversal of the transfer from the Indigent Supplemental Account would need to be made.

Mr. Duarte noted there was some language in the Senate bill which addressed county contributions and changes in the Indigent Supplemental Account, but he did not have specific information. There was language in HR 1 that specified county contributions could not exceed the September 2008 level.

Assemblywoman Buckley assumed the Indigent Supplemental Account and the county match contributions would be on the top of the list to reverse. Additionally, she wondered whether any further information had become available on the Nevada Check Up program.

Mr. Duarte responded that HR 1 and the versions of the Senate stimulus bill did not address the State Children Health Insurance Program (SCHIP) and the ability of states to revise the program. Certainly it was one of the items on the DHHS list if funds were available for program restoration, but nothing in the bill addressed the issue.

Mr. Duarte continued with a review of page 6 of the exhibit, noting another critical component of the House bill, which was different from the Senate bill, was the large component associated with tiering high unemployment states for additional relief. Nevada was in the top tier and was allowed to calculate the highest quarterly unemployment beginning January 2006 and continuing through December 31, 2008. Because Nevada was in the top tier, it would receive a 14 percent factoring of the FMAP rate.

Mr. Willden pointed out the chart ([Exhibit F](#)) was helpful to determine the correct percentages. When viewing the "Governor's Recommended Budget" line item in Fiscal Year (FY) 2009, it showed the blended FMAP at 51.98 percent. The line item "Stimulus—Hold Harmless, 4.9 percent and Unemployment" indicated a blended 61.29 percent FMAP. Looking across the chart the "Governor's Recommended Budget" in FY 2010 was 56.66 percent blended FMAP and under "Stimulus—Hold Harmless, 4.9 percent and Unemployment" the figure was 64.17 percent. In FY 2011 the "Governor's Recommended Budget" was 52.0 percent and under "Stimulus—Hold Harmless, 4.9 percent and Unemployment" it showed a blended 57.09 percent. If HR 1 passed, this chart represented the blended FMAP.

Mr. Duarte continued the overview of [Exhibit E](#) referring to page 7. He stated there were options available in the House bill, one of which was to extend transitional Medicaid assistance to families who currently received Medicaid but may become ineligible. That was an option the state could provide. There were additional reporting requirements which could affect the Division of Welfare and Supportive Services.

According to Mr. Duarte, the chart on page 7 noted there was a state option for extending family planning services to women who were not eligible for Medicaid. That option was removed on the floor of the House, although it was included in most analyses.

Two areas were highlighted by Mr. Duarte on page 8 of the exhibit. The first was assistance to state Medicaid agencies to provide incentives to pay providers to adopt Health Information Technology (HIT). This was an important part of the stimulus bill in regard to discussions on healthcare reform. It gave Medicaid the ability to pay up to 85 percent of the costs for certified systems purchased by healthcare providers who provided Medicaid services.

The second important area shown on page 8 was approximately \$20 billion to assist states in the development of HIT and to develop standards and create the Office of the National Coordinator for HIT. It would also establish a grant program for states to provide loans to healthcare providers who agreed to certain data reporting requirements.

Mr. Duarte pointed out the state Medicaid option for the unemployed as displayed on page 9 of the exhibit. The bill would give state Medicaid programs a temporary option of covering certain groups of individuals.

Assemblywoman Leslie asked whether staffing was included in the bill.

Mr. Duarte noted the associated administrative costs would be 100 percent federally funded.

Further responding to an inquiry from Assemblywoman Leslie, Mr. Duarte commented that some of the HIT funds would probably be released as competitive grants from the federal government. He believed the Medicaid HIT

assistance would be a pass-through from the federal government through Medicaid to providers.

Mr. Duarte further explained there were other provisions in the bill which dealt with the unemployed and increased unemployment compensation, a program handled through DETR. There were provisions of that section which required the Division of Welfare and Supportive Services to provide certain administrative efforts to support that program.

Assemblywoman Smith asked where the Consolidated Omnibus Budget Reconciliation Act (COBRA) health coverage program fit into the budget.

Mr. Duarte replied it appeared that COBRA would direct assistance to employers and health plans and to the individuals involved, but it was not something that would have to be administered by a state agency.

Senator Horsford requested an explanation of how entities would receive the federal funds.

Mr. Duarte was unaware how the program would function but noted the Division of Insurance handled the COBRA coverage and worked with health plans and health insurers.

Mr. Willden called the Committee's attention to the bottom of page 9 of the exhibit and the increase in unemployment compensation. The DHHS would work closely with Larry Mosley, Director of DETR, on the unemployment issue. Unemployment benefits were budgetable in most of the public assistance programs but the increases under HR 1 were not budgetable. This would require a method to differentiate between budgetable and not budgetable benefits and a determination of the effects of such differentiation on program eligibility.

As far as the home weatherization program shown on page 10 of the exhibit, Mr. Willden pointed out that the DHHS no longer managed the program. The program was managed by the Department of Business and Industry (B&I), Housing Division, and the DHHS collaborated with that agency. The DHHS provided low-income energy assistance money to B&I who also received the universal energy credit. The DHHS was working with the Housing Division to coordinate the funds. It appeared there would be substantial money and new eligibility guidelines for home weatherization.

Mr. Willden next addressed early childhood development and the substantial new money for child care related to work and training. The DHHS had to reduce the services to individuals on the discretionary program and waitlists. The new funds would provide assistance with these programs.

The Supplemental Nutrition Assistance (SNAP) program, shown on page 10 of the exhibit, provided a 13.6 percent increase in benefits in HR 1 as approved, according to Mr. Willden. The Thrifty Food Plan (TFP) was used to determine the amount of benefits for individuals. There would be an automatic recalculation of the TFP, and most people would receive an additional 13.6 percent in food stamps for a limited period of time.

Mr. Willden noted there would be an additional \$1 billion appropriation with the low-income energy assistance program beginning October 1, 2009. There was a substantial increase in energy assistance earlier in the year because of the energy crisis, but more money would be available if HR 1 passed.

Moving to page 11 of the exhibit, Mr. Willden stated that HR 1 would restore for a two-year period the ability of states to match incentive funds with federal funds that were reinvested. Efforts to collect child support and establish paternity resulted in incentive payments from the federal government. Previously the funds were matched with federal dollars, but the match had been discontinued. Reinstating the match would provide assistance to local child support agencies.

Mr. Willden explained the bill created an emergency Temporary Assistance for Needy Families (TANF) fund. The states with a high growth in claims would be able to access these funds. Nevada fit into this category, and it was anticipated the state would be able to access the TANF fund. Mr. Willden reminded the Committee this would be the first time Nevada would exhaust the TANF block grant and be required to request General Fund money in lieu of TANF.

The last item addressed by Mr. Willden was the Social Security Income (SSI) payments as shown on page 11 of the exhibit. Individuals would receive an additional SSI payment which was not budgetable and could not be counted towards eligibility. Funds were provided to the Social Security Administration to accelerate disability eligibility and adjudication. That could have an impact on the Welfare budget. Those who had applied for SSI could receive benefits for one year while waiting for a determination. In that case, the DHHS would retroactively cover the individual under Medicaid.

Assemblywoman Buckley stated that during Mr. Willden's testimony she had developed two lists: one listed items that would not provide budget relief, and a second listed items which could provide budget relief but would have Maintenance of Effort (MOE) requirements.

