

**MINUTES OF THE FEBRUARY 18, 2010
MEETING OF THE
INTERIM FINANCE COMMITTEE
LEGISLATIVE COUNSEL BUREAU
Las Vegas, Nevada**

Cochair Steven Horsford called a regular meeting of the Interim Finance Committee (IFC) to order on February 18, 2010, at 9:19 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. [Exhibit A](#) is the Agenda and [Exhibit B](#) is the guest list. All exhibits are available and on file at the Fiscal Analysis Division of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Steven Horsford, Cochair
Assemblyman Morse Arberry Jr., Vice Chair
Assemblywoman Barbara Buckley
Assemblyman Marcus Conklin
Assemblyman Moises (Mo) Denis
Assemblyman Joe Hardy
Assemblyman Joseph Hogan
Assemblywoman Ellen Koivisto
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblywoman Debbie Smith
Senator Bob Coffin
Senator Joyce Woodhouse

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Bernice Mathews, Cochair
Assemblywoman Heidi Gansert
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblywoman Sheila Leslie
Senator William J. Raggio
Senator Dean A. Rhoads
Senator Randolph Townsend

LEGISLATIVE COUNSEL BUREAU STAFF IN LAS VEGAS:

Mark Krmpotic, Fiscal Analyst, Senate

LEGISLATIVE COUNSEL BUREAU STAFF IN CARSON CITY:

Lorne Malkiewich, Director, Legislative Counsel Bureau
Eileen O'Grady, Chief Deputy Legislative Counsel, Legislative Counsel Bureau
Tracy Raxter, Fiscal Analyst, Assembly
Russell Guindon, Senior Deputy Fiscal Analyst
Sherie Silva, IFC Committee Secretary
Cheryl Harvey, Fiscal Analysis Division Secretary
Carol Thomsen, Transcribing Secretary

A. ROLL CALL.

Lorne Malkiewich, Director, Legislative Counsel Bureau and Secretary of the Interim Finance Committee, called the roll from Carson City; he announced a quorum of each House was present.

Cochair Horsford thanked Committee members and the public who were in attendance at the meetings in Las Vegas and Carson City. He indicated that this meeting would be the continuation of the series of budget hearings regarding the shortfall in the state budget. The Committee's prime focus would be to identify additional revenue options to help address the General Fund shortfall.

Cochair Horsford stated the Committee would be hearing from a number of state agency administrators, as well as members of the business and labor communities. The Committee would also take testimony from the Governor's Office regarding a number of proposals recommended for consideration. As part of the process, the Committee would appreciate input from the public regarding any ideas, suggestions or alternatives that were currently under discussion, or others that might not be discussed today, that could be part of the overall solution as the Committee worked toward balancing the state budget responsibly going forward.

Cochair Horsford said his expectation was that the Committee would take testimony throughout the morning; however, the Committee would break for lunch because of scheduled commitments of members. The Committee would reconvene early in the afternoon.

Cochair Horsford again thanked those in the general public who had expressed their ideas and offered solutions. The fact that so many people turned out at the public town hall meetings in Las Vegas and Reno on February 13th showed there was great interest in the budget impacts and how the shortfall affected everyday people in Nevada. Many very good suggestions had been made and were being considered as part of the overall solutions.

Cochair Horsford stated the Committee wanted to conduct an open process, one where people could understand the various options, and one where people could ask

questions and request clarification as the Legislature moved forward toward making its ultimate decisions.

Cochair Horsford asked whether there were other remarks from Cochair Mathews, Assemblywoman Buckley or other members of the Committee.

Assemblywoman Buckley stated she appreciated the opportunity to make remarks. She wanted to thank the legislators who participated in the Saturday hearings, as well as members of the public who attended. In Las Vegas alone, Assemblywoman Buckley believed the final count was 602 individuals, which set a record for the most people that had turned out to voice their concerns and suggestions. She also thanked the students who had participated in walk-outs, letter-writing, emailing and texting. The Committee appreciated receiving the feedback from everyone.

What was most apparent at the current juncture, said Assemblywoman Buckley, was that the primary concern of individuals in Nevada was education. The concern was that a deep level of cuts in education would hurt every student's chance for success and damage our economic recovery in the long run.

Assemblywoman Buckley indicated that the second most-voiced concern heard by the Committee was the proposed cuts to those who were most vulnerable, such as frail seniors, the mentally ill and children in foster care, just to name a few examples.

Assemblywoman Buckley thanked legislative leaders, Senator Horsford, Senator Raggio, and Assemblywoman Gansert for working together. Even though everyone did not always agree, some potential solutions and/or suggestions had been developed that were currently under examination. She also thanked the Governor's staff for agreeing to some legislative suggestions. She believed there was a long way to go before the upcoming Special Session, but by working together it could be done. Legislators could examine innovative ways to reduce the state's budget and reprioritize; at the top of the list had to be a reduction of the proposed cuts to education and those most vulnerable.

Assemblywoman Buckley looked forward to hearing the ideas that might come forward and working with everyone to develop solutions that made sense during this very critical time for Nevada.

***B. DISCUSSION OF THE STATE BUDGET SHORTFALL AND PROPOSED SOLUTIONS.**

Cochair Horsford indicated the Committee would like information from the State Department of Taxation regarding current and potential revenue, as well as a better understanding of the protocols and procedures that were in place regarding collection of revenues due the state. He asked Mr. DiCianno to come forward in Carson City.

Dino DiCianno, Director, State Department of Taxation, stated the current revenues for the December roll period would be issued on February 22. He explained that revenues associated with the sales tax, the 2 percent that was distributed to the General Fund,

was only estimated to be down by 5.2 percent. He asked the Committee to keep in mind that the drop was comparing probably one of the worst periods the department had ever had with respect to sales tax collection. The same period in December of the prior year had been down nearly 16 percent, so there had been improvement.

With respect to taxable sales, Mr. DiCianno said that category was only down 7.3 percent for December 2009, as compared to an almost 16 percent drop the prior year. He emphasized that he was not trying to give the Committee a "warm and fuzzy feeling" that sales tax collections would become positive in the near future, because he did not believe that to be the case. Mr. DiCianno believed what occurred was the sales tax had potentially bottomed out. Again, he asked the Committee to keep in mind that November and December taxable sales were usually the better months with respect to collections and reporting because of the holiday season. Mr. DiCianno said under normal economic situations, the department's experience was that the following months of January and February were much slower revenue months.

Mr. DiCianno asked whether members of the Committee had specific questions about the duties of the department or about possible enhancements that could be added for collection. He believed he could better address the issues with specific questions from the Committee.

Cochair Horsford stated the Committee would like to hear a general overview for the benefit of the public regarding the process used by the Department of Taxation in the collection of revenue, any information regarding outstanding obligations owed the state, the processes that were in place, and ways in which additional resources could be leveraged to meet the revenue collection projections.

Mr. DiCianno replied it was important to keep in mind that the State Department of Taxation was an administrative body that did not establish policy with respect to tax laws; the laws that were adopted by the Legislature and signed by the Governor were followed by the department. He made that point because the department was not like the Insurance Division, the Financial Institutions Division or the Gaming Control Board. The department did not regulate businesses. Mr. DiCianno emphasized that it should never be a function of the Department of Taxation to dictate to businesses how to conduct their business, how to form their business, or how their business dealt with the general public. The concern of the department was that the businesses reported properly and in a timely manner.

Mr. DiCianno pointed out that sales and use tax was self-reported, as were the majority of the taxes collected by the department. If that was not the case, it would be extremely difficult from the standpoint of time and efficiency to collect those revenues and complete distribution.

Mr. DiCianno was aware there had been significant discussion about the Department of Taxation conducting audits on more entities in order to generate additional revenue, and he wanted to provide clarification. There was no question that auditors were necessary,

but he wanted to dispel the notion that auditors generated revenue. Auditors did not generate revenue; rather, they generated a bill. That bill was subject to be processed depending upon the wishes of the taxpayer. If the taxpayer did not believe the money was owed, the taxpayer was afforded due process. Mr. DiCianno explained that a hearing would be held and if the taxpayer was not satisfied, the case could be heard before the Tax Commission. And, if the taxpayer was still not satisfied, the case could be heard by the district court.

Mr. DiCianno pointed out that while the department might make an assessment, it might not necessarily collect that revenue until the due process had been completed. Also, the department could lose the case in district court and that revenue would be lost. He said there was no guarantee that more revenue could be generated by hiring additional auditors.

The department had over 300,000 accounts, Mr. DiCianno continued, and to audit 300,000 accounts was physically impossible; the department did not have the resources to conduct that number of audits. Plus, he added, it would not make much sense to audit all 300,000 accounts. His experience in dealing with taxpayers and looking at returns was that the vast majority of taxpayers were compliant; they reported timely and paid timely. Mr. DiCianno indicated that the department attempted to focus on those accounts that exhibited "risk factors." Those risk factors were: (1) misreporting, (2) nonpayment, and (3) utilizing deductions that were not afforded to the business. That was the focus of the department and the issues about which it attempted to educate taxpayers so they would be compliant.

Mr. DiCianno did not believe that auditing a business educated that business to be more compliant. He said that simply did not work; the department should be more upfront with the taxpayer and provide education regarding his responsibilities in the areas of timely reporting, reporting correctly and paying timely. That was the focus of the department.

Regarding outstanding account receivables, Mr. DiCianno said the department had provided a report under the requirements of Assembly Bill 193 of the 75th Legislature that indicated there was approximately \$100 million in accounts receivable. That included not only sales and use tax, but all taxes. He believed it was important for legislators keep in mind that a portion of that amount was related to bankruptcies, which the department could not pursue because bankruptcies were subject to termination by the courts.

Much of the debt, explained Mr. DiCianno, was very old, some as much as 20 years old. Hopefully, the department had made every attempt to collect the revenues; however, the Committee should realize that the debts were old and, in many cases, the entities that owed the money no longer existed. The corporate offices were often gone and the corporations or partnerships had been dissolved.

Mr. DiCianno believed the report misrepresented the amount of revenue that could be collected, because NRS required that all outstanding debt was still a debt owed to the state, even though the department had made every attempt to collect the revenue and had determined it to be uncollectible. Unfortunately, said Mr. DiCianno, the amount overstated the assets owed the state. Any amount that had been deemed uncollectible should have been completely written off, unless the state had an established lien or was aware that the entity or personal liability could be attached to the corporate offices. He reiterated that it was unfortunate, but he believed that including all outstanding debt as required by NRS overstated the amount outstanding from taxpayers.

Cochair Horsford said he would like to put Mr. DiCianno at ease. The line of questioning by the Committee was not intended to be accusatory. The Committee was in a fact-finding stage at the current time. Because of the potential impact of a layoff of 5,000 teachers and the closure of mental health and adult day-care facilities, the Committee was simply asking the question, "Are we doing everything that can be done to collect the revenues that are due the state?"

Cochair Horsford voiced appreciation for Mr. DiCianno's remarks and stated the Committee was not trying to find a "got you," but rather was attempting to ascertain for the good of the public whether there was revenue that the state should be collecting so the impacts of the cuts could be decreased to some extent.

Mr. DiCianno appreciated Cochair Horsford's comments; he did not think the Committee was attacking the department. He said he was trying to answer some of the concerns he had read about in the newspapers and questions he had been asked about the Department of Taxation doing its due diligence in the collection of those outstanding taxes.

Senator Raggio stated he would like to "cut to the chase" because time was very limited. The \$100 million figure reported to be collectible had been around for a long time, and it was appropriate that Mr. DiCianno indicated a large amount of that money was illusory and certainly not collectible.

Senator Raggio explained that the Legislature and the Governor wanted to use a figure for outstanding accounts receivable as part of the solution that would be attainable within fiscal years 2010 and 2011. He agreed that much of the amount should have been written off as not collectible many years ago. He wondered whether there was an amount that Mr. DiCianno would feel comfortable in suggesting could be collected with the department's current capabilities between now and the end of fiscal year 2011.

Mr. DiCianno replied that he did not have a specific figure in mind for that amount.

Senator Raggio understood the difference between assessing and collecting the amount of outstanding accounts receivable. He assumed that most of the amount had been assessed, and it was a question of collectability of the revenue.

Mr. DiCianno reported the department was currently working with the Controller's Office, and regulations were forthcoming that would utilize the Controller's Office for the collection of a portion of the outstanding debt. It was his understanding that the Controller was planning to outsource a portion of those debts to collection agencies. Mr. DiCianno stated he did not know how successful that process would be and it was an unknown quantity at the present time. The department would work with the Controller's Office in an attempt to collect as much revenue as possible. He said he could not provide the Committee with a specific figure today.

According to Mr. DiCianno, there were other revenues available. Some time ago, the department declared an amnesty period that was successful in collecting \$41 million in taxes owed the state. He believed the amnesty period was declared at the right time, but economic conditions had changed for many taxpayers. While the department would not have issues with declaring another amnesty period, Mr. DiCianno explained the department would be required to go through the normal regulatory process to put the amnesty in place, which took time.

What could occur, Mr. DiCianno continued, was there could be legislation authorizing the Tax Commission, under a one-time event, to declare an amnesty period. He did not know whether more taxpayers would come forward to pay their outstanding debt. Usually under an amnesty, the department tried to collect the tax and offer the taxpayer a waiver of the penalty and interest. Under the current circumstances, that might not be enough of an incentive for those taxpayers to come forward.

Mr. DiCianno remarked that the Tax Commission was seeing more and more delinquent taxpayers coming forward with what was referred to as an "offer and compromise." An offer and compromise also took into consideration the ability of the taxpayer to pay the tax, and only the Tax Commission had the authority to waive the tax; the Department of Taxation did not have that authority. The bottom line, said Mr. DiCianno, was whether something was better than nothing, and he believed it was absolutely better. Another question was whether the taxpayer should pay the entire tax liability, and his answer was absolutely, there should be no question about that. However, the last thing the Tax Commission or the department wanted to do was force a taxpayer currently in business to pay a debt that would cause the business to close; that was the worst thing that could happen.

In reply to Senator Raggio's question, Mr. DiCianno reiterated he could not venture a guess about the amount of the outstanding accounts receivable that could be collected. He would research the figure with staff and attempt to make a determination.

Senator Raggio thought that between the department and the Controller's Office, the portion of the \$100 million that was entirely uncollectible could be determined. The Controller's Office had been engaged for many years in collections through outsourcing. He would like at least some understanding of the amount that was deemed collectible through the end of FY 2011. Senator Raggio said he was one member of the Legislature who was not comfortable in using a figure that amounted to "smoke and

mirrors," as some had suggested. For the Legislature to arrive at a realistic solution to the \$890 million budget shortfall, it could not use "smoke and mirrors," and he felt there had to be some figure the Legislature could rely on, even if it was minimal. He emphasized he would not be part of a process that utilized unrealistic figures.

Assemblywoman Gansert noted that one proposal was to use the Department of Taxation's Surety Bond Fund, and she asked about the stability of that fund.

Mr. DiCianno explained the Surety Bond Fund was a cash bond fund and was the security that retailers paid to the department when it had determined that the retailer needed to have security in the event the account had issues such as outstanding debt or closure of the business. The department could then capture that revenue to satisfy the liability. Mr. DiCianno thought the account balance was approximately \$52 million.

Mr. DiCianno stated that a white paper had been produced by the department's budget analyst, Janet Murphy. The white paper explained the background information associated with the Surety Bond Fund and the value of that account to the department. The department had expressed concern about sweeping the entire amount of the fund because under current NRS, if a business had perfect reporting and timely payments for a three-year period, the surety for the business would be waived and the department would refund that money to the taxpayer. Mr. DiCianno believed that some funding should remain in the Surety Bond Fund to cover those occurrences. The department had furnished information to the Budget Division about the amount that should be retained in the Surety Bond Fund, and that it should not be totally swept.

On a monthly basis, said Mr. DiCianno, the Tax Commission had a number of taxpayers who came forward for approval of a waiver and a refund, which was a given based on the taxpayer's reporting history. He believed the recommendation was to sweep \$35 million from the Surety Bond Fund, and he asked whether that was the correct amount.

Assemblywoman Gansert replied the recommendation was to sweep \$35 million from the fund. Mr. DiCianno asked the Legislature to reduce that amount by at least \$5 million.

Assemblywoman Gansert noted there were assessed taxes that had not been collected, and she asked whether the Surety Bond Fund was used in those instances. Mr. DiCianno replied in the affirmative.

Assemblywoman Gansert asked whether the funds could be swept on an ongoing basis. Mr. DiCianno replied in the affirmative.

Assemblywoman Gansert asked whether the amount of \$52 million was fairly stable or if the total of the Fund fluctuated. Mr. DiCianno explained the total of the Fund had grown because of the number of accounts, and he believed the fund was fairly stable.

Mr. DiCianno said his only other concern with respect to sweeping funds from the Surety Bond Fund was that the Legislature should keep in mind it was taxpayer money. The funds were held in trust by the state as a means to protect the collection of taxes owed by the taxpayer. He advised caution in sweeping more money from the Surety Bond Fund than was absolutely necessary.

Cochair Horsford asked how the outstanding accounts receivable balance of \$100 million related to the audit conducted by the Department of Administration's Division of Internal Audits of the Division of Insurance that depicted outstanding obligations of between \$90 million and \$160 million in insurance premium taxes. He asked how that outstanding obligation compared with the \$100 million that the department reported as outstanding.

Cochair Horsford also requested that members of the Committee receive copies of the audit report of the Division of Insurance. (Copies were subsequently provided to the members; [Exhibit C](#)).

According to Mr. DiCianno, the \$100 million in outstanding accounts receivable was a known quantity and had no relation to the determination made by the audit of the Division of Insurance. The audit questioned whether the Division of Insurance should be performing desk audits. The determination was made, after looking at audits of insurance divisions conducted in other states, that the estimated potential revenue would be approximately \$160 million. Mr. DiCianno indicated that was an estimate and not a known dollar amount because those desk audits had not yet occurred. The Division of Insurance had not had either the staff or the opportunity to conduct the desk audits. At best, there was a potential for collection, but at the present time there was no known collectible amount.

Cochair Horsford said it appeared that since the amount had not been "assessed," it was not accounted for within the overall figure. Mr. DiCianno replied that was correct.

Cochair Horsford asked whether funds under Chapter 11 bankruptcies were being paid to the state within the \$100 million outstanding obligation.

Mr. DiCianno replied that funds were being received from bankruptcies. Historically, the revenue from bankruptcies brought in between \$1 million to \$3 million each fiscal year. The amount varied depending upon what occurred in the courts. He said some of the debt in bankruptcy could be discharged by the court and would never be collectible. The department had no authority to go after the money that was discharged by the court. He again emphasized that some of the revenue included in the \$100 million outstanding accounts receivable had been deemed uncollectible and should be removed from the overall dollar amount; the department would never be able to capture that money.

Cochair Horsford asked whether there were any other areas within state government where there appeared to be outstanding commitments that had not yet been assessed. Mr. DiCianno responded there were not, at least not to his knowledge.

Senator Coffin stated he understood the problem, but he was unsure about the \$100 million figure. He knew from experience that a portion of the outstanding accounts receivable was uncollectible. He asked about the process used by the department when a taxpayer was delinquent or had declared bankruptcy.

Mr. DiCianno explained the best thing the department could do in working with taxpayers was to provide education from the beginning, as soon as the taxpayer registered. That was the reason the department had installed the call center. When the department was able to answer questions from taxpayers to make sure they were compliant, future issues of outstanding accounts receivable could be avoided. He said that was the reason the department offered "Train the Trainer" on its website. The department asked people to look on the website so they could understand their reporting responsibilities. Mr. DiCianno stated that no one was perfect, and audits on taxpayers that depicted risk factors were necessary, which was part of the function of the department.

Regarding bankruptcy, Mr. DiCianno remarked the last thing the department wanted to do was put the taxpayer in the position of filing for bankruptcy, because there were no winners in that scenario. The department ran a risk in collecting outstanding debt, which was the reason it offered penalty and interest waivers and offers to compromise. Mr. DiCianno reiterated that the last thing the department wanted to do was shut down a business and confiscate and sell the assets to satisfy the tax bill. It was better if the business was allowed to remain open, retain its employees and report and pay taxes as best it could.

Senator Coffin commented that if the department waited too long, no one would be protected; it was sometimes better to tell the business that it was time to pay the taxes owed.

Mr. DiCianno hoped that Senator Coffin did not misunderstand his comments. He believed taxpayers should pay outstanding debts. The department was attempting to work with taxpayers in order for them to pay their outstanding debt without putting their business in further jeopardy.

Senator Coffin asked whether taxpayers had the opportunity to set up payment plans. Mr. DiCianno replied payment plans were available.

Senator Coffin asked whether there was an established timeframe for department intervention. He operated a small book business that had been dormant for approximately four years. He received his monthly letter from the department, entered zero under sales and use taxes due, signed the form and sent it back to the department. Senator Coffin asked what would occur if a taxpayer was doing business and failed to

fill in the proper amounts on the department's form. He wondered whether at some point a department employee would request that the taxpayer prove he was not doing business. He had never been questioned, but he was curious how the department discovered taxpayers who were fraudulent in their reporting.

Mr. DiCianno replied there was a timeframe in place for intervention by the department. He explained that based upon a review of Senator Coffin's account, the department had determined that he had been properly reporting. He pointed out the department had over 300,000 accounts and, given the department's current resources, it would be virtually impossible to physically audit every account. The department was selective in its audits.

Senator Rhoads asked whether the state was at an all-time high for Chapter 11 bankruptcies. Mr. DiCianno replied he was not sure, but that was a possibility considering the state of the general economy.

Senator Raggio asked for clarification regarding the insurance premium tax that could be collectible. The Fiscal Analysis Division of the Legislative Counsel Bureau (LCB) believed the amount could be larger. He noted that Mr. DiCianno indicated the amount had been predicted based on estimates from audits conducted by other states. Senator Raggio said it appeared there was some lack of capability on the part of the Division of Insurance to perform the desk audits. He understood that proper payment of the insurance premium tax by the major insurance companies conducting business in Nevada was not in question. It appeared the question of payment centered on the smaller companies.

Mr. DiCianno believed Senator Raggio was correct, but thought his questions could better be answered by Scott Kipper, the Commissioner of Insurance.

Senator Raggio indicated the Committee would need that information. The figure used by the Governor was less than that used by Fiscal Analysis Division staff, who believed that approximately 7 percent might be collectible. Senator Raggio asked for information regarding the reality of collecting outstanding insurance premium taxes.

Andrew Clinger, Director, Department of Administration, stated that the \$5 million figure owed for insurance premium tax was based on an estimate from the Insurance Commissioner, as well as the Division of Insurance receiving an additional \$500,000 for audit resources to achieve collection of the outstanding tax.

Senator Raggio asked whether that would be possible with the proposed 10-percent cut for all agencies. Would the Insurance Division be allowed to hire the personnel necessary to accomplish collection of the outstanding premium tax? Mr. Clinger believed the collection service would be contracted out.

Senator Raggio stated that Item 10 of the Governor's proclamation addressed adoption of a nexus law providing that certain online vendors of taxable, tangible personal

property be subject to the existing Nevada use tax. It appeared the idea was quite popular, since the state was not collecting sales tax from Internet sales. For the record, Senator Raggio submitted a letter dated February 5, 2010, from the National Conference of State Legislatures ([Exhibit D](#)), which addressed the issue of Internet sales tax and included a discussion of the "affiliate nexus" issue. As an example, Senator Raggio explained, a company such as Amazon.com with a distribution center in Nevada also had sales directly from that center, which would be considered retail transactions, vis-à-vis receiving a book from an affiliate in some other state. Senator Raggio stated New York had dealt with the issue by passing laws, and several other states had indicated they were collecting the tax. He questioned the reality of dealing with the issue in the Special Session, as suggested by the Executive Branch, and whether the state would realize any substantial revenue.

Senator Raggio said he had discussed the issue with Mr. DiCianno, and his recollection was that the Department of Taxation conducted audits of sales from distribution centers, and the tax was being paid on purchases made by Nevada residents. The difficulty appeared to be the litigation and the fiscal estimate of what would be involved in trying to pass laws that would tax affiliate nexus sales.

Senator Raggio stated Nevada was one of 23 states that had endorsed the streamlined sales tax law, and he understood some states that had adopted the law were receiving revenue. He wondered what would be collectible in Nevada under that law. He was aware that for at least six years, Congress had refused to repeal the moratorium that had been placed on the collection of tax on Internet sales from out-of-state purchases. He believed there was a legal question, and the Legislative Counsel had expressed concern.

Mr. DiCianno thought Senator Raggio had covered the issue quite well. There was a distinction between the streamlined sales tax effort and the "e-tax" effort with respect to affiliates. He explained that a number of states, including New York, had gone down the "e-tax" road. A change would be required in the NRS to redefine the definition of "vendor" in order to capture sales tax from the affiliates that were used as intermediaries between an Internet company, such as Amazon.com or Overstock.com, to send a product to a Nevada resident.

Mr. DiCianno said Amazon.com and Overstock.com had filed suit in New York and lost their cases. He pointed out the court system in New York was somewhat different from that in Nevada. Cases were first sent to the Supreme Court in New York and then to a higher appellate court. At the Supreme Court level, the decision was made in favor of the state of New York, but the Internet companies had filed through the appellate court and the case remained under litigation.