Assemblywoman Buckley believed the assumption was that the stimulus bill would provide Nevada with the funds necessary to fill the gap which existed in the budget. It was becoming apparent that some of the items in the bill would be pass-throughs, and some of the funds would be earmarked for specific programs not currently offered in Nevada. The items with MOE could not be utilized. What remained was a small list of items the stimulus would address. As the stimulus was probably a one-shot plan, an analysis would have to be prepared to determine the resulting budget requirements.

Assemblywoman Buckley asked whether Mr. Willden agreed and whether he had estimated the fiscal impact

Mr. Willden agreed with Assemblywoman Buckley's assessment of the situation. He had not estimated the fiscal impact. There were approximately 128,100 people receiving unemployment and about 190,000 on Medicaid. The numbers of people receiving Medicaid could double under the plan.

Assemblywoman Buckley requested Mr. Willden provide the Committee with information regarding what might be changed with this stimulus plan "on the horizon." For example, there might be money available for vaccine programs. She noted the development of the policy for handling the way vaccines were distributed could be slowed until it was ascertained what funds might be available for the program.

Mr. Willden would provide the information on all such plans to the Committee.

Assemblywoman Leslie appreciated the information Mr. Willden had provided to the Committee. She noted that the education stimulus appeared to offer flexibility regarding the use of the money, but in reviewing [Exhibit E](#), it appeared there was little flexibility in the spending plan for the DHHS.

She was curious to learn whether Mr. Willden anticipated any flexibility so the states could direct the money where it was most needed.

In response, Mr. Willden said there was no flexibility for use of the stimulus funds for the DHHS.

To be able to accept the federal money, Assemblywoman Leslie requested Mr. Willden outline the MOE requirements with associated costs so the Committee could see what it would cost the state to restore some of the programs that had been cut.

Assemblywoman Leslie also asked whether the State Children's Health Insurance Program (SCHIP) bill, which would expand the Check Up program, would help Nevada, and whether any of the stimulus money could be used to help pay for Nevada Check Up. If the cap for Check Up was removed, state funds would have to be invested to receive the 65 percent federal match money.

Mr. Duarte explained that the recently passed SCHIP bill contained a provision that specifically assisted Nevada. There was a budget reduction implemented in September 2008 that capped dental coverage for Nevada Check Up at \$600 per year. The SCHIP bill required Nevada to establish a higher benchmark dental benefit consistent with federal or state employee dental benefits.

Further responding to questions from Assemblywoman Leslie, Mr. Duarte explained Nevada Check Up did not provide non-medical vision services.

With respect to the use of funds, Mr. Duarte stated it depended on how it was budgeted. If the stimulus bill provided an opportunity for the state to spend less General Fund on Medicaid, the money could be used elsewhere.

Mr. Willden added that existing SCHIP financing was very flexible. Nevada had not been able to access all of the federal funds available because of a lack of General Funds for match money. The budgeting challenge for the DHHS was to look at HR 1 and continue to slide money over to Nevada Check Up after dealing with Medicaid issues.

Assemblywoman Leslie asked Mr. Willden to keep Nevada Check Up on the top of the list for discussion in the upcoming subcommittee. She wanted to explore options for removing the cap from Nevada Check Up and ensure Nevada received its share of the federal money. Nevada had one of the worst uninsured rates in the nation, and all of the money was not being accessed.

Chair Arberry asked whether there was a deadline for the passage of HR 1.

Mr. Willden advised he had not been informed of a final date for passage.

DEPARTMENT OF EDUCATION STIMULUS PLAN REVIEW

Chair Arberry recognized Keith Rheault, Superintendent of Public Instruction for the Department of Education, who summarized four stimulus programs related to kindergarten through grade 12 (K-12) education ([Exhibit G](#)).

Dr. Rheault noted HR 1 provided the following funding for K-12 education programs:

1. State Fiscal Stabilization Fund—Title XIII of the Act
2. 21st Century Green High-Performing Public School Facilities
3. Education for the Disadvantaged
4. Special Education—Individuals with Disabilities Act (IDEA)

There were several other education-related programs funded within HR 1 which could provide additional funds to Nevada through competitive grants or other means.

The "State Fiscal Stabilization Fund," according to Dr. Rheault, had the potential to have the biggest impact on Nevada. There was \$79 billion dollars earmarked nationally to be administered by the U.S. Department of Education. The Nevada share was estimated to be \$520 million through the Stabilization Fund.

The stimulus package money would not be available immediately. Money for three of the four programs discussed by Dr. Rheault would not have money available until July 1, 2009. In most cases it was split over a two-year period. The one program that could be receiving money for the 2009 fiscal year was the School Renovation and Modernization Funding.

Dr. Rheault pointed out the Stabilization Fund money would be split over two years beginning July 1, 2009, and was available for 15 months. Half of the money would be available FY 2010 and half in FY 2011.

The Secretary of Education would allocate the funds to states as follows: 61 percent on the basis of their relative population of individuals aged 5 years through 24 years, and 39 percent on the basis of their relative population.

Dr. Rheault noted that page 2 of the exhibit pointed out that of the \$520 million, the Governor must use at least 61 percent of the funds for the support of elementary, secondary or postsecondary education. This grant would be awarded directly to the Governor's Office for distribution.

Senator Horsford inquired whether the Governor would need legislative approval for distribution of the funds.

Dr. Rheault believed that was correct.

Senator Horsford asked whether the federal requirements would be met if the 2009 Legislature identified methods for spending the federal allocations appropriately.

Dr. Rheault thought that would be appropriate in some cases. In the case of the Governor's allocation of the stabilization money, 61 percent of the money had to go to K-12 or higher education. The first priority was to provide the amount of funds, through the state's K-12 funding formula, needed to restore state support for elementary and secondary education to the FY 2008 level. For FY 2009 the K-12 budget reductions totaled approximately \$116,390,000. The

stabilization money would have to be used in the 2009-2011 biennium, as funding would not be available until FY 2010.

The second priority was to provide the amount of funds to public institutions of higher education in the state to restore state support for postsecondary education to the FY 2008 level. Dr. Rheault did not have the amount of those replacement costs.

Dr. Rheault further explained that after carrying out the restoration of state funding as previously described, the third option for the funds would be for the Governor to provide school districts in the state with sub-grants based on their relative shares of funding under Part A of Title I.

Dr. Rheault directed attention to page 5 of the exhibit that showed the allocation each school district would receive from the portion of the \$520 million allocation remaining after the restoration of funds.

Dr. Rheault thought the money for the restoration of funds was more flexible, but stated the wording in HR 1 was unclear regarding the remaining money. He believed it would be tied to Title I, Special Education, or Career and Technical Education, but he was unable to make a full determination at this time.

Assemblywoman Buckley asked how the money would fit into the legislative budget process. She requested legal counsel to provide input about the appropriations, availability, and applications process.

Brenda Erdoes, Legislative Counsel for the Legislative Counsel Bureau, explained that the actual distribution was dependent on the final package language. It was clear from the constitutional provisions and the statutes that the money must be processed through the Legislature as that was the duty of the Legislative Branch. Per the Nevada Constitution, money could not be used unless appropriated or authorized for expenditure by the Legislature or the Interim Finance Committee (IFC). The Nevada statutes were clear on this issue.

Assemblywoman Buckley noted there were significant cuts which had taken place over the past year, but the cuts were for the previous school year. As budgeting would be for the upcoming school year, she was unclear how the replacement of funds would be handled.