Mr. DiCianno said in order to remove the taxation based on the affiliate nexus, Amazon.com had removed its affiliates. Therefore, if affiliates did not exist, there would be no tax revenue. Perhaps some revenue could be captured, but Mr. DiCianno

believed it would be very limited. He would not have an issue from a policy standpoint should the Legislature vote to move forward with the affiliate nexus.

Mr. Clinger advised the Committee that the Budget Division's plan had not included revenue from nexus, even though the Governor had included the nexus law in his proclamation.

Cochair Mathews asked why the Governor had included the nexus law in his proclamation if revenue was not included in the Budget Division's plan. She wondered whether the division was asking the Legislature to determine a figure.

Mr. Clinger explained it was another initiative that the Budget Division felt was important to bring forward, but the division was uncomfortable in predicting a revenue figure until there was sufficient time to determine the potential for the nexus law.

Assemblywoman Smith asked what happened to the sales tax when a person purchased an item out of state or in another county and returned that item to a store in the state or another county. She explained that a constituent had purchased an item in Oregon and paid no sales tax, and when the item was returned in Nevada, the sales tax was refunded. She asked how that issue impacted the state's revenue from sales tax.

Mr. DiCianno replied a person who purchased an item in Oregon and brought the item to Nevada to be used would owe use tax. If the person paid that use tax and then returned the item for a refund, he would receive the use tax that was paid. However, if the person did not pay use tax, he would not be entitled to a tax refund.

Assemblywoman Smith said her constituent had not paid a use tax and was refunded sales tax when the item was returned. Mr. DiCianno was surprised the retailer refunded the sales tax. Assemblywoman Smith said she was also surprised, which was why she thought that perhaps it was an issue that should be discussed.

Assemblywoman Smith asked for an update regarding business owners being required to mail payments for sales tax to an out-of-state location. She had received a letter from a constituent, and there had also been a letter to the editor in the local newspaper from a business owner upset about mailing his sales tax payment to Arizona.

Mr. DiCianno replied that he had read the same letter to the editor. The Department of Taxation had been using the JP Morgan Chase facility in Arizona for its lock-box service for over six years. He said when the request for proposal (RFP) for lock-box service was sent out, both in-state and out-of-state banks responded, and in the department's review and questioning of the respondents, the banks were asked about the location of the lock-box operations. The in-state banks indicated they would merely outsource the lock-box service to an out-of-state facility. That was not acceptable to the department, because the taxpayer would mail his return to an in-state bank location, and the bank would box up the payments and send them out of state. Payments would actually be received by the out-of-state lock-box service two or three days later.

According to Mr. DiCianno, the state would lose the flow and have inefficiencies in recording timely payments and the returns properly. The only bank the department felt comfortable with was JP Morgan Chase because it would do the lock box at the time the payment was received. Unfortunately, the bank was located in Phoenix, Arizona, but banking was fluid, and money moved electronically.

Assemblywoman Smith said she understood the fluidity of moving money electronically, but the response from the public about sending Nevada's business to an out-of-state vendor was a very natural reaction, particularly during the current state of the economy. Nevada residents appeared to be very sensitive about trying to help Nevada prosper. She surmised that JP Morgan Chase was the only vendor that could match the needs of the department.

Mr. DiCianno said he would encourage individuals who did not want to mail their tax return and payments to Phoenix to access the department's website and register to file and pay online. It would save taxpayers the cost of postage and the concern that the service was provided by an out-of-state lock-box service.

Assemblywoman Buckley believed that once a business filed for bankruptcy and the debt had been discharged and the statute of limitations had passed, that debt should be removed from the state's books so the amount that potentially could be collected was very clear. She asked Mr. DiCianno to work with the Controller's Office to determine an amount that improved collection efforts might yield.

Assemblywoman Buckley suggested the Legislature should consider another amnesty or offer to compromise solution to outstanding taxes, and she asked Mr. DiCianno to develop a plan for consideration at the upcoming Special Session of the Legislature. When the Legislature met in 2009, it did not envision that \$41 million could be collected with an amnesty, but that was the amount collected. She remarked that \$41 million was a significant amount that could address some of the health and human services cuts currently on the table; optional services in Medicaid could be restored; adult day-care issues could be resolved; and respite care, hearing aids, diapers and the other issues that had been suggested for cuts could be reconsidered.

Continuing, Assemblywoman Buckley said the Governor, at the request of the Legislature, had agreed to restore \$18 million for housing for the mentally ill, which was appreciated. There were many issues that were imperative for the Legislature to reexamine, and if an amnesty program could obtain up to \$41 million, or even half that amount, it could avert a great deal of pain for those who were most vulnerable.

Assemblywoman Buckley asked Mr. DiCianno to comment about the proposed 10-percent cut to the department's budget. There were at least two agency budgets that had not yet been publicly discussed, the Gaming Control Board and the Department of Taxation, and she was very concerned that a 10-percent cut might cripple those agencies. She believed that 20 positions were proposed to be eliminated from the Department of Taxation, and she wondered whether the department could

sustain that level of cuts. She thought the Legislature might consider assessing audit fees to make the department more self sufficient and less reliant on General Fund support. The General Fund money could then be diverted to education or used for services for the most vulnerable.

Mr. DiCianno replied that legislators should remember that the \$41 million collected during the past amnesty had been shared with local governments. A portion of those funds was placed in the General Fund and the remaining amount was allocated to local governments, particularly in the area of sales tax collection. He reiterated that the modified business tax and business license fees were General Fund revenue.

Regarding the proposed budget cuts, Mr. DiCianno said it was easy to question why the Legislature would cut the budget of the agency that collected the revenue for the state. However, everyone realized the state was in an economic situation in which every agency had to do its best to maintain services, including Health and Human Services, the Department of Taxation, and all other state agencies.

Mr. DiCianno said cutting the budget was a difficult task because there was very little "fat" in the budget, and the department wanted to maintain its core mission, which was the collection and distribution of revenue. He added the department actually had other duties as well, including staffing the Committee on Local Government Finance, the State Board of Equalization, and the Nevada Tax Commission, and those positions were not revenue generating. However, staffing of those entities was a mandatory function of the department.

Mr. DiCianno stated he had been very judicious in trying to spread the pain of budget cuts across all divisions within the department to retain the necessary level of staff. Twelve intermittent positions were also eliminated, so the total number of full-time equivalent (FTE) positions was actually 26. In order to maintain the core mission and keep the offices open in Carson City, Reno, Las Vegas and Henderson, Mr. DiCianno said he had no choice but to recommend closure of the Elko office. That was the only logical solution because, in terms of hard dollars rather than positions, the highest number of accounts and the most revenue were realized from the urban areas.

Mr. DiCianno said the department could send an auditor to the rural counties to conduct audits on businesses, and revenue officers could be sent to answer questions or research issues with retailers. The department also maintained a call center to answer questions from individuals in the rural communities. He also felt the argument could be made that if the department had an office in Elko, there should be an office in Ely or Tonopah or other rural locations. He had attempted to avoid the elimination of revenue officers and auditor positions to the best of his ability. Mr. DiCianno remarked the budget cuts would be painful, and any additional resources to bolster the core mission of the department, which included providing education to taxpayers and ensuring that taxpayers were compliant, would be appreciated.

Assemblywoman Buckley pointed out there was little time before the upcoming Special Session of the Legislature. She asked Mr. DiCianno whether, in his opinion, any of the proposed 10-percent budget cuts would harm the ability of the department to bring in revenue. She asked him to provide that information prior to the Special Session so the Legislature had the information necessary to make thoughtful decisions. The Legislature was aware the department was not asking for a special break in budget cuts, but it made no sense to eliminate the ability to collect revenue by cutting the department's budget. Mr. DiCianno replied that he would provide the requested information.

Cochair Horsford asked Mr. DiCianno to provide the information to Fiscal Analysis Division staff as soon as possible. He asked Mr. DiCianno and Mr. Clinger for feedback regarding the Governor's proposal for mining deductions, including how the process would work, whether collection of \$25 million by the end of this fiscal year was realistic based on the reports that were due in a matter of weeks, and any other comments about the plan in general.

Mr. DiCianno testified that he had not been involved in the discussions or calculations associated with the \$25 million plan for mining deductions, and therefore it would be inappropriate for him to comment on the plan.

Mr. Clinger explained the proposal put forward by the Executive Branch was to take the deductions that currently existed in the NRS, and rather than identify specific deductions that would be excluded, to examine the deductions in total and arrive at a percentage that would be allowable. Based on revenue of \$25 million a year, a rough estimate of the reduction in the amount of the deduction would be 50 percent, but the Budget Division was still working through the details of the calculations with the Department of Taxation.

Cochair Horsford asked whether the ability existed to actually bring in \$25 million in revenue in fiscal year 2010, recognizing that much of the fiscal year had passed. It was his understanding that reports from the mining industry would be filed in a few weeks, and if companies had already claimed the net proceeds in their tax collection reports, he questioned how the state could go back in time to assess additional fees under the Governor's proposal.

Mr. DiCianno said the mining companies would be reporting in March 2010 for their 2009 net proceeds; those numbers would be calculated and the department would issue tax billings based on associated net proceeds. Once the information was available from the mining industry, the department would provide the figures to the Legislature, even though it would be after the fact for the Special Session.

Cochair Horsford agreed the information would not be of much help if it was received after the Special Session. He asked whether there was additional information that legislators should be aware of regarding the deduction process and how it worked, as

well as whether the department had the ability to actually assess and collect the revenues addressed under the Governor's proposal.

Cochair Mathews advised that Fiscal staff could provide clarification regarding the net proceeds of mines tax.

Russell Guindon, Senior Deputy Fiscal Analyst, Fiscal Analysis Division, explained that the net proceeds of mines tax involved two issues. In March, the mining industry would file reports of actual mining activity, both net and gross, for calendar year 2009, which would be trued-up against estimates made a year ago that were booked in fiscal year 2009. Companies would also be required to report their estimates of mining activity for calendar year 2010 and make the estimated tax payments on those amounts, which would be booked in fiscal year 2010. Those estimates would be trued-up throughout the remainder of calendar year 2010, with the final true-up for calendar year 2010 due in March 2011. Mr. Guindon said timing was an issue that needed to be considered when looking at the proposal in terms of reducing the deductions; he thought the proposal would have to be prospective rather than retroactive.

Mr. Guindon agreed with comments that the timeline would be somewhat tight because of current statutory deadlines. The potential for changing the required reporting dates would have to be evaluated. The Department of Taxation would have to provide information regarding the necessity and latitude to change the dates and how the changes would affect the department.

Mr. DiCianno said capping allowable deductions was not an issue for the department from an administrative standpoint; nothing would change and the process would move forward. Other proposals that might be considered could potentially have an impact on the department, and he would be able to provide a better response once the details became clear.

Addressing Mr. Clinger, Assemblyman Goicoechea said it appeared the Executive Branch was asking the mining industry to come forward and agree to cap or delete a portion of its allowable deductions. He pointed out that technically, the limit on net proceeds was set in the State Constitution, along with how the revenue was distributed. It was a net tax, and changes in allowable deductions would have to be made in the *Nevada Administrative Code* (NAC), or the mining industry would have to agree to settle for a cap or a percentage of the deductions.

Mr. Clinger stated Assemblyman Goicoechea was correct. The formula for determining the net proceeds tax was set in statute, and that piece could not be adjusted. He said the Budget Division believed the additional tax could be collected in fiscal year 2010. As stated by Mr. Guindon, the estimates for fiscal year 2010 would be adjusted, because the tax was now on a prepay basis with the change made in the 25th Special Session. The proposal would have to change the prepay status for fiscal year 2010. Mr. Clinger agreed the formula that was outlined in NRS Chapter 362 would need to be

changed. The term "net proceeds" was not defined in the Nevada Constitution; the statute established the formula for how the net proceeds were determined.

Assemblyman Goicoechea stated that was correct, as well as the tiered structure. However, the NRS addressed "net" and the only way to change the net was through determination of allowable deductions.

Mr. Clinger believed that the NRS defined the allowable deductions by delineating the items that were allowable for deduction under the net proceeds. The proposal was not to eliminate specific deductions, but rather to review a percentage of the overall deductions.

Senator Rhoads asked whether the mining industry had signed off on the Governor's proposal. He also asked if by taking away the deductions, the net proceeds tax would actually become a gross tax.

Mr. Clinger explained the net proceeds tax would remain, and the change would be in the amount of deductions that would be allowed. He had not been involved in discussions with members of the mining industry, so he was not aware of whether the industry had signed off on the proposal.

Assemblywoman Gansert questioned the timing of the proposal. She asked if the March 2010 true-up was for calendar year or fiscal year 2009.

Mr. DiCianno replied the lien date for reporting net proceeds was January 1 of every year, and therefore the tax was on a calendar year basis.