Dr. Rheault responded that the \$116,390,000 of restoration money was for specific cuts made during FY 2009 for which money had been reverted from state General Funds. In FY 2008 there was an additional \$65,000,000 in cuts. The bill was fairly specific in that it referred to any cuts for the current school year. He did not believe the state would be allowed to go back two years to replace the full amount.

Assemblywoman Buckley asked for further clarification.

In response, Dr. Rheault explained that included in the \$116,390,000 was the \$47 million that was reverted in textbook money which came directly out of the Distributive School Account (DSA). There were individual program cuts, such as the expanded full-day kindergarten cuts of \$13 million. There was a \$9 million cut for empowerment schools. The question would be whether all of the cuts could be included even though they did not come out of the per pupil payments.

Dr. Rheault hoped there would be flexibility for any cuts to K-12 to be added back into the formula, but that was unclear.

Assemblywoman Buckley inquired about the Remediation Trust Fund and whether it was included.

Dr. Rheault stated there was about \$30 million in Remediation Trust Fund cuts included in the \$116,390,000.

Assemblywoman Buckley noted the charge was clear in that if some of the programs were restored, the money would have to be available to continue them. Getting one-shot funding to restore the programs was not beneficial if there was no money to sustain the effort.

Dr. Rheault responded that the Secretary of Education had stated during a conference call that states not count on funding beyond 2011 staying at the current levels, whether the stabilization fund, the Title I fund, or the additional special education money.

Assemblywoman Buckley observed that with the language in the bill about replacing cut funds or stopping some projected cuts, it appeared this could potentially prohibit efforts to reduce teacher salaries.

It was unclear to Dr. Rheault whether it would get to that point. He referred to the last paragraph on page 2 of the exhibit which stated, "The state must provide assurance that the Maintenance of Effort (MOE) is at least at the level of support in FY 2007." In his opinion the current budget would return the Department of Education to the end of FY 2007 which would mean compliance with meeting the MOE even with reduced salaries.

In Assemblywoman Buckley's opinion, if the proposed cuts took Nevada from 47th in per pupil funding to 50th, the state could not show an MOE. There would have to be an analysis under all of these reversion clauses in addition to the specific requirements of the bill, an MOE requirement, to ensure the plan made sense.

Dr. Rheault indicated that his staff had not determined the total allocations for K-12 in FY 2007 as yet. He would review the FY 2007 information to determine whether the state was meeting that amount of allocations with the Governor's recommended budget for the 2009-2011 biennium.

Assemblywoman Smith assumed the cuts made at the February 2009 IFC meeting were included, but she inquired about whether cuts made to the budget at the Department-level were taken into consideration.

Dr. Rheault replied that the IFC cuts were included; however, the Department-level cuts were not included. The total of those cuts was approximately \$1.6 million. Cutting the norm-referenced test amount to nearly \$600,000 was the largest cut made to the budget.

Assemblywoman Smith inquired whether all of the one-time expenditures were also included in the reduction amounts.

Dr. Rheault stated they were included. Some of the items were from FY 2008 cuts, but many were also included in FY 2009.

Assemblywoman Smith suggested Dr. Rheault be prepared to discuss these issues at an upcoming subcommittee meeting.

Dr. Rheault added that the cuts included those for adult education and the 11 percent cuts to the Regional Professional Development Program (RPDP) made at the February 2009 IFC, as well as many other budget cuts.

It was Senator Horsford's understanding the Governor was proposing to cut K-12 education spending approximately \$547 million.

Dr. Rheault noted that was correct.

Because the formula for the federal stimulus package for K-12 indicated about \$312 million would be available, Senator Horsford pointed out there would be a shortfall in the per pupil investment.

Dr. Rheault believed that was an accurate assessment. The stimulus bill would only allow replacement of approximately \$116 million as only funds which were reverted this school year could be funded. The remaining cuts would still be in effect for the 2009-2011 biennium.

Continuing, Senator Horsford asked whether Dr. Rheault had accounted for enrollment growth in the projection of the \$116 million which needed to be replenished.

Dr. Rheault explained the enrollment growth had no bearing on the projections. The replacement funds were only affected by cuts made in this K-12 budget cycle. The new growth was factored into the projections for the 2009-2011 biennium.

Senator Horsford said as he understood it, once the \$116 million was replenished, what the Legislature had passed in the 2007 Legislative Session would have been made whole, including enrollment growth.

Dr. Rheault stated that enrollment growth would be another factor. For example, because of reduced sales tax at the local level, the state had appropriated an additional \$100 to \$200 million. If those funds could be factored in, the entire amount of the stabilization fund would be used. He did not know whether that would be applicable because the state guaranteed to makeup any shortage of sales tax revenue at the local level.

Dr. Rheault continued the presentation of page 2 of [Exhibit G](#) noting the postsecondary funding of the stimulus bill appeared to be more flexible than the K-12 funding. The funding for postsecondary was to mitigate the need to raise tuition and fees for in-state students. It appeared there was no further direction included in the bill. Additionally, he noted the Governor had access to 39 percent of the state's allocation for public safety and other government services, which could include assistance for elementary and secondary education and public institutions of higher education.

Senator Horsford questioned whether student tuition would be considered state support based on the federal guidelines of the stimulus bill.

Dr. Rheault responded he was uncertain. An example might be that if the university raised tuition this year, he was not certain that could be considered a part of the reversion. The money would be considered new revenue to the state.

Assemblywoman Smith was confused regarding the 39 percent issue. It appeared the state would have 100 percent of the money flowing through the state Department of Education, but 39 percent of the money was not designated for education.

Dr. Rheault confirmed her understanding of the issue. The \$520 million was granted to the Governor. The Governor would have to appropriate 61 percent to the Department of Education and the remaining 39 percent would be used under the Governor's discretion. It could be used for public safety, other government services, or additional assistance to education.

Assemblywoman Smith asked whether Dr. Rheault anticipated receiving further clarification on use of the funds.

Dr. Rheault expected to receive further clarification after all of the MOE issues were resolved in the other areas of funding.

Dr. Rheault continued the presentation of [Exhibit G](#), explaining the "21st Century Green High-Performing Public School Facilities" as described on page 3. The purpose of the grant was to modernize, renovate, or repair public school facilities based on their need for such improvements to be safe, healthy, high-performing, and provide up-to-date technology.

Each state allocation was based on the amount of money the state received for Title I. For Nevada this part of HR 1 would provide approximately \$80 million to school districts within the state. It was based on the Title I formula used for FY 2009. A chart was provided by Dr. Rheault on page 5 of the exhibit.

Dr. Rheault directed the Committee's attention to the column titled "Total 2008-2009 Title I Allocation." The figures for each district gave a close approximation of what each district could expect for the facility funds.

The funding appeared to be flexible and allowed all repair and renovation. The only prohibited uses were for stadiums for football or other sport facilities or for routine maintenance of facilities.

Also 25 percent of the money had to be applied to green-type projects such as the Leadership in Energy and Environmental Design (LEED) projects.

Dr. Rheault did not anticipate receiving any additional funding this year in this area of funding. Thirty days following the enactment of the act, the Secretary of Education was to provide the funding to the states. Each state had 30 days to allocate the money to the school districts.

Assemblyman Denis asked whether the funds would go directly to the school districts.

Dr. Rheault replied the funds would go from the Secretary of Education to the state Department of Education. The Department would need authority to receive and distribute the funds. Because there would only be 30 days from the time the money was received to the required distribution, quick action would be necessary. The school districts would have a limited timeline for usage of the funds. At least half of the money must be used in binding contracts or spent within the first nine months after receipt. The remaining half of the funds could be spent in the second year of the Act.

Assemblyman Denis inquired whether the money could be used for the updating of power and data lines to improve technology.

Dr. Rheault believed the money could be used for wiring and other technological issues. The guidelines appeared to be very flexible in this area.

Assemblywoman Smith asked whether Charter Schools would be included for the district funds.

According to Dr. Rheault, Charter Schools were not specifically included in the funding allocation. There was a specific clause in the bill which stated each school district that had Charter Schools in its jurisdiction shall provide equitably some of the funding for that purpose. He was not certain how that would be carried out.

Assemblywoman Gansert recalled the issue of allocation based on the Title I dollars and asked whether the bill stated that the allocation should be based on how the money was currently allocated to the school districts.

Dr. Rheault explained a specific formula was applied to the funding and there was no flexibility.

With respect to the issue of the \$80 million for modernization, renovation, and repair, Senator Horsford inquired whether rebuild was included.

Dr. Rheault responded he had not seen that option included.

Additionally, Senator Horsford questioned whether the Department of Education had a system of accountability and a method to determine which schools had a critical need for repair versus modernization.

Dr. Rheault did not believe the Department had adequate monitoring or accountability as typically the Department was not involved in facilities. He noted the state could reserve one percent of the funding for oversight and technical assistance. However, one of the requirements at the state-level was the development of a plan to have every school in a database and include items such as modernization, renovation, and repair needs at each school. The energy uses of the school as well as a carbon footprint were also required. The plan must be completed within six months.

Senator Horsford requested the Committee determine the best method to establish those standards and criteria which would be clear for the districts. He did not want the Department to rely solely on information received from the school districts to make the allocations. Often schools in underserved areas did not make it to the top of lists without legislative direction.

Dr. Rheault explained there was no authority at the state level other than setting criteria which could limit the use of funds.

Assemblywoman Buckley echoed Senator Horsford's concerns, but added that many constituents had expressed to her they did not know where their taxpayers dollars were spent. She believed every taxpayer dollar must be spent wisely and with greater accountability.

Additionally, Assemblywoman Buckley was of the opinion that if the federal stimulus money appeared to be spent unwisely by the districts, it reflected on the Legislature as well as on the school districts. She wanted all of the school

districts to pay close attention to this item and be prepared to work with the Department of Education to bring detailed plans to the Legislature. She supported Senator Horsford and wanted the Committee to develop additional mechanisms to ensure the money was used wisely.

Dr. Rheault pointed out the districts were aware of the requirements for the stimulus money and were working diligently to prepare a list of needs.

The final two programs discussed by Dr. Rheault were the Elementary and Secondary Education Act (ESEA) Title I and the Special Education Individuals with Disabilities Act (IDEA).

The ESEA was approximately \$75 million which would be distributed by formula. It would be additional money for Title I schools which were schools with high concentrations of low income students attending the school. According to Dr. Rheault, 50 percent of the funds would be available July 1, 2009, with the remaining funds available July 1, 2010. The money must be used for Title I purposes and there was no flexibility for its use.

Dr. Rheault explained that currently there were 309 eligible Title I schools within the state. Only 158 of those schools received funding from the current Title I money because of a lack of funding. The stimulus might allow some of the districts to provide funding to additional eligible schools not currently receiving Title I money.

The final program discussed by Dr. Rheault was the Special Education IDEA funding. There was \$13.6 billion earmarked nationally in HR 1 for this program. This equated to nearly \$78 million in special education money for Nevada. This would nearly double what school districts currently received for special education funding. The funding would be spread over two years with 50 percent available on July 1, 2009, and the remainder on July 1, 2010.

This funding, according to Dr. Rheault, would be invaluable to the state and the school districts. In the original draft of HR 1, there was specific language which directed the money be used to pay for the additional cost of special education services. The funds could offset the General Fund money that school districts received.

School districts spent more from the Distributive School Account (DSA) because neither federal nor state money was sufficient to cover the costs for special education. The stimulus money could be used to meet the additional costs in FY 2010 and FY 2011. This would free up \$78 million in the DSA or General Fund money within school district budgets for other purposes.

In response to Senator Mathews, Dr. Rheault stated that funding for autism programs fell under the area of special education.

Senator Coffin commented that when special education was created federally with the passage of Public Law 94-142 and then succeeded by IDEA, the plan was to provide federal money equivalent to the mandate from the federal government. The states accepted the federal money. In successive years, the federal match dropped until it covered only 5 percent of the cost of the mandate.

He noted there was a lesson to be learned from how the act passed and the states received it. There would now be a marked increase in the amount of federal funds for special education for which the states may have to change the

special education criteria. Senator Coffin was concerned about avoiding a similar problem with the stimulus funds.

Dr. Rheault responded that information he had received indicated the federal government had been funding special education programs at about 15 percent of the costs for the programs. Supposedly, the new money would fund these programs at 27 percent of the costs.

The Secretary of Education had indicated to Dr. Rheault that the funding would probably be reduced over time. With the federal mandates and requirements, Dr. Rheault did not see a way out of the special education unfunded mandate situation. If given a choice, the state should carefully consider the cost before becoming involved with any new programs which could become unfunded mandates. Usually participation was a requirement, and the states were not given a choice.

Assemblywoman Buckley was concerned about participation in federal programs which could not be funded in the future. It was a complicated issue.

Dr. Rheault suggested funding the DSA per pupil cost as high as possible because there was no way of knowing how much of that amount was being used to fund additional special education costs. The state would provide the special education money, and the districts would be able to reduce the amount they must provide from the DSA portion. This would free up some of that money for the districts to meet other needs.

NEVADA SYSTEM OF HIGHER EDUCATION STIMULUS PLAN REVIEW

Daniel J. Klaich, Executive Vice Chancellor for the Nevada System of Higher Education presented the following overview regarding the state stabilization fund ([Exhibit H](#)):

This source of funding, as has been indicated by prior speakers, is relatively unique in the bill in that the funding will go directly to the Governor subject to the comments that Senator Horsford made and that we heard from Brenda Erdoes, Legal Counsel for the Legislative Counsel Bureau, as opposed to how much of the funding will go in this bill that is formula driven or dedicated to specific areas through federal agencies or competitive grants.

The best estimates we have at this time are consistent with the information Mark Stevens, Assembly Fiscal Analyst, Legislative Counsel Bureau, gave and that you have heard in prior testimony. We think that this fund is between \$510 million and \$520 million.

These funds are allocated purely on the basis of population based on a formula which is slightly weighted to a population of 5 to 24 year olds, which does benefit Nevada.

While the funding goes directly to the Governor, there are mandated requirements on how the money is to be spent. First, it is our understanding that as a pre-condition to even receiving these funds, that is, to receiving all or any portion of this, roughly half a billion dollars, that the Governor must give an assurance that in both fiscal years 2010 and 2011, state support for higher education will be funded at not less than the FY 2006 level which was approximately \$560 million.

This means that the budget for higher education over the next biennium must be appropriated to at least the level of \$560 million before we believe we will qualify for receipt of any of the stabilization funds.

The Governor's proposed budget recommends funding for higher education at approximately \$424 million for FY 2010 and \$420 million for FY 2011. We believe, at this point, Nevada would not qualify for these funds because state support falls below the FY 2006 level. To reach FY 2006 levels and qualify for these federal funds, we believe the state budget for higher education must be raised at least an additional \$136 million in FY 2010 and \$140 million in FY 2011 or a total of just over one-quarter of a billion dollars for the biennium.