Assemblywoman Gansert affirmed that the March 2010 true-up would be for calendar year 2009, and if the Legislature made changes, the amount that was paid for a prior year would be affected.

Mr. DiCianno explained the change would affect the estimated amount for the current year because the tax was prepaid.

Mr. Clinger clarified that the prepayment for calendar year 2010 was due in May; Mr. DiCianno confirmed that was correct.

Cochair Horsford invited representatives from the mining industry to come forward and place remarks on the record regarding the Governor's proposal, as well as any additional remarks.

Pete Ernaut, R&R Partners, Inc., spoke on behalf of the Nevada Mining Association. He said the mining industry had been an integral part of the state for the past 145 years. The industry prided itself on being good corporate citizens and had been part of every tax session he could remember. The industry was proud of its historic support and would again pledge support for Nevada and attempt to help the state through the current fiscal crisis. Mr. Ernaut said the industry understood the depth of the crisis and

the problems facing the Legislature and the Governor. He was present to pledge the support of the mining industry in addressing the current fiscal crisis, but there were some limitations.

Clearly, said Mr. Ernaut, the mining industry would not agree with the Governor's plan, and he believed Committee members understood that the industry had a very strident position when it came to deductions and changing the process regarding net proceeds of minerals; in fact, litigation was pending concerning changes in the process. However, the industry would be willing to look at a number of other methods to help fill the \$871 million gap in the state's budget.

Mr. Ernaut recalled that during the 2009 Legislative Session, when asked by the state to prepay the net proceeds tax, the mining industry stepped up to the plate and agreed to that change, as it had done on a number of occasions in the past. He reiterated that the industry understood the problem and stood ready to assist in any possible way.

James Wadhams, Jones Vargas, testified he was speaking as a representative of the Newmont Mining Corporation. He recalled that during the 1989 Legislative Session, legislation was passed that amended the Nevada Constitution to double the property tax levied on minerals. That issue went to a vote of the people, and the Legislature temporarily changed the municipal elections in 1989 so the constitutional change could be accelerated and the effect of that tax could be realized. Mr. Wadhams said that depicted just one example of the mining industry coming to the table to help the state.

Mr. Wadhams remarked that as a representative of the mining industry, he had been in front of the Legislature during past sessions to discuss several issues, such as the employee tax, the gross receipts tax and the modified business tax. He emphasized the mining industry had never shirked its duties to the State and never would.

Mr. Wadhams said the mining industry would participate in discussions regarding how to help the state through the current fiscal crisis and into the future. He echoed Mr. Ernaut's comments regarding the pending litigation, which was based precisely on the notion of the form of tax on minerals. Mr. Wadhams explained the tax on minerals was a property tax and was within the 5-percent constitutional cap on property. The changes made during the 1989 Legislature accelerated the tax on minerals from the county rate to the maximum state rate.

While he would not discuss the pending litigation, Mr. Wadhams stated that the notion of deductions being analogous to deductions for income tax would simply change the character of the tax. It was a property tax, and the so-called deductions were the method by which the value that a willing buyer would pay to a willing seller was calculated while the mineral was still in the ground. The simple way to describe that process was the buyer would pay what the minerals were worth, less the expenses of removing the minerals from the ground. Therefore, the value of the property was calculated through an appraisal method, rather than a deduction from taxes.

Mr. Wadhams said changes to the formula for the minerals tax would simply artificially increase the value of the property, to which the mining industry would not agree.

Mr. Ernaut remarked there was one very important point that had not come forward during previous testimony. The net proceeds of minerals was split almost evenly between the state and the counties, and to realize a net amount of \$50 million for the state General Fund would require an increase of approximately \$100 million. He had pointed out that the mining industry estimated its net proceeds on a calendar year basis, the Legislature budgeted for the net proceeds on a fiscal year basis, and the mining industry prepaid the taxes on an extra year. Mr. Ernaut noted that the formula was often confusing, and he wanted the Committee to understand the magnitude of the issue under discussion.

Assemblywoman Buckley said the roadmap toward the Special Session was very clear, because the Legislature could not cut education by the amount that had been proposed. The Committee had heard testimony that the Clark County School District alone would need to add 6 additional students to every classroom and lay off 2,322 teachers to cut its budget by 10 percent, and the proposal was now closer to a cut of 13 percent. She said the Legislature would also be required to eliminate funding that helped seniors with the cost of adult day care, eliminate funding for dentures, and make cuts to nursing home care. She felt those were cuts that simply could not be made by the Legislature.

In her mind, Assemblywoman Buckley believed the solution would require everyone to come to the table. The state needed the mining industry to help with the current crisis, and she appreciated the willingness on the part of the industry to assist. The Legislature needed to look at every function of state government. There had been earlier discussion of an amnesty program or offering compromises for persons who owed back taxes. She realized that might be difficult, but it had to be done because the state had to make an effort to collect what it was owed. The Legislature had to review the ideas already suggested, such as cuts to professional service contracts, as well as every regulatory agency, to ensure those agencies were doing their fair share to help avoid the severe outcome of such deep cuts.

Assemblywoman Buckley believed there had to be accountability in spending, which meant everyone had to continue to tighten their belts; those in private business were tightening their belts, and government had to do the same. That meant working with the school districts and doing more to make those budgets transparent, looking at every perk provided to administrators and leveling out those perks, and asking teachers to give up their professional development day. Assemblywoman Buckley emphasized that everyone had to share in the solution, but if the cuts were made on the backs of the poor, the vulnerable and Nevada schools, that meant that everyone had failed as a state.

Assemblywoman Buckley said the Legislature would consider a little bit of everything, and it would take everyone who cared about the future of Nevada working together to

reach a solution. That was the roadmap she believed the Legislature would have to follow, and the Legislature needed the mining industry to be there for the state.

Mr. Ernaut replied that the mining industry agreed and would do its part to help the state during the current fiscal crisis.

Senator Raggio disclosed that he was also a member of the Jones Vargus law firm. He had not discussed the Governor's plan regarding the net proceeds tax with either Mr. Wadhams or Mr. Ernaut. He asked whether there was a proposal from the mining industry for consideration by the Legislature, since it planned to be part of the solution.

Mr. Ernaut replied the industry was in the process of formulating a plan for review by the Legislature and the Governor's Office, and that plan did not include any deviation from the current formula for the net proceeds of minerals tax. The plan would look at an increase in existing fees, further prepayment of the net proceeds tax, and the surplus monies that the industry believed would be created that were not presently accounted for. Mr. Ernaut said the industry was aware of the figure that the Legislature and the Governor were attempting to reach, and he reiterated it would do its best to help in that endeavor.

Senator Raggio understood the reluctance on the part of the industry to change the formula for the net proceeds of minerals tax, but as Assemblywoman Buckley had pointed out, time was short and the Legislature needed some joint plan in focus with the Governor's plan when it entered into the Special Session. Senator Raggio believed there could be a realistic plan that everyone agreed with; he was hopeful every sector would participate in the solution.

As one member of the Legislature, Senator Raggio stated, he had some reluctance to agree to additional prepayments of taxes by the mining industry and other entities. The Legislature had to deal with the immediate shortfall, but lurking in the back of his mind was the problem that would be faced by the 2011 Legislature. At that time, the problem would have become at least four times as large as the current shortfall; the 2011 Legislature would face a shortfall of approximately \$3 billion to fund the existing budget.

Senator Raggio added that those who criticized the action taken by the 2009 Legislature that temporarily raised taxes in the amount of \$780 million should take careful note that had the Legislature not temporarily raised those taxes, the state would be looking at cutting an additional \$900 million at the present time. He said verification of that fact was the Governor had not included repealing those taxes in his proclamation. He did not believe that prepayment of any tax was a solution, because it would simply make the problem that much bigger for the 2011 Legislature, and it was a disservice to both those who paid the taxes and to the constituency of the legislators whom they served under oath.

In summary, Senator Raggio said that the process became very frustrating when dealing with the lives and the situation facing all Nevada citizens, not only the sick and vulnerable, but also those who operated businesses and those who contributed to the revenue stream utilized by the state.

Mr. Ernaut said that as a former member of the Legislature, he uniquely understood the magnitude of the current fiscal problem. He also understood the reluctance regarding prepayment of taxes, but the mining industry was trying to do its best, understanding that it was a smaller industry than others in the state.

Senator Raggio remarked his comments were not directed at the mining industry; he simply made an overall statement. He did not think prepayment of taxes was a realistic solution, but rather a short-term fix that would create a bigger problem in the future.

Mr. Ernaut replied that he and other representatives of the industry were willing to negotiate any possible scenarios to arrive at a solution in which the mining industry could participate.

Mr. Wadhams stated that efforts expended by representatives of the mining industry were an attempt to assist with the broader problem, not only to devise a way for the industry to provide additional money, but also to encourage its colleagues in broader businesses to assist, since everyone would benefit from a healthy state budget. He said the industry relied on a well-educated workforce, and that core and the social services that supported workers were very important. The industry was encouraging all businesses to follow the lead of mining and gaming in assisting the state during the fiscal crisis.

Cochair Horsford echoed the remarks made by Assemblywoman Buckley and Senator Raggio. The Legislature expected that mining and other private-sector industries would be part of the overall solution in balancing the budget. He agreed that prepayment of taxes would not help now or in the long term. Cochair Horsford said the Legislature looked forward to working with everyone in the business sector who agreed that the recommended cuts at the levels proposed by the Governor were not acceptable and, therefore, the Legislature would need alternative solutions. He voiced appreciation for the cooperation of the mining industry and those who would be working with the Legislature throughout the upcoming Special Session.

Cochair Horsford welcomed Secretary of State Ross Miller. The Committee was aware that Mr. Miller had other commitments, but wanted to allow him the opportunity to update the Committee regarding his efforts to better streamline operations in the Secretary of State's office.

Ross Miller, Secretary of State, testified that his office had recently been asked by Fiscal Analysis Division staff to prepare a budget analysis. The Office of the Secretary of State (Office) had previously provided a scenario whereby it would revert approximately 10 percent of its budget, which approximated about \$1.5 million, to the

General Fund. Under that scenario, the Office would use a large security settlement to offset the General Fund portion of its budget.

Mr. Miller stated that the recent request from the Fiscal Analysis Division staff was to develop a different scenario, one that eliminated the \$975,000 settlement, which apparently would be swept into the General Fund, and to provide a budget that included a 10-percent cut. He was also asked to describe the impact of the potential cuts and explain possible scenarios to raise additional revenue ([Exhibit E](#)).

Mr. Miller said if the \$975,000 settlement was swept by the Legislature and the Office was asked to cut an additional 10 percent from its budget, he was convinced that such action would collapse a significant revenue stream for the state. The Office had consistently and reliably been a considerable source of revenue for the General Fund, and Mr. Miller believed the Office was now at the breaking point.

Mr. Miller reported that over the last biennium, the Office had cut its budget by 21 percent and reduced expenditures, which produced a layoff of 16 percent of its employees, as detailed in [Exhibit E](#). Mr. Miller said service levels had declined to the point where the Office was noting a decline in revenues. An additional 10-percent cut would require extensive additional layoffs, which would further decrease the level of service.

Mr. Miller explained that a year ago, processing of commercial filings took approximately 5 days, and today the process took 39 days. One year ago, a person could expect to wait for a telephone call to be answered in 10 to 15 minutes; that timeframe was currently over an hour. People were becoming angry and frustrated. He said although most entities could incorporate in other states, they chose to incorporate in Nevada because of its business-friendly statutes and the efficiency and responsiveness of the Office of the Secretary of State. Mr. Miller pointed out the Office was on the verge of losing that efficiency and responsiveness, and he was convinced that further budget cuts would result in a net revenue loss to the state.

Mr. Miller pointed out that [Exhibit E](#) contained recommendations for potential areas where revenue could be generated. Many of those recommendations would require changes to the statutes, but a few did not require revision, and those had been implemented effectively immediately. He explained that as of February 17, 2010, the Office increased the exemption fee for filings within the Securities Division from \$300 to \$500. It was estimated the increase would bring in an additional \$1.6 million during the next fiscal year; it would also bring in additional revenue for the current fiscal year, but that figure was difficult to estimate.

Mr. Miller said the Office had also standardized the 24-hour expedite fees, which would result in additional revenue, although the Office had not yet projected the figure. [Exhibit E](#) also included a number of other scenarios to increase fees, but those would require NRS revisions. Mr. Miller offered to respond to questions from the Committee with respect to the proposed fee increases.

Cochair Mathews asked whether the budget cuts would affect the 2010 Census.

Mr. Miller replied that, fortunately, the proposed budget cuts would not have an impact on the Census. The Office had awarded the money allocated by the Legislature to a contractor who was spearheading those efforts, and some Office staff was also devoted to the Census. Most of the layoffs anticipated as a result of budget cuts would have a significant impact on the Commercial Recordings Division, which was the division that generated the most revenue.