Once the Governor raises the proposed budget for higher education to the FY 2006 level, thereby qualifying the state for receipt of these funds, the language in both the Senate and House bill requires the Governor, as Dr. Rheault indicated, to use a minimum of 61 percent of these funds for education, both K-12 and higher education.

We believe the priority is to return education, both K-12 and higher education, to the FY 2008 level of funding. The FY 2008 higher education level was approximately \$640 million. Therefore, our analysis suggests that from the state stabilization funding, higher education must receive an additional \$160 million over the biennium, which would bring us from the FY 2006 to FY 2008 level.

Senator Mathews asked whether Mr. Klaich was looking at the FY 2008 levels as passed by the 2007 Legislative Session or whether he was looking at the numbers after the cuts.

Mr. Klaich responded that he had looked at the FY 2008 legislative budget. He wanted to be clear when moving from FY 2006 to FY 2008. His point with the analysis had focused on the higher education funding because he believed the K-12 funding level as proposed by the Governor for the 2009-2011 biennium was at the FY 2008 level. Mr. Klaich continued his prepared statement as follows:

The remainder of the approximately \$300 million, or \$140 million according to the legislation, would then be required to support K-12 education as Dr. Rheault indicated.

The bill mandates that this full 61 percent of the state stabilization fund be used only for education, regardless of whether or not that takes funding over the FY 2008 level or not.

That is our high-level analysis of the 61 percent level. Assemblywoman Smith asked questions about the remainder of this fund or what we have referred to as the 39 percent portion, which is roughly another \$200 million.

Our analysis does not indicate that there is a restriction on the utilization of that money for education or not, but that the

Governor may use the funds for public safety, other governmental services, including education, if he so chooses, of course, in consultation with the Legislature. Possibly those funds could be used for restoring the pay cuts proposed in The Executive Budget or possibly for lessening the impacts of reductions in employee retirement benefit funding. Certainly there is no restriction on the use, that we can see, from the Governor's discretion in using that money. We express no specific opinion on how that can be used.

There are other sources of higher education funding in the legislation. The bill provides money for higher education modernization, renovation, and repair. Unlike the previous funds we just discussed, it is our reading of the legislation that these funds will go directly to the higher education agency, that is the Nevada System of Higher Education. There appears to be a total of \$6 billion in the House version of the bill and about \$3.5 billion in the Senate version of the bill in this fund. These funds would be distributed to the states by a formula which would send to higher education under this portion, somewhere between \$35 and \$60 million.

As the title to the section suggests, these funds are to be used for modernization, renovation, and repair. Examples include air conditioning, lighting, and increasing energy efficiency. We cannot use, as indicated by Dr. Rheault, any of these monies for sports facilities.

We are instructed to award the funding to individual institutions based on need with a priority being given to institutions that serve high numbers of minority students and those that have been impacted by a major disaster and to projects that improve energy efficiency.

Community colleges are given special consideration with the bill requiring that funds to community colleges be based on the percentage of full-time equivalent (FTE) students attending community colleges relative to the total number of the state's FTE students.

Unlike stabilization funds, there does not appear to be a provision for minimum state support of capital improvements to qualify for these funds.

While these are the two major sections that affect higher education directly, as you are aware, this is a massive piece of legislation and there are a number of sections where we could apply for funds and we have identified every one of those sections to your staff and to the Governor's staff.

They include the possibility of funds for science and scientific education, telemedicine, nutrition, rural health, information technology, justice research, and on and on.

Finally, regarding higher education specific funding, I wish to mention support that will be going to students and their families in higher education, as well. Pell Grant funding will increase substantially providing more funds for students. The bill also

provides certain tax breaks for families for higher education spending.

Assemblyman Hardy inquired whether Mr. Klaich knew what the 14.12 percent cuts were and whether they qualified for meeting the threshold to be able to accept the one-time stimulus money.

Mr. Klaich agreed to provide a written reply to Assemblyman Hardy on the issue.

DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION STIMULUS PLAN REVIEW

Larry Mosley, Director of the Department of Employment, Training and Rehabilitation (DETR) distributed [Exhibit I](#) to the Committee and presented an overview of the proposals for the economic stimulus. Mr. Mosley introduced his Administrative Services Officer, Renee Olson, and Cynthia A. Jones, Administrator for the Employment Security Division.

Mr. Mosley provided the Committee with a high-level update on several elements of the federal economic stimulus package. Although he had kept in close contact with administrators at the U.S. Department of Labor, the information received was constantly changing.

According to Mr. Mosley, the U.S. Employment and Training Administration anticipated that several provisions in the package would substantially increase funding for both the unemployment insurance system and the Nevada employment and training program. The number of unemployed in Nevada was 128,100 and the rate (9.1 percent) was forecast to increase to 11.4 percent, which included the projected layoffs in FY 2009.

Mr. Mosley continued noting there were several proposals which could infuse dollars into the following programs administered by DETR and outlined in the exhibit:

- Wagner-Peyser Act (formula-funded)
- Workforce Investment Act of 1998
 - Adult Program (formula-funded)
 - Dislocated Worker Program (formula-funded)
 - Youth Program (formula-funded)
- Youth Build USA (competitive grant program)
- Senior Community Service Employment Program (formula-funded)
- Unemployment Insurance (formula-funded)

As a result of technical assistance requests from Congress, Mr. Mosley said the Department was aware of the following four unemployment insurance-related proposals being considered for the stimulus package:

- Extension of the Emergency Unemployment Compensation 2008 Program
- Unemployment Insurance Modernization
- \$500 Million Special Distribution for Administration
- \$25 Federal Supplement in Weekly Benefit Amounts

Mr. Mosley outlined one remaining program enhancement:

- Individuals with Disabilities (formula-funded)
 - Grants for State Vocational Rehabilitation Services
 - Grants for Centers for Independent Living
 - Grants for Services to Older Blind Individuals

Mr. Mosley explained that two other program possibilities that had been discussed: funding for competitive grants for training in high-growth industry sectors such as healthcare, and funding for the Green Jobs Act as authorized by Congress in December 2007, for which funding was never appropriated. This would help to diversify Nevada's economy to create and train workers for jobs in these new high-demand sectors.

Mr. Mosley did not believe the stimulus package would allow DETR to reduce the percentage of General Fund money required.

He further noted that DETR had received short-term guidance from the U.S. Employment and Training Administration (ETA). States were advised to prepare for commencement of stimulus package expenditures and activities. The ETA asked the states to do a Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis of the current service-delivery infrastructure and administrative capacity and to identify any barriers to rapid deployment of these new funding resources.

States were advised to work with the Legislature to develop innovative approaches to overcome existing barriers to speed the deployment of resources. To this end, Mr. Mosley advised that DETR would be working closely with legislators. A SWOT group had been put into place to analyze the barriers which existed from a personnel perspective and from a legislative perspective.

Mr. Mosley said the new Workforce Solutions Unit (WSU) would be charged with the formulation, oversight, and management of plans to incorporate the use of the Recovery Act funding as well as other applicable grants geared toward training and other workforce investments. The activity of the unit would include the needs analysis of employment sectors and potential employers in conjunction with the ability of various existing entities to deliver and/or utilize the assets.

Mr. Mosley noted that within the DETR administration it had become clear they were looking at Emergency Unemployment Compensation Insurance rates and providing training. Partnerships had been developed with the northern and southern workforce boards, the Governor's board, and Nevada colleges. When it appeared there would be a surplus of jobs, the "Team Nevada" program was created. The DETR was now considering utilizing the "Team" to develop opportunities for employment.

Staff at DETR had been directed to look throughout the state for specific areas which could be developed for training. It was important to learn about the "Green Initiatives" and how to develop training systems that would be immediately available.

In conclusion, Mr. Mosley stated he had been working with many corporations to gain a clear understanding of what DETR could do to help keep people employed and how DETR could assist with "Green Initiatives."

Chair Arberry requested Mr. Mosley to have his staff contact the Fiscal staff to compile all information received.

Assemblyman Hogan commented there would be an increase in employment training activity, bringing new people into the workforce, and providing opportunities for training in the newly-funded projects. He noted that in the past there had been a struggle to ensure equal employment opportunity in the delivery of training. He asked whether Mr. Mosley anticipated assistance from the U.S. Department of Labor (DOL) with providing equal opportunity training and job placement.

Mr. Mosley responded that was a major concern. He had attended a DOL conference in San Francisco where he learned that many competitive grants had been provided directly from the DOL. The grantees were supposed to have had a relationship and certification by DETR, but often that did not occur. The various forms of discrimination and the inequitable distribution of the grants was a major concern. The DOL and DETR administrators were working closely to belay those fears. He had received information on competitive grants and input on whether the grantees were using the funds equitably.

Assemblywoman Smith requested Mr. Mosley provide additional information on distribution of funding for the independent living centers.

Renee Olson, Administrative Services Officer, said she had not received specific information regarding the formula for funding distribution to the independent living centers.

Responding to Assemblywoman Smith's question regarding categories, Mr. Mosley stated that the funding for independent living centers would fall under the rehabilitation category. His understanding was that no match would be required.

Assemblywoman Buckley requested further clarification from Fiscal staff on the MOE requirements for the programs. She was unclear whether stimulus money could be used to "fill the holes" or restore the cuts, or whether the money must be raised to restore funding levels before the stimulus money could be used.

Prefacing his remarks with the comment "these are all moving targets," Mark Stevens, Assembly Fiscal Analyst, noted the state would be required to provide funding up to some level. From that point forward the stimulus money could be utilized to provide funding. There could be different MOE requirements for different programs. There appeared to be different MOE dates in K-12 and Higher Education, but the Fiscal staff would not specifically locate all of the MOE requirement portions of HR 1 until passage of the final package. Once an analysis of all MOE requirements was completed, the legislators would be provided with the information and the potential dollar amounts the stimulus package could provide in each of the specific program areas.

Assemblywoman Buckley believed that would be a Herculean task.

Assemblywoman Gansert said, if she understood Mr. Stevens correctly, the money that had been cut must be replaced by the state before the stimulus money could be added. She was unclear whether that was only applicable to portions of the DHHS and K-12 budgets.

Mr. Stevens responded that in the case of the DHHS budget, there were eligibility requirements that had to be maintained as of a certain date. There

were income disregard reductions built into the Medicaid budget, about \$10.4 million over the biennium. Those would have to be added back before the FMAP funding could be accessed. There were MOE requirements in most of the other pieces of this legislation. Funding levels must be maintained to FY 2006, FY 2007, or whatever that date was to be eligible for the federal stimulus money.

Assemblywoman Gansert noted the dates seemed to vary.

Mr. Stevens pointed out that the legislation was "a moving target" and he was not certain everything was interpreted correctly at this time. Once the package was passed by the Congress, the dates would be fixed.

DEPARTMENT OF TRANSPORTATION STIMULUS PLAN REVIEW

Susan Martinovich, P.E., Director of the Department of Transportation (NDOT), presented the Committee with an overview of the anticipated effects of the stimulus package for the Department (NDOT).

Ms. Martinovich advised the Committee that information she had received regarding the Senate bill indicated that amounts for transportation projects varied from \$22 to \$27 billion. This equated to \$170 to \$200 million for Nevada. The House bill was approximately \$30 billion or \$217 million to NDOT.

Each of the bills had different distributions. Money was earmarked in the Senate bill for Forest Highways. The U.S. Department of Transportation (USDOT) would be working with NDOT on distribution of the funds.

There were also funds earmarked for ferries and boats, which did not apply to Nevada. Of the remainder, 60 percent could be allocated to anywhere within the state, and 40 percent was allocated to areas based on population. Ms. Martinovich explained the money was further distributed to areas over 200,000 in population, areas from 5,000 to 200,000 in population, and areas with less than 5,000 in population.

The House bill distributed 55 percent to anywhere in the state and 10 percent was put into a category for transportation enhancements. Further distribution was based on population.

According to Ms. Martinovich, NDOT had projects ready for any allocations given to the Department. The projects ranged from capacity projects to pavement preservation projects.

Ms. Martinovich pointed out that NDOT worked closely with all of the communities in the state in examination of projects. Projects must be on a transportation plan and National Environmental Policy Act (NEPA) ready. The Environmental Impact Study (EIS) could take years. Compliance for the smaller pavement preservation projects through categorical exclusion could be completed in a few weeks.

Another caveat was that all right-of-way must be certified. Ms. Martinovich indicated that given the federal requirements for acquiring right-of-way, this process could be very time-consuming.

According to Ms. Martinovich, both the Senate and House bills stipulated that projects would have to be awarded within 90 to 180 days, which was a short time for construction projects.

She had also been informed that some of the projects required complete construction within 18 months, which was a short timeframe. Ms. Martinovich stated that NDOT had been researching projects which would fit into these parameters.

Money would be distributed to the locals through NDOT. Ms. Martinovich explained that NDOT would enter into separate stewardship agreements to pass the money through to the locals.

Ms. Martinovich noted that if the state or locals were unable to spend the money, it would be lost to the state. The money would be put into a redistribution account to be awarded to states that were able to spend all of the money. Clearly, there would not be enough money to finance all of the projects and proponents of projects. Through stewardship agreements, NDOT requested that if a small portion or half of the money was provided, the local entities could participate by supplying the remainder of the required funds for the project.

Ms. Martinovich had received information that the USDOT must have the money available to the states seven days after the passage of the bill. This would allow NDOT to obligate the funds and put projects out for bid within two weeks after passage of the bill. She believed that projects could be started within 90 days after passage of the bill.

Another requirement was a measurement of workforce development. Ms. Martinovich indicated that NDOT had been working with DETR and the USDOT in developing a tracking system for reporting. It was also necessary to find creative ways for contract work to include small business and Disadvantaged Business Enterprises (DBEs) as a part of the package.

Ms. Martinovich stated that NDOT was ready for the passage of the stimulus package and to have projects distributed statewide. This would benefit the entire state. She believed that NDOT was fully prepared to maximize every dollar.

Chair Arberry asked who would make the decisions regarding DBEs, and who would be selected to provide the work.

Ms. Martinovich responded that NDOT must follow the federal requirements for DBEs. The DBE must be on the NDOT list.

It was Chair Arberry's understanding that NDOT would work with DETR to ensure persons who were unemployed would be considered for the projects.

Ms. Martinovich replied that NDOT was willing to work with DETR to incorporate training for individuals into the contracts, if the opportunity was available.

Chair Arberry believed it was important to try to hire within the State of Nevada. If companies from out-of-state were awarded the contracts, it defeated the purpose of the stimulus plan.