Assemblywoman Gansert noted there had been discussions about closing state government one day per week on Fridays, but it appeared that Nevada derived much of its business from out-of-state entities. In order to provide a good level of customer service, she wondered whether the Office could schedule its employees on shifts of Monday through Thursday and Tuesday through Friday to avoid closure of the Secretary of State's Office for filing purposes.

Mr. Miller replied the Office would certainly attempt to accommodate and work through whatever solution was determined by the Legislature in terms of four 10-hour shifts for employees. However, he was concerned about how the four 10-hour shifts would affect the Office, because it had already reached a critical level in providing services. The most notable impact would be on the customer service hotline number. The call volume had increased from 16,000 calls per month to 24,000 per month, and hold times had increased to over one hour. Mr. Miller feared that by instituting a 10-hour work day, law firms and other businesses that did not operate on that schedule would not be able to take advantage of that window, which would result in higher call volume during peak hours.

Assemblywoman Gansert believed the Legislature should look carefully at four 10-hour shifts for the Office of the Secretary of State because of the importance of customer service and the revenue generated.

Mr. Miller replied that would be very helpful. The processing staff, by and large, would not be affected by a change to four 10-hour days because on an 8-hour-per-day schedule, staff processed approximately 80 to 100 filings per day, and the impact would not be as severe.

Assemblywoman Buckley thanked Mr. Miller for reviewing the issues and providing some options for consideration by the Committee. She had received complaints about the wait times from individuals who used the Office and was worried about the possible impact of the budget cuts on customer service. One recent letter stated that the author did not mind the increase in fees, but expected calls to be returned rather than waiting for over one hour on the phone. Assemblywoman Buckley noted that if the state wanted to remain business-friendly, the processing times in the Office of the Secretary of State should be kept in mind or the state would lose business and revenue.

Assemblywoman Buckley suggested that an explanation be included on the website for the Office that explained the budget crisis and the efforts being made by the state to remain business friendly. She believed communication and an explanation of the situation would be very helpful. Perhaps the Office could publicize proposed solutions as well, and how the solutions might result in added benefits to customers.

Assemblywoman Buckley felt the Legislature should make sure that increased revenue was used to address further budget cuts for the Office, and perhaps increases could be used to augment the processing staff or the call-back staff so the Office could function as effectively as possible to bring in more revenue to help with overall budget problems. She appreciated the efforts made by the Office to respond quickly to the request by the Legislature.

Assemblyman Hardy referred to the issue of the business portal and the concept of bringing additional businesses into the state and allowing those businesses to accomplish the process more quickly; the sooner business came into the state, the sooner the state would realize additional revenue. He asked Mr. Miller to provide an update to the Committee.

Mr. Miller explained the Office had implemented the first phase of the business portal on October 1, 2009, which was the assumption of the business license fee from the Department of Taxation. There had been some difficulties in implementing that phase, and the system had not been up and running on time. However, the system was now operational, and the Office had processed approximately 90,000 business licenses to date. Mr. Miller remarked the system would be generating revenue in line with the expectations of the 2009 Legislature and should bring in a substantial amount of revenue.

Continuing, Mr. Miller said the Office was in the process of preparing a request for proposal (RFP) to hire a contractor to help design the portal and build the architecture to make the next phase operational as soon as possible. The Office was very close to releasing the RFP and was ahead of schedule on phase 2 of the business portal. The RFP process was cumbersome and lengthy, and the contract would have to be approved by the Board of Examiners, which was also time-consuming. Mr. Miller anticipated the next phase of the business portal would be up and running by the first quarter of 2011. A significant amount of revenue would be generated by automating those processes and integrating the systems within the state.

Assemblyman Conklin referred to Mr. Miller's previous comments concerning the call centers and the increase in the number of calls. He assumed there were not that many more applicants, and he wondered if the spike in calls was a result of people waiting longer, hanging up and then calling back.

Mr. Miller said the Office was still trying to analyze that dynamic. A good portion of the calls received by the Office resulted from the fact that the process had been changed. Customers were used to paying the business license fee at the Office where they could

ask questions. Also, the automated system was not operational on the first day, so there were problems in many filings that resulted in increased call volume, which the Office was trying to manage in a timely and responsive manner. Mr. Miller said the Office was obviously hearing the same complaints as legislators, but unfortunately there was no magic formula. When resources were cut and responsibilities were added, there was a corresponding decline in the level of service.

Assemblyman Conklin said he was not suggesting the issue was inefficiency; he was more concerned about a waning in the volume of calls. He asked whether the Office expected the volume of calls to decrease from the current 24,000 to the average of 16,000 as people attained a better grasp of the new system. Assemblyman Conklin was trying to ascertain the needs of the Office going forward.

Mr. Miller said the call center was a priority because people would not be as accommodating if the wait time continued to be one hour or more, and Nevada would no longer be viewed as a premier filing jurisdiction. He reiterated the processing timeframe was seen as a real problem, and the Office could not continue to process 40 days out; otherwise, consumers would incorporate their businesses in another competitive state, such as Wyoming and Delaware. The Office was diligently working with its available resources to reduce the backlog and call volume and to complete processing more in line with past timeframes.

Assemblyman Conklin asked what percentage of the filing fees was actually realized from incorporations or fees paid by consumers from out of state.

Mr. Miller replied the Office did not collect that information as part of the filing; it simply collected the basic information regarding the officers of the corporation, contact information and a simple statement of purpose that identified the type of business. An answer to Assemblyman Conklin's question could not be determined. In his discussions with commercial registered agents, the Office anticipated that approximately 60 percent of the filings were conducted through commercial registered agents. Those agents understood their client base, and their estimate was that 80 percent of the entities were physically headquartered somewhere other than Nevada and chose to file in Nevada because of the favorable business statutes and the very efficient filing process of the Office.

Assemblyman Conklin surmised if 60 percent of the filings were from commercial registered agents and 80 percent of that 60 percent were from out of state, approximately half of all filings were from out-of-state entities. He pointed out that was revenue into Nevada from out-of-state sources and money that Nevada otherwise would not have to expand the state's economy. He believed it was important that legislators understood that dynamic. He would assume the out-of-state filings were over 50 percent because many people filed on their own.

Mr. Miller stated Assemblyman Conklin was correct. Most filings did not have anything that anchored the corporations to Nevada, and they could very easily move to another

jurisdiction. He noted that Nevada did not have a franchise tax such as the state of Delaware where entities were taxed according to their inability to leave that jurisdiction. Mr. Miller explained that it would cost a Fortune 500 company domiciled in Delaware a tremendous amount of money to move to another jurisdiction. Most of the filings in Nevada were small- to medium-sized businesses that incorporated in Nevada and took advantage of its business-friendly statutes. He felt strongly that the state needed to protect that status. Nevada had always been a very pro-business jurisdiction and the state needed to retain that status. However, implementation of the proposed cuts would cause the state to lose that status and, as a result, a significant stream of revenue for the state would be jeopardized.

Senator Townsend asked what the budget shortage would be if the 10-percent budget cuts were not implemented.

Mr. Miller said the amount of the proposed reduction for the Office was approximately \$1.5 million over the remainder of the biennium. Referring to the proposed recommendations from the Office ([Exhibit E](#)), he said it was estimated the recommendation implemented on February 17, 2010, which increased the exemption fee for filings in the Securities Division, would bring in an estimated \$1.6 million. That would offset the requested savings of \$1.5 million.

Cochair Horsford thanked Mr. Miller for his attendance and stated the Committee would review the recommendations detailed in his letter ([Exhibit E](#)).

Assemblyman Denis indicated he had additional questions for Mr. DiCianno. He asked how much sales tax was collected by the state. Mr. DiCianno replied the department had collected slightly over \$3.5 billion in sales tax.

Assemblyman Denis asked if sales tax collections equated to about one-third of the state's revenue. Mr. DiCianno asked whether Assemblyman Denis was comparing sales tax to all revenues collected by the department.

Assemblyman Denis replied he was asking about revenue that was collected and placed in the General Fund. Mr. DiCianno said the amount of \$3.5 billion was total sales tax collections and included distributions to local governments and other distributions. The forecast for January 2010 for General Fund revenue from sales and use tax was approximately \$730 million.

Assemblyman Denis asked who was required to pay sales tax. Mr. DiCianno replied that consumers paid sales tax on purchases of any kind.

Assemblyman Denis explained that he had received many inquiries from constituents about sales tax revenue, and one solution suggested that those who were documented non-citizens were not paying taxes. He affirmed that when a consumer paid sales tax on a purchase, he was not asked whether he was a citizen of the United States or a resident of Nevada. Mr. DiCianno stated that was correct.

Assemblyman Denis wanted that fact on the record because there had been previous discussions about people receiving services they were not entitled to, and as the Committee was reviewing possible solutions, he wanted it documented that everyone paid sales tax. He said comments had also been made that one segment of Nevada's population should be eliminated, which would save revenue for the state. It appeared to him that if a portion of Nevada's population was eliminated, the result would be a decrease in sales tax revenue.

Assemblyman Denis asked whether the state ever refunded sales tax to individuals. Mr. DiCianno replied the department issued refunds to entities for overpayment of sales tax, but never to individuals based on the fact they were not a Nevada resident. He reiterated that sales tax did not discriminate.

Cochair Horsford asked Mr. Neilander to come forward and discuss the impact of the proposed budget cuts on the State Gaming Control Board and ways additional fees might increase revenue for the state.

Dennis Neilander, Chairman of the State Gaming Control Board, stated that the Gaming Control Board fell within the 10-percent cut that was proposed for most agencies funded through the General Fund. He said the result of an additional 10-percent cut would be that the Board would have to eliminate most of its operating budget, which was very small. The Board was primarily made up of people, and about 300 of those people were unclassified employees who held a professional degree of one type or another, depending upon their expertise.

Mr. Neilander said once training, travel and other regular operating expenses were eliminated, the Board would need to eliminate 31 additional positions. The Board lost 18 positions during the last round of budget cuts, and the current proposal would require elimination of an additional 31 positions. He noted that was somewhat disproportionate, because the Board billed for services in three of its divisions, the Investigations Division; the Laboratory, and the Corporate Securities Division, and that revenue went directly to the General Fund. Since there was a revenue stream generated by those divisions, Mr. Neilander said those positions could not be cut because it would result in a reduction in General Fund revenue.

According to Mr. Neilander, the Board did not bill for the services of the Audit Division and the Enforcement Division, and positions in those divisions would be cut disproportionately because they did not generate revenue for the state. He remarked it was a bit of a tricky position for the Board, but that was what would occur with the current proposal of 10-percent budget cuts.

Assemblywoman Buckley stated that the Committee was well aware of the importance of the Gaming Control Board and the Gaming Commission, and Nevada was looked at as the model for the gaming industry. The Legislature wanted to make sure that the Board's staff was not cut to the point where the agency was unable to perform its basic

functions. She said the Legislature was considering reviewing every state agency with a view toward making them more self-supporting so that General Fund revenue could support areas such as education and services for the most vulnerable; the idea would be to make regulatory agencies more fee-supported. She asked whether there was a possibility of increasing fees for the three divisions of the Board that generated revenue. The mining industry, general business and other areas were also being asked to consider general across-the-board fee increases.

Assemblywoman Buckley asked Mr. Neilander how an increase in fees could be structured to ensure that the smaller operators who were barely holding on would not be severely impacted. She wondered how Nevada would compare to other states in terms of fees to support the agency if fees were increased.

Mr. Neilander responded that the existing fees charged by the Board fell into two categories. The first was a flat fee the Board charged for review of gaming devices, and that fee was based on the number of devices. The second was an hourly fee for investigations, which made up the bulk of collections at the current time. He explained those fees were collected for investigations and pre-licensing activities, and the majority of the companies paying those fees were new to Nevada and were trying to become licensed to engage in business in Nevada.

Mr. Neilander said the Board used the flat-fee structure for smaller gaming locations and an hourly fee structure for larger locations. There were certainly a number of scenarios that could be considered in terms of utilizing graduated scales that would increase as an entity's revenue increased. Mr. Neilander reiterated the Board currently did not charge fees for its Audit Division, but should the Legislature consider a fee for those services, it could be done on either an hourly or flat-fee basis. The average current audit cycle was about two-and-a-half years, and a flat fee could be instituted that would graduate dependent upon the size of the location. Mr. Neilander explained the Board conducted a pre-audit to determine the estimated number of hours that it would take auditors to complete an audit, assuming they did not encounter any unusual problems, and that time could be billed.

According to Mr. Neilander, there were a number of other states where the gaming entities were entirely fee-based, but Nevada was unique because most of those states issued a limited number of licenses. States like New Jersey, Pennsylvania and Colorado issued a limited number of licenses, and those states assessed a regulatory fee that was spread among the limited number of licensees. For example, New Jersey might assess fees based on 10 casinos, and the fee would be divided proportionately among those 10 casinos. In Nevada, there were 2,700 licensees, of which 480 fit into the category of a casino.