Ms. Martinovich agreed, but explained that when using federal funds the federal guidelines must be followed, which included a bidding process. If an out-of-state contractor came in with the low bid, NDOT would be required to award the contract to them.

Chair Arberry suggested a revision of statutes might be required to keep the money in-state.

Senator Horsford asked what type of notification the Department used when putting projects out for bid to ensure DBEs understood the opportunities available to them.

Ms. Martinovich noted there was significant outreach to DBEs. Recently, NDOT had funded a nine-month training course to educate the DBEs on the bidding process. Information was provided on how to network, succeed, fill out federal forms, and get on the NDOT list. A portion of the NDOT budget was for creation of an unclassified civil rights officer position to monitor the bidding process and report directly to the Director's office.

Senator Horsford was aware of some of the outreach efforts. He encouraged all agencies to put forth extra effort during these difficult times to provide greater understanding of what was available for businesses.

Next, Senator Horsford inquired whether the cost-benefit analysis which NDOT performed for projects included the number of jobs created for each project.

Ms. Martinovich did not think that information was included, but she would follow-up with that information.

Senator Horsford believed it would be helpful to have this information. He thought it would be an important benchmark to calculate how many jobs were going to be created from the projects on the list through the use of federal stimulus dollars. By working with DETR, it could be determined how many of the individuals were laid off and put back to work as a result of the stimulus. He felt this would be very important at the end of the process to show how many jobs were created, how many of those individuals were unemployed or underemployed, and how this helped a broad section of people throughout the state. He also requested a transparent process for how the information was reported. It was his impression that there may be performance guidelines, but he did not know what they were.

Senator Horsford wanted NDOT to inform this Committee and the Transportation Committees on the performance measurements and to determine how the information could be reported to the public. All performance measures should be Nevada-specific.

Ms. Martinovich commented that nationally the projections were that for every billion dollars spent in transportation money, 40,000 jobs would be generated. This number was speculative, but the requirement for NDOT was to keep a performance measurement to ensure new jobs were generated and reported.

Assemblywoman Smith recalled the in-state bidder preference issue. It was her understanding that if all federal money was used on a project, the in-state bidder preference could not be invoked.

According to Ms. Martinovich, if any federal money was used in the project, the in-state bidder preference could not be used per the Code of Federal Regulations (CFRs).

Assemblywoman Buckley inquired whether another mechanism could be utilized if the bidder's preference could not be used to ensure Nevada businesses were receiving the stimulus funds.

Ms. Martinovich explained that as a part of the statutes, NDOT was tied to the low bid for the projects.

Assemblywoman Buckley asked whether the low bid statutes could be changed without violating the CFRs.

Ms. Martinovich agreed to research the issue and try to identify a method that would be helpful.

Assemblywoman Buckley wondered whether NDOT had any idea whether the stimulus was going to directly allocate to local government and to the state or whether it flowed through the state. If the latter was the case, the state must put through a mechanism to ensure the localities received their fair share.

Ms. Martinovich advised that all of the money had to flow through NDOT. A list had been developed by NDOT based on the benefit-cost analysis required by Assembly Bill No. 595 of the 74th Legislative Session. The items on the list followed the priority projects previously established. They were projects that had been on the state transportation plan and had been vetted through a series of public meetings and public workshops across the state. The projects not only included capacity projects, but also pavement preservation projects that had gone through an extensive analysis of priorities. Local entities were advised to have all projects NEPA-compliant and have right-of-way certification. Projects were required to be on the statewide plan and, therefore, could not be new projects.

Assemblywoman Buckley commented that the Committee needed to decide on a process to ensure local governments received a fair chance to participate in these programs, as these funds appeared to be different than some of the other stimulus funds. A check of the eligibility of federal law must be made to make sure NDOT met all of the guidelines and no money was lost to the state. It would be beneficial to get some of the pavement preservation projects back on track.

Assemblyman Hogan suggested a method of getting contract opportunities to local Nevada-based companies, including women-owned and minority-owned businesses, would be by encouraging low bidders to subcontract with the DBEs. Contractors generally had much discretion when awarding the subcontracts. If NDOT "strongly encouraged" mentoring DBEs and the use of Nevada-based businesses, the prime contractor would be more likely to include the stipulations in its bid. This could help Nevada-based businesses. Assemblyman Hogan was willing to work with NDOT when they prepared the request for proposal.

Ms. Martinovich thought that was an excellent suggestion and would present it to the Associated General Contractors (AGC) and the contracting community.

Assemblyman Goicoechea believed there was a requirement that if unemployment numbers reached a certain level, local hiring was required.

Ms. Martinovich was not familiar with the requirement but would research the issue.

Senator Horsford raised the issue of capital and inquired how the small businesses could be able to fulfill the terms of the contract if they were unable to obtain financing from the banks. He said that working with Nevada financial

institutions would ensure that dollars would be made available when the contracts were issued.

Senator Hardy noted he had served on the Business Development Activity Committee (BDAC) in Clark County where they had looked extensively at the barriers to small, women-owned, and minority-owned businesses. He agreed with Senator Horsford that the number one barrier to these businesses was lack of access to capital. He recommended the Committee review the report generated by BDAC.

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES STIMULUS PLAN REVIEW

Chair Arberry recognized Allen Biaggi, Director of the State Department of Conservation and Natural Resources, who presented the following statement ([Exhibit J](#)):

As we have heard today, there is an overriding concern and thought process with regard to the stimulus package. First, it is there to generate jobs, and secondly, I would like to point out that much of the funding would be on a competitive basis in these categories and the states will be vying for the much needed dollars.

Similarly, when they come to our state agencies, local communities and the private sector will also be competing for the funding dollars granted to the states.

Emphasis is going to be awarded to "shovel-ready" projects. Therefore, it is in the best interest of Nevada to identify and queue up projects that can be initiated in the short-term.

With few exceptions, these dollars are project-related, short-term, one-time funding that will not be available to supplant General Funds.

Briefly, the Congressional bill contains eight areas of potential funding in the areas of natural resources and infrastructure.

1. The Clean Water State Revolving Fund provides loans and grants through the states to local communities for the development, upgrade, and maintenance of wastewater collection and treatment systems. The House version contains \$6 billion in this category while the Senate contains \$4 billion. Both contain provisions for short-term binding obligation of the dollars. Both make projects related to energy and water efficiency a priority, and the Senate version allows for negative interest loans and principle forgiveness. Early indications suggest Nevada may receive \$30 million for loans and loan subsidies in this category, which would be processed through the Division of Environmental Protection's existing State Revolving Fund (SRF) program.
2. The State Drinking Water Revolving Loan Program provides loans and grants through the states to local communities for the upgrade, development, and maintenance of drinking water treatment and distribution systems. Both the Senate and House bills allocate \$2 billion in this category. The

provisions for use are essentially identical to those for the Clean Water State Revolving Loan Program including the state allocation process. Nevada may receive \$20 million for loans and loan subsidies in this category. This program allows for "set-asides" related to public water systems. This could potentially offset \$143,510 in general fund reductions in Budget Account 3179 in the next biennium.