Mr. Neilander stated if there were a plan to broaden the fee base, it would have to consist of some type of a graduated scale that would recognize the various categories. Compared to other states, the Nevada Gaming Control Board had always regulated the industry on a fairly lean budget. He said New Jersey, with 10 operating licensees at the

current time, had a regulatory agency with a staff of over 800. Nevada had 2,700 licensees, and the Board's staff was just over 400, or half that of the state of New Jersey.

At the request of Fiscal Analysis Division staff, Mr. Neilander said he had provided a preliminary analysis of fee structures. During the 2009 Legislature, the money committees had asked the Board to prepare an analysis for submittal to the Interim Finance Committee on July 1, 2010. He noted the analysis was not yet complete, but he had provided Fiscal staff with the preliminary report. Certainly, said Mr. Neilander, the cost of regulating the gaming industry in Nevada was relatively low compared to other states.

Assemblywoman Buckley asked what would occur if the Legislature authorized fees, but allowed the Board to hold workshops to determine the appropriate tiers or allowances for smaller operators and to work with the industry regarding how to administer the fees. She asked whether there would be sufficient time between now and an effective date of July 1, 2010, for that endeavor.

Mr. Neilander believed that would be possible, but he would appreciate some direction regarding the parameters, such as the floor and ceiling for the fee schedule. The Board would also appreciate a short list of items it should consider in determining the sliding scale. He did not think the scale should be too open ended, because the process would then be difficult to manage. He asked that the Legislature also determine whether the Board should build upon the existing fee structure or consider adding additional fees for services for which it did not presently charge.

Assemblywoman Buckley said she appreciated Mr. Neilander's comments and suggested that additional discussions could take place regarding the parameters over the upcoming days. She noted that \$900 million was a significant amount of money, and if the Legislature addressed the shortfall by cutting budgets rather than balancing the revenue stream coming into the state, the damage would be too great. Assemblywoman Buckley surmised that the Legislature should look at every agency, including the Gaming Control Board, other businesses, state employees and teachers, since everyone was facing the same financial situation. The gaming industry had participated during the 2009 Legislature by supporting additional revenue at one of the potentially worst times of fiscal crisis, and she believed if everyone sacrificed and the request was fair, the gaming industry would again be part of the solution.

Senator Coffin had concerns about increasing fees; he had some knowledge of how large a fee increase would be needed to support the Board. One of the problems was that the cost of breaking into the gaming business was becoming very expensive. He thought it was important for the state not to "pull up the ladder" and to allow the existing licensees to continue to own their businesses. He also believed the businesses needed creative machines and games, and if the Board raised the cost of introducing new products or the cost for a new licensee, there would be a problem with stasis in the industry. Senator Coffin was concerned about the Board becoming self-funded

because it would cost a significant amount of money, which was the reason the Legislature had allocated General Fund revenue to the Board's budget.

Another problem, Senator Coffin continued, was the distance that should be kept between regulators and the industry they regulated. It was a general principle in government that an entity was not allowed to collect a fine or fee to support its existence from those it regulated. It was along the lines of not allowing law enforcement entities to retain the fines and penalties assessed based upon criminal or civil action. Senator Coffin pointed out that the revenue from fines and penalties was placed in the General Fund and then dispensed back to the agency based upon need.

Senator Coffin believed that when an entity regulated the cost of an audit or an investigation, there could be an inclination to over-audit or over-regulate, to the point of strangulation in some cases, or to practice selective enforcement. Those were the temptations that came from having the power to control the cost of being in business at the hands of regulators. He thought it was important to review the proposal from the other side. If the Legislature wanted additional revenue from the gaming industry, it should increase the gaming tax. That would be the fair method of assessing additional fees to those in the business, even though the gaming industry was losing money at the present time.

Senator Coffin reiterated that the problems he delineated were cautionary for legislators as policy setters. If the state wanted a new and lively casino environment, the Legislature should deal with the present fee system as established. That was the reason the Legislature had added General Fund to support regulators. He was not singling out the Board, but the situation could easily evolve into the type of scenario he had described.

Assemblywoman Gansert asked about the audit process. It was her understanding that gaming entities were required to undergo external audits or hire accounting firms on an annual basis to conduct their own audits, and she asked if they were the same type of audits performed by the Gaming Control Board.

Mr. Neilander explained the larger, or group 1, licensees were in fact required to have both an internal and external audit. The Board also had an audit function. He said there were some overlaps in terms of internal and external audits, but those audits were mandated by the Generally Accepted Accounting Procedures (GAAP), which required external auditors to sample and review the findings of the internal auditors.

Mr. Neilander explained the difference in the Board's audit was that the main focus was on taxes and whether the licensee had paid the accurate amount of taxes owed the state. He said the second part of the Board's audit was for compliance with minimum internal controls, and that stemmed specifically from the regulations that required certain minimum internal controls be followed in the conduct of the gaming itself. He reiterated there was a bit of an overlap, but there was also a very separate focus on the part of the Board's auditors.

Mr. Neilander recalled the issue of fee increases had been raised in the past, and he had told the Legislature before that the Board never initiated a fee increase on its own. The Board tried to tailor its fee structure to those matters that would create a tangible benefit for the licensee. While there was a huge benefit to the state based on the Board's audit function, there was also somewhat of a benefit to the licensee. However, the benefit was certainly not as significant as it was in the traditional areas where the Board had targeted those fees, such as investigations for licensing and review of gaming devices.

Assemblywoman Gansert said she understood investigations for pre-licensing had to be extremely thorough, but she wondered whether there was a way to work with the external auditors to avoid redundancies and refocus the Board's efforts on activities that could be done to generate additional revenue.

Mr. Neilander replied he did not believe there were redundancies within the Board's Audit Division. The division collected 99.9 percent of the revenue owed the state, and to lessen that audit function would create essential collection problems. He said the Board reviewed the process every year to ensure that its audits were not redundant on some matters. At one time, the Board considered lessening some of its standards and relying more on the work of the independent accountants, but fortunately for the Board, that notion was rejected. Mr. Neilander said about a year after that notion was rejected, the Enron situation occurred, which involved some very significant misconduct on the part of third parties that were reviewing some of those matters. In his view, the state needed to retain that responsibility.

In the event the Legislature made the Board fee-supported, Assemblywoman Buckley suggested Mr. Neilander prepare a list of positions that should be restored and describe what value the positions would bring to the industry and the state.

Mr. Neilander asked whether Assemblywoman Buckley was talking about the positions that would be eliminated based on the proposed 10-percent budget cuts.

Assemblywoman Buckley replied the Board could start with those positions, and if that did not address the needs of the Board, then additional positions should be listed based on whether Mr. Neilander felt there were problems caused by the previous 18 eliminated positions. She said that everyone, including the Gaming Control Board, obviously had to do more with less because wish lists did not exist during a recession. But considering current fiscal circumstances, Assemblywoman Buckley asked Mr. Neilander to base his recommendations on what he believed should be the direction of the Board. She believed he was very well respected in the gaming industry, and his thoughts about the current status of the Board and what would occur if the budget cuts moved forward would probably be very persuasive to the industry. Also, she asked that Mr. Neilander consider the cuts in context with the incredible economic crisis currently faced by the industry.

Mr. Neilander replied he would be glad to provide the requested information to the Committee. He explained he had spent the better part of the morning in an emergency hearing at the Board level, followed by an emergency Nevada Gaming Commission meeting where applications necessary to keep the Red Garter Casino operational in Wendover were considered. The casino was slated for foreclosure on February 19, and if that was not addressed, obviously, the casino would close and approximately 6 percent of the employable population of Wendover would be out of work. Mr. Neilander assured the Committee that he understood such matters and dealt with them on a daily basis. The industry was in an unfortunate spot, and he realized the Legislature and Executive Branch were also in a difficult spot. He pledged the support of the Gaming Control Board and the Gaming Commission in developing possible solutions.

Cochair Horsford remarked that Mr. Neilander's testimony had been very instructive, and the Legislature appreciated the leadership he and his predecessors had provided. The differences between the Board and other state entities were apparent. The fact that Mr. Neilander indicated the Audit Division had a 99.9 percent collection rate was astounding, and the Board was to be commended for that. Cochair Horsford felt that policymakers needed to work with the Board with that collection rate as an example of how to better improve in other areas.

Cochair Horsford said the high collection rate was one of the bright spots in Nevada government when compared to national issues and the fact the national economy was in decline in part because the proper regulatory environment had not been in place. It was very apparent that the lack of a proper regulatory environment was the cause of what had occurred nationally with the banks, and Cochair Horsford thought there was some appearance of that within certain divisions in the state's government. He felt the Legislature should use the Gaming Control Board as a model example for how the state could better implement a regulatory structure that brought in revenue and ensured the public was protected.

Cochair Horsford believed the information presented by Mr. Neilander was important, particularly the fact that gaming entities in other states were fee-supported. The fact that there were other divisions in Nevada that were fee-supported was a sign that more could be done along those lines. Cochair Horsford appreciated the information that Mr. Neilander had provided to the Committee.

Senator Coffin referenced collection percentages, remarking it should be remembered that the differences were huge between the two types of gaming businesses, those who were privileged licensees and those who were not. A privileged licensee in Nevada was "shaken" only when called by the head of the Gaming Control Board or when called by the Governor, and probably in that order. Senator Coffin said it was easy to see why the Board was successful in collecting money from those licensees, because they did not want to jeopardize their privileged licenses.

Senator Coffin agreed with Cochair Horsford that the efficiency of the procedures of the Gaming Control Board was amazing and should be used as a model for other state agencies.

Senator Coffin asked if the Gaming Policy Committee was still active. He thought the Gaming Policy Committee should review the issue of whether the Board should become fee-supported or it should retain support from the General Fund.

Mr. Neilander replied the Gaming Policy Committee had not been called to order since the term of Governor Richard Bryan. Any idea to fully fund a regulatory function through fees could certainly create a policy question. He was not a policymaker, and he testified before the Legislature in the role of a regulator. Whenever there had been an increase in the fees charged by the Board, it had been done with the approval of both the Legislative and Executive Branches.

Cochair Horsford thanked Mr. Neilander for providing information to the Committee about potential fee options and for the information that he would provide to the Legislature.

Cochair Horsford asked Mr. Kizer to come forward and address the Committee concerning the current funding sources for the Athletic Commission, the level of General Fund support received by the Commission, and whether there was potential to make the Commission more fee based.

Keith Kizer, Executive Director, Nevada Athletic Commission, introduced himself and Commissioner Bill Brady. Mr. Kizer stated that for fiscal year 2009, the total expenditures of the Commission were approximately \$558,000, and revenue generated by the Commission was approximately \$3.6 million. The Commission returned over \$3 million to the General Fund, which was actually the least amount of money returned by the Commission over the last several fiscal years. Mr. Kizer reported that in fiscal year 2008, the Commission returned \$3.15 million; in fiscal year 2007, the return was \$4.37 million; and in fiscal year 2006, the return was \$3.25 million. The Commission basically returned about 800 percent more than it spent to the General Fund.

Mr. Kizer explained the Commission had four revenue sources, with the most revenue realized from a gate fee of 4 percent on tickets sold, as well as complimentary tickets over the 4 percent allowed by statute. The revenue generated from gate fees averaged about \$3 million per year to the state. Mr. Kizer said the broadcasting tax, which was capped at \$50,000 per event, brought in approximately \$1 million; the licensing fee was set by regulation and brought in approximately \$130,000; and finally, the permit fee of \$100 per event, which had not been raised since 1960 and was assessed on out-of-state promoters, brought in approximately \$10,000 a year.

Cochair Horsford asked Mr. Kizer to provide a breakdown of the Commission's revenue sources to Fiscal Analysis Division staff. Mr. Kizer replied he would provide that information.

Cochair Horsford referred to the fee that had not been raised since 1960, and asked Mr. Kizer whether he had recommendations about the possibility of increasing that fee.

Mr. Kizer said he did not have a recommendation per se, but he noted that doubling the \$100 fee assessed to out-of-state promoters would only bring in an additional \$10,000 per year, which was not a significant amount. The largest source of revenue to the state was through the 4-percent gate fee, which was set by statute. Mr. Kizer pointed out that some of Nevada's competitors, such as Texas, only charged a 3-percent gate fee, while California, which had more boxing matches than any other state, charged a 5-percent gate fee, but that was limited to \$100,000 in collection. Mr. Kizer stated that boxing matches in Nevada, such as the one between Oscar De La Hoya and Manny Pacquiao, produced gate fees that covered the budget for the Commission for the entire year.

Mr. Kizer said another significant boxing match was scheduled for May 1, 2010, between Floyd Mayweather and Shane Mosley, and the gate fees from that match would probably cover 66 percent of the Commission's budget for the year; the remaining fees would be placed in the General Fund.

Senator Raggio asked for clarification regarding the 4-percent gate fee. Mr. Kizer explained the 4-percent gate receipt tax set by statute was placed entirely in the General Fund. Senator Raggio asked whether the tax was from ticket sales. Mr. Kizer replied that was correct.

Senator Raggio asked for an explanation of revenue received from televised boxing matches. Mr. Kizer said the promoter was charged 3 percent on the first \$1 million of television or broadcast revenue, and 1 percent on the next \$2 million of such revenue; the statute capped the amount at \$50,000 per event.

Senator Raggio affirmed that every time a boxing match that took place in Nevada was broadcast across the country, the state limited the amount of collection from television receipts to \$50,000. Mr. Kizer stated that was correct.

Senator Raggio asked how other states compared to Nevada in the collection of broadcast fees. Mr. Kizer explained California charged a 5-percent broadcast fee that was capped at \$25,000, and Texas charged a 3-percent broadcast fee that was capped at \$30,000, so those states actually raised less revenue than Nevada on a similarly broadcast significant boxing match. New York was similar to Nevada and charged a 3-percent broadcast tax that was capped at \$50,000, but that state only charged a 3-percent gate fee.

Senator Raggio said it was his understanding the fees in the state of Nevada had not been changed since the late 1970s. Mr. Kizer said he was aware that the licensing fees were last raised in 1994, but he was not sure about the last time the gate fee was raised.

It was Senator Raggio's understanding that neither the gate fee nor the broadcast assessment had been changed since the late 1970s. He wondered what the impact would be if gate fees and broadcast fees were increased. The promoters apparently received millions of dollars from broadcast payments and gate fees, and that posed a question of whether or not the state was receiving its fair share. It appeared that Mr. Kizer was alluding to the fact that if Nevada raised its fees, perhaps the promoters would take their business elsewhere.

Mr. Kizer said he could not speak to what the reaction of the promoters would be to an increase in fees, but unlike casinos or the mining industry, promoters had nothing holding them back from staging the boxing matches in other states. The pay stations, such as HBO and Showtime, and other stations that offered Pay-Per-View, could place their cameras at any location. Mr. Kizer said an increase in Nevada's fees could have that effect.

Senator Raggio asked whether it would be possible to compile an analysis of what might occur if the caps on those fees and percentages were removed, with the figures based on actual receipts, and what the various increases might yield in revenue.

Mr. Kizer said he would provide that information. Based on his recollection, there were about 6 out of the 60 events held each year that went above the broadcast tax cap of \$50,000. Many events did not reach that cap because they did not bring in more than \$3 million in revenue. However, he said, the boxing match between Oscar De La Hoya and Manny Pacquiao would have generated millions of dollars in additional revenue had the cap been removed.

According to Mr. Kizer, the state of Indiana did not cap its broadcast fees, and promoters told Indiana that holding an event in Indianapolis as compared to Las Vegas would cost over \$1 million in additional broadcast taxes. Mr. Kizer pointed out removal of the cap on the broadcast tax would generate a significant amount of revenue in theory; however, there was the possibility that promoters would schedule fewer events in Nevada, which would cause a decrease in revenue.

Senator Raggio believed the Legislature should at least explore the possibility of removing the cap on the broadcast tax. He recalled that 20 years ago he had suggested adding \$1 to the tax to fund amateur boxing, and at that time everyone threatened to leave the state, but that had never occurred. Senator Raggio thought an analysis from the Athletic Commission would be helpful.

Cochair Horsford asked Mr. Kizer to provide the requested information to Fiscal Analysis Division staff. He also asked that the taxes be evaluated against the live entertainment tax and the approach taken on gross receipts. Mr. Kizer replied he would provide the requested information.

Assemblyman Hogan requested that Mr. Kizer include a table of the rates and caps charged by the top 10 or 12 states so the Committee would have a bigger picture regarding tax rates.

Cochair Horsford invited representatives from the construction industry to come forward and address the Committee. He noted there had been discussion regarding potential options that offered ways to sustain the state's economy and help with unemployment issues, particularly in the construction sector.

John Madole, representing the Nevada Chapter of the Associated General Contractors (AGC) in northern Nevada, explained the idea proposed by the AGC was centered on the fact that unemployment in Nevada was creating very serious problems. He realized the Committee was aware of the situation, but the construction industry was experiencing 70-percent unemployment, and it would help the situation if some action could be taken to generate construction activity. Mr. Madole noted that construction activity tended to generate additional economic activity, which was needed by the state and the Legislature to solve the current fiscal crisis.

Mr. Madole said legislators had probably noticed the Nevada Department of Transportation was experiencing substantial cost savings on bids that had recently been put out for highway projects. Many Public Works Board projects were generating bids as low as 60 to 65-cents on the dollar. Mr. Madole pointed out there were some real bargains in the construction industry at the present time. The suggestion from the AGC was for the state to pursue generating fees from products or services it provided, which could generate substantial income. He said with \$50 million in income, the state could generate support for bonding \$500 million worth of construction work.

Mr. Madole cited figures published by the George Mason University in 2008. Based on those figures, the proposal from the AGC would add about \$1.7 billion to Nevada's gross domestic product and generate about 14,000 jobs, not all of which would be in the construction field. About 7,000 of the jobs would occur in the tourism and retail community that supported the construction projects. Mr. Madole stated the activity would also generate a substantial amount of tax revenue, which would begin to solve some of the fiscal problems faced by the state.

Mr. Madole was not suggesting that people would be excited by an increase in fees for services, and some fee increases considered by the AGC would be somewhat substantial. For example, the fee for a driver's license in Nevada was \$21 for four years, and Mr. Madole believed very few people would give up their driver's license should the state increase that fee. Increasing the driver's license fee by 10-cents a day would generate approximately \$15 million per year. Vehicle title fee increases could also be considered, and adding \$20 to the current fee for a title on a vehicle would generate revenue of approximately \$15 million. Mr. Madole also addressed the fee for driver's licenses for teenage drivers. There were 37,000 teenage drivers between the ages of 16 and 19 in Nevada; the AGC proposal suggested the modest price of

\$150 per year for those licenses. He believed that driver's licenses had a substantially greater value to teenagers than the amount currently collected.

Continuing, Mr. Madole said the other suggestion considered by the AGC centered on the issue of vehicle depreciation. The 2009 Legislature made changes to the depreciation of automobiles that generated about \$50 million in revenue. The AGC's suggestion was that once a vehicle reached 11 years of age, the cost to register that vehicle would remain the same from that point on. Also, the Legislature could further "tweak" the depreciation schedule and generate an additional \$15 million per year. For example, a one-year-old vehicle could remain at the same level for three years before it dropped to another depreciation level. It would not be difficult for the Legislature to discover an additional \$15 million in revenue in vehicle depreciation.

Senator Raggio said that in all the years he had served in the Legislature, he had never received as much hate mail or hate telephone calls as he had because of the change that was made in the vehicle depreciation schedule by the 2009 Legislature. That change had generated more adverse comments than any other action taken by the Legislature. While he was not "raining on the AGC's parade," he was simply stating how the public viewed such increases.

Cochair Mathews concurred with Senator Raggio's comments. She recalled that even her neighbor who watched her house when she was out of town had threatened to burn it down while she was gone because of the changes made by the Legislature to the vehicle depreciation schedule.

Mr. Madole understood those concerns, and he said the AGC would be willing to look for alternatives rather than make further changes in the vehicle depreciation schedule.

Mike Cate, President, Construction Development Services, Inc., and past president of the AGC, stated the only way the state could address the fiscal crisis was to create additional jobs. It might sound self-serving for members of the construction industry to promote additional jobs, but Mr. Cate believed there were no other high-paying shovel-ready jobs available in the community other than those in the construction industry.

According to Mr. Cate, for every \$1 spent in the construction industry, at least \$3 was generated from other retail sources in the community, and he believed construction was very high energy in terms of generating revenue for the state.

Mr. Cate said one idea to revitalize the industry was to address the maintenance needs of school buildings. If the school districts could share costs with the state, perhaps those projects could get underway. Mr. Cate was aware of the maintenance needs of the Washoe County School District, where some school buildings were badly in need of repair. Rather than building new schools, he suggested the older schools could be remodeled so that students at least had a decent place in which to learn. He

emphasized that the construction industry needed the work, and Nevadans needed to step up to the plate and address the current situation.

Steve Holloway, Executive Vice President, Associated General Contractors, Southern Nevada, remarked the proposals from the construction industry might sound self-serving, but he wanted to point out some facts and figures for the Committee.

According to Mr. Holloway, two years ago the construction industry was the second largest employer and second-largest taxpayer in Nevada. At that time, the industry was responsible for nearly one-third of all sales tax paid in the state, but in today's economy, the industry paid less than half that amount in taxes. He said that over the past two years, over 70,000 workers had been laid off, and the industry was preparing to lay off tens of thousands more.

Mr. Holloway noted that if the construction industry continued its decline and if the state did not somehow slow the economic downturn, legislators would be attempting to fill a much larger hole than it currently envisioned in the state's budget in 2011. He said the proposals on the table were a start toward stabilizing the construction industry; if the industry was not stabilized, the state would continue to experience a recession. The money that would be generated from the proposed fee increases would bond \$500 million in construction work. Part of that funding could be split among the regional transportation authorities to generate immediate construction jobs, which in turn would generate immediate taxes, because at least one-third of that money would be subject to sales tax.

Continuing, Mr. Holloway explained the other half of the \$500 million bond could be used to perform energy upgrades in school buildings. It was possible that the federal government would match a large portion of that funding, which would also bring in additional revenue and taxes.

Mr. Holloway clarified that the proposal to raise fees did not suggest an increase in impact fees that were being paid currently in the cities and counties throughout the state, because there were no jobs or projects within the industry, so the revenue generated by sales tax and payroll tax was lost at both the state and local level. Mr. Holloway said those taxes were subject to the downturn in the construction industry, and until the industry turned around, there would be fiscal holes in the state's budget for years to come.

Senator Townsend commented that testimony from the construction industry indicated there was approximately \$4 billion in construction funds in southern Nevada for schools. He asked whether that was accurate and if those funds were limited to new construction or were available for retrofit of schools.

Mr. Holloway replied that according to the figures compiled by Applied Analysis on behalf of the AGC, there was \$1.1 billion sitting in the Clark County School District capital improvement fund, which could be used for upgrades.

Senator Townsend asked whether there was ongoing dialogue between the AGC and the school district about putting that money to use.

Mr. Holloway replied that dialogue had resulted in \$238 million worth of projects in the near future; the school district was still debating about how to spend the remaining funds.

Senator Townsend said that without knowing the details of the availability of that money, he thought perhaps the AGC and its members could put together a plan with the school district on how best to dispense those funds. He noted that construction projects in southern Nevada using those funds would cost the taxpayers nothing, but the situation in northern Nevada might be somewhat different. He was not aware of the bonding capacity or revenue streams available for projects in northern Nevada. Senator Townsend said since the need for jobs was so great and there was money available from the Clark County School District, perhaps the AGC could open a dialogue with the district and possibly put pressure on the district to put the money to the use intended by taxpayers.

Mr. Holloway replied the AGC would reinstitute the dialogue with the Clark County School District.

Cochair Mathews asked whether there was a similar dialogue between the AGC and the Washoe County School District.

Mr. Cate said there was ongoing dialogue, but the Washoe County School District did not have the same reserve funds as were available in Clark County. There was currently enough money to retrofit two or three schools per year, spending about \$20 million a year. Mr. Cate explained the school district was trying to initiate a rollover bond that would address the 2012 deadline and extend the funding. The AGC and the school district could use some help in perhaps doubling the amount available for school construction within the Washoe County School District. He pointed out the school buildings in the Washoe County School District were considerably older and in much worse shape than many buildings in the Clark County School District. Washoe County School District needed help with funding repairs, and the "best bang for the buck" in the construction industry was right now.

Assemblywoman Gansert recalled previous discussions regarding prevailing wages. Because that figure was reset annually, she thought prevailing wage amounts had been adjusted quickly enough so the state would get the "best bang for the buck" with taxpayers' dollars. If prevailing wages more accurately reflected the average wage, Assemblywoman Gansert felt there might be higher rates of employment within the industry.

Assemblywoman Buckley commented that she would like to see more construction jobs available. The testimony from representatives of the industry made complete sense.

Many people in Nevada were out of work, and the state needed to put those people back to work. She said that in her work in legal aid, there were many people who had been employed in the construction industry, including some who said they had not been out of work in Las Vegas for 36 years, and now they were losing their homes and being sued.