3. The Leaking Underground Storage Tank program provides funding for the environmental clean up of land and water from releases from underground storage tanks. Both congressional bills contain \$200 million nationwide in this category. It is unclear at this time how these funds will be allocated to the states or the conditions for expenditure.
4. The federal Superfund program conducts environmental remediation at sites contaminated by hazardous substances. Nevada has only one designated Superfund site, the Carson River Mercury Site here in Western Nevada. It is not likely any of the \$800 million outlined in both congressional versions will be made available to the states.
5. The Rural Water and Wastewater Disposal program provides funding to communities through the U.S. Department of Agriculture (USDA) for water and waste disposal activities in rural America. The allocation of these funds is not through the states, but I bring it up because our rural communities in Nevada may benefit from grants and loans provided by the USDA. The House version allocates \$1.5 billion while the Senate version contains \$1.4 billion.
6. Wildfire Hazard reduction dollars are to be used for making our communities more safe and resistant to the catastrophic impacts of wildfire. The House version of the bill contains \$850 million and the Senate \$650 million. U.S. Forest Service guidance has suggested these funds will be competitively allocated to specific projects that are "shovel-ready" and can be implemented immediately as defined by the states. In all likelihood these funds will be passed through the Nevada Division of Forestry as grants to land owners and cooperating entities. The amount of wildfire hazard reduction dollars is unknown at this time.
7. The Brownfields program provides grants and loans to clean up contaminated lands and restore them to productive use in our communities. This has been a very successful program in Nevada, and the state is prepared to immediately initiate grants, upon receipt of the funding, through the Division of Environmental Protection. One hundred million dollars is proposed in both congressional versions. Since Nevada has a successful and mature program, I would expect at least some portion of these funds will be made available to our state.
8. Finally, the Diesel Emission Reduction Act is designed to reduce air pollution and associated health impacts from diesel emissions, and in the stimulus package, both houses propose \$300 million. The State of Nevada has received similar funds in the past, but the potential to receive funding under this package is unknown.

I think our challenge is to maintain our readiness of our agencies to acquire these funds. The critical thing is to immediately put these funds to use and get them on the ground.

With that very brief overview of infrastructure for the environment and wastewater, I would be happy to answer any questions.

Assemblyman Goicoechea pointed out that some of the Nevada rural communities were out-of-compliance with wastewater standards and had preliminary engineering reports in place. He asked whether there was something that could be done to access these funds to aid the communities.

Mr. Biaggi believed there were two programs that were applicable to this problem. The first was the clean-water SRF program which would provide funding to those local communities. The second was the USDA program.

He thought it was important that rural communities move forward as quickly as possible to identify the needs, design considerations, and proposed costs so the process could get moving as quickly as possible once the funds arrived in the state.

Because of the noncompliance issue and with the preliminary engineering reports in place, Assemblyman Goicoechea asked whether he could tell the communities to work with the Nevada Division of Environmental Protection and local environmental organizations to ensure projects were shovel-ready.

Mr. Biaggi confirmed that would be appropriate. The fact that the areas were out-of-compliance and were initiating actions to address the situation should put them higher on the priority list.

Assemblywoman Smith noted there were some small privately-owned water companies in the state that had infrastructure needs but lacked the capital to address the issue. She asked whether those companies would have access to any of the funds coming into the state.

Mr. Biaggi replied the funds would be available to them. The access to funds had been available to the privately-owned companies in the past through existing SRF programs. He was hopeful there would be an infusion of funds, and he encouraged the small water systems to contact the Division of Environmental Protection to determine their eligibility.

Assemblyman Hogan inquired whether the State Department of Conservation and Natural Resources would take responsibility for each of the eight categories listed in the overview to ensure someone would be put in charge of each area. It appeared to Assemblyman Hogan that the state was dependent on a wide variety of local entities, and it would seem prudent for the Department to oversee the projects.

Mr. Biaggi explained the Department was not responsible in all of the cases. As indicated, one of the areas was a federal program, the USDA, but the other programs would be under the auspices of the Department. The positive aspect was that these were existing programs within the Department, and they were all "ready to go."

Chair Arberry opened the floor for public comments.

Katy Simon, Washoe County Manager, distributed [Exhibit K](#), a list of the federal stimulus projects which were submitted by Washoe County. Ms. Simon was accompanied by Steve Driscoll, Assistant City manager for the City of Sparks, and Maureen McKissick, Grant and Fund Development Manager for the City of Reno.

Ms. Simon advised the Committee of the process which Washoe County had undergone. Washoe County had attempted to use consistent criteria to produce a regional list of priority projects in response to Senator Harry Reid's request.

The list was recommended but not yet acted upon by the elected officials. There would be a joint meeting of Washoe County entities to consider the list ([Exhibit L](#)). Projects listed on the exhibit that were considered "most promising" were shaded. Ms. Simon explained that projects considered "most promising" were shovel-ready, matched federal priorities, met NEPA requirements, and were balanced among entities and trades.

In closing, Ms. Simon noted that Washoe County had worked diligently to bring forward a consolidated and prioritized regional list.

Senator Horsford requested the counties, when prioritizing their lists, to include information on the number of jobs that would be created for each project and the role they would play in helping to link those who were unemployed and underemployed to the projects.

George Stevens, Chief Financial Officer for the Clark County Department of Finance accompanied by Sabra Smith-Newby, Director for the Clark County Department of Administrative Services, presented a list of proposed projects ([Exhibit M](#)).

Mr. Stevens addressed the issue of bidding on infrastructure projects. He agreed credit was one of the most important barriers to small business, but pointed out bonds and insurance were also significant barriers.

Ms. Smith-Newby provided an overview of [Exhibit M](#) which was a list of the southern Nevada infrastructure projects. The list came from a simple compilation. Clark County administrators believed it would be easier for the federal delegation to view one list rather than lists from 16 separate entities.

When the county requested a list of proposed projects from the separate entities in the county, it requested projects which were infrastructure-related and could be shovel-ready in the next several months. There was no prioritization of the projects, and Ms. Smith-Newby was aware not all projects would be eligible.

Senator Hardy disclosed he was president of the Associated Builders and Contractors of Las Vegas.

Assemblyman Hogan assumed the projects listed would be performed in the major urban area of the state and hoped Clark County would make the same efforts as NDOT to ensure job and training opportunities would reach a wide diversity of the population. He noted that had not been a major focus in the past, but he hoped the county would consider this as an opportunity.

Mr. Stevens assured Assemblyman Hogan that Clark County would indeed focus their efforts on this issue.

There being no further public comments or questions, Chair Arberry adjourned the Committee at 10:50 a.m.

RESPECTFULLY SUBMITTED:

Linda Blevins
Committee Secretary

APPROVED BY:

Assemblyman Morse Arberry Jr., Chair

DATE: _____

Senator Bernice Mathews, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Ways and Means/Senate Committee on Finance

Date: February 4, 2009

Time of Meeting: 8:08 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Mark Stevens, Fiscal Analyst	Comparison of Stimulus Package
	D	Mark Stevens, Fiscal Analyst	Center on Budget and Policy Priorities
	E	Michael Willden, Director, DHHS	Summary of Impacts of HR 1
	F	Michael Willden, Director, DHHS	FMAP Scenarios
	G	Keith Rheault, Superintendent of Public Instruction, Dept of Ed	American Recovery and Reinvestment Act of 2009
	H	Daniel J. Klaich, Executive Vice Chancellor, NSHE	Prepared testimony
	I	Larry Mosley, Director, DETR	Economic Stimulus Overview
	J	Allen Biaggi, Director, Dept. of Conservation and Natural Resources	Prepared testimony
	K	Katy Simon, Washoe County Manager	List of Washoe County projects
	L	Katy Simon, Washoe County Manager	Truckee Meadows "Most Promising" Projects
	M	George Stevens, Chief Financial Officer of Finance, Clark County Department	Southern Nevada Infrastructure Projects