Assemblywoman Buckley reiterated that she would like to see some resources devoted to bonding to create jobs in the construction industry, whether for road construction or school building maintenance. She believed it made sense to examine the timeline for release of the existing money for the Clark County School District and to review the possibility of increasing fees that could be bonded and used to put people back to work.

Assemblywoman Buckley wondered whether the Legislature should review the existing revenue sources utilized by the Department of Motor Vehicles (DMV) and the Department of Transportation (DOT) to ascertain whether the state could reduce its expenses and rededicate the revenue stream toward construction. Every state agency had been asked to reduce its budgets and employees were being asked to do more with less, and perhaps the Legislature should ask the same thing of the DMV and the DOT and redirect those resources toward bonding to create jobs.

Assemblywoman Buckley reiterated that the Legislature should review all ideas, consider very modest fee increases, and review the existing capital reserves and determine why those funds had not been expended. The state should work with its Regional Transportation Commission partners on possible funding for projects that might help solve the problem of thousands of teachers being laid off, which would ramp up unemployment. Assemblywoman Buckley believed the state should partner with other entities to address the situation; the Legislature would have an opportunity to change the laws during the upcoming Special Session.

Marc Furman, Senior Administrative Assistant for the Carpenters' Union, stated he was the administrative officer for all carpenters in Nevada. The union had approximately 10,000 members in southern Nevada and about 1,500 in northern Nevada. Mr. Furman said the carpenters' union was experiencing the same unemployment issues as those facing the construction industry. He hoped legislators understood what had happened in the industry.

In 2008, Mr. Furman explained, carpenters worked 18 million man-hours, which equated to \$900 million paid to carpenters in southern Nevada alone in wages and fringe benefits. In 2009, there were 12 million man-hours worked and \$600 million paid in wages and benefits. However, in 2010, carpenters would be lucky to work 6 million man-hours, which would equate to \$270 million in wages and benefits.

Mr. Furman said the union had lost 1,700 members in 2010, and there were approximately 4,000 members out of work between northern and southern Nevada. That meant there was an unemployment rate among carpenters of approximately 35 to 40 percent. Many of those carpenters had been out of work for so long they had

exhausted their unemployment benefits and were losing their homes. There was real pain among carpenters and workers in the construction industry, both union and non-union, caused by the economic downturn. According to Mr. Furman, the carpenters' union had experienced seven suicides within its membership in 2009, and two additional suicides to date in 2010.

Continuing, Mr. Furman said carpenters were upper-middle-class workers who made good wages, and carpenters had one of the few jobs that had not been outsourced to other countries. Union jobs were probably the last good-paying jobs left in the country. He noted the carpenters' union had always paid its fair share in payroll, property tax and sales and use tax, and carpenters were a large part of what kept the economy going in Nevada. He echoed the comments made by representatives of the AGC that the state needed to maintain the construction industry in Nevada.

Mr. Furman said he and other taxpayers understood that essential services included the maintenance of water infrastructure, roads, highways, bridges, sewer treatment plants, government buildings, airports, parks, recreation and swimming pools, along with compliance with the Americans with Disabilities Act (ADA). Not only did ongoing projects need to be funded, projects that had been approved by taxpayers through redevelopment and bond issues also had to be funded, because taxpayers believed it was the state's obligation to maintain those buildings and services.

Mr. Furman said he occasionally heard about plans to move money from redevelopment, bond issues or capital construction elsewhere. He maintained that 1 in every 15 jobs was in the construction industry, and the economy would only recover when jobs were available. The state had always been in the construction industry, and as pointed out by Assemblywoman Buckley, funding for school construction projects would equate to jobs.

Mr. Furman acknowledged that he was glad he was not required to make the kind of decisions that faced legislators, and he agreed that everyone had to work together, but he wanted to speak for the union and workers in the construction industry. There were many other jobs that depended on the construction industry, and funding for construction projects would move throughout the economy.

Assemblyman Grady remarked that Mr. Madole had recently traveled to Lyon County to discuss a project and the issue of out-of-state contractors coming into Nevada and bringing out-of-state labor with them, which was not helping Nevada's workforce. Assemblyman Grady had also received information that the Department of Transportation recently advertised an RFP that was bid on by two Nevada companies and three out-of-state companies, with the contract being awarded to a California company. He asked whether Mr. Madole had other suggestions for the Legislature, other than a preferential bid process, that could help Nevada contractors and workers.

Mr. Madole said he was aware that delivery methods were being reviewed by the DOT and other agencies. There were a variety of delivery methods and there was a

5-percent preference law in statute; however, that law did not apply when a project received federal funding. The answer might simply be that Nevada contractors should carefully review each RFP and do everything possible to encourage companies to employ Nevada workers, particularly when the state was spending hard-earned tax dollars to fund the projects.

Cochair Mathews asked Mr. Madole how out-of-state companies could be encouraged to employ Nevada workers.

Mr. Madole said the answer to that question was very complicated. The unions would do everything that could be done to encourage companies to employ Nevada workers. However, because of the very serious economic situation, construction workers from other states, where they had been paid 30 to 40 percent more than construction workers in Nevada, were coming to Nevada for jobs. Mr. Madole commented that he would not want to work and live in Nevada if the highest-paid carpenter made only \$10 per hour; that would significantly reduce the standard of living usually enjoyed by carpenters.

Assemblyman Hardy said it appeared from previous testimony regarding bonding for capital improvement projects that extending the bonding timeframe would allow additional projects to be awarded; he asked whether that was correct.

Jacob Snow, General Manager, Regional Transportation Commission (RTC) of Southern Nevada, responded that Assemblyman Hardy was correct. A longer term to pay off the bonds would provide funding for additional projects. One consequence of that action would be more debt service to pay over the long term. For example, the 2009 Legislature considered extending 20-year bonds to 30-year bonds and, indeed, more projects could have been funded upfront, but the state would pay significantly more debt service over that timeframe by extending the period for the repayment of the bonds. Mr. Snow said he would not call it a "wash," but if times were good, it would be better to keep the debt service lower and do more pay-as-you-go projects.

Assemblyman Hardy wondered whether there would be penalties associated with early repayment of bonds. Mr. Snow said the bonds could be structured to include provisions that would allow early payment, thereby eliminating penalties.

Assemblyman Hardy affirmed that, theoretically, the bond extension could be structured so that the state maintained the original risk with no added penalties. Mr. Snow replied that was essentially correct.

Assemblywoman Smith commented that she was very pleased to hear the ideas presented by representatives of the construction industry. She agreed that some action had to be taken to jump-start construction. On the positive side, people who went back to work would no longer require services such as unemployment and Medicaid. She believed the state should do its job to stimulate the economy and put Nevadans back to work. She was very interested in working on the proposals put forth and would be

willing to assist in compiling a proposal for consideration by the Legislature that would be effective. Assemblywoman Smith believed that completion of projects that helped retrofit older school buildings and provide jobs would create additional revenue. She thought the proposals presented an opportunity for the state to catch its breath and take advantage of lower construction costs.

Cochair Horsford remarked the Committee had heard testimony about retrofitting school buildings and what that could mean to the economy, and obviously Mr. Snow's background was in transportation. The Committee was also aware of the bond funding that was available; if that approach was taken, it would need to be done very expeditiously and in a responsible fashion that would produce jobs immediately. He asked Mr. Snow to elaborate on where money existed and where funding had been exhausted.

Mr. Snow indicated that the RTC had just received a new announcement concerning stimulus funding. As part of the first stimulus bill, there was a special set-aside of \$1.5 billion, and transportation agencies across the country, with 1,600 projects nationwide, had applied for those funds, which were awarded to 40 projects. Mr. Snow explained that Nevada had received \$35 million, one of the highest amounts in the country, for the Sahara ACE Rapid Transit Project.

Mr. Snow advised the Committee that the RTC would be required to provide \$10 million in matching funds, and it had not determined how to provide that \$10 million in matching funds from its current sources of capital. The project would create approximately 500 jobs immediately, and Mr. Snow was confident that the RTC would complete the project.

Mr. Snow said financial advisors to the RTC would probably tell the Committee that the RTC had been overly aggressive in terms of the action it had taken in order to put construction jobs back into the community. At the present time, the challenge was cutting back on projects to ensure that projects currently under construction could be finished and construction jobs would not be halted.

According to Mr. Snow, the RTC had been working with a stakeholder advisory committee over the past year to review areas of revenue the RTC could expend to produce jobs for Nevadans. For example, the RTC had placed a sunset provision on a sales tax, but because the sunset would go into effect in 2023, it could not bond projects. Mr. Snow said if the sunset provision could be removed, the RTC could move forward with between \$200 million and \$300 million in roadway projects immediately.

Mr. Snow noted that Washoe County had accomplished an indexing of the gasoline tax through a vote of the people and approval of the Legislature, but that had not been done in southern Nevada. That was another source of revenue that could and should be considered. He said the RTC had been very aggressive, because it had made commitments to the public about roadway and transportation projects that it would fund

to help the workforce. However, Mr. Snow added, coming up with additional capital at the present time to match the federal funding would be difficult for the RTC.

Cochair Horsford asked Mr. Snow to work with Fiscal Analysis Division staff and members of the Committee to further define the options so that as the Legislature proceeded to identify real and meaningful solutions that would help the economy in Nevada recover and help create jobs, it would be prepared to take the appropriate action within the limitations of the upcoming Special Session.

Mr. Snow said he would be happy to work with staff and members of the Committee. He concurred with comments made by representatives from the construction industry that the construction jobs necessary to restart Nevada's economy would rely on help from the government.

Senator Raggio advised that he had received information from Calvin K. Kaldor that addressed potential savings in the budget for the Nevada Department of Corrections (NDOC). He had not had a chance to analyze the proposal, and he asked Tracy Raxter, Assembly Fiscal Analyst, to complete an appropriate analysis of the proposal for the Committee. He wanted to acknowledge that Mr. Kaldor's proposal had been received and would be reviewed.

Following a brief recess, Cochair Horsford reconvened the meeting and invited Scott Kipper to address the Committee.

Scott Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry (B&I), testified that during the spring and summer of 2009, an audit was performed by the Department of Administration's Division of Internal Audits regarding a possible increase in insurance premium tax revenue and enhanced annuity reporting. The audit was completed in conjunction with the Department of Taxation.

Mr. Kipper said two findings came from the audit, one that recommended the creation of an insurance premium tax (IPT) desk audit program, and the second dealing with annuity tax reporting. The IPT desk audit program would be put into place to review each individual company's premium tax return for accuracy and identify under-reported or unreported premium taxes that had not been paid.

Mr. Kipper said there had been discussion during the audit process about whether the program should be placed within the Department of Taxation or within the Division of Insurance. It was collectively determined that the IPT desk audit program would be located in the Division of Insurance because of the expertise of its staff regarding the payment of insurance premium taxes. The program was scheduled to be operational by December 2011. Given the current economic downturn, Mr. Kipper believed it was important for both the state and the division to accelerate the development and installation of the IPT desk audit program. The division was in the process of developing a work program that would identify potential internal funding sources to put the program in place.

Continuing, Mr. Kipper said the anticipated cost of the IPT program would be \$200,000 annually to fund two auditor positions. He explained the division anticipated the program would review a company's premium tax return, evaluate the returns for accuracy, and compare the returns sent to the division with those that were sent to the Department of Taxation. The program would also evaluate the deductions claimed by insurance companies and ensure that the premium taxes paid were consistent and accurate with what should have been reported.

Senator Raggio noted the Governor's proposal included an amount of revenue that was anticipated the state would receive between now and July 1, 2011. He asked Mr. Kipper what amount the division believed was realistic.

Mr. Kipper replied the figure included in the Governor's proposal was \$5 million in additional revenue for fiscal year 2011. The division had conducted a series of examinations of companies over the last half of 2009 to date, and based on that information, the division believed the figure of \$5 million was reasonable, but aggressive. He said the division believed that amount was attainable, but it would require a significant amount of work by division staff.

Assemblywoman Buckley commented that the state was facing dire economic times, and the Legislature needed everyone to shed the usual way of thinking and think how best to help the state meet the budget crisis. Recognizing that, she wondered whether there was a possibility of outsourcing the desk audit function. She asked Mr. Kipper to prepare a cost benefit analysis, based on those entities that already had such a program in place, to determine how the state could realize the most "bang for the buck," either through outsourcing the work or hiring auditors for the division.

Assemblywoman Buckley observed that it appeared the auditors had agreed the desk audit program would resolve an estimated variance of between \$93 million and \$163 million, and she would like to see the state realize at least half of the lower amount. She would prefer to see a proposed revenue figure of \$30 million rather than the \$5 million in the Governor's proposal, and she would like to push the recommendation further. Assemblywoman Buckley indicated the Legislature would provide any needed tools to assist the division in approaching the proposal in a more aggressive and unconventional manner.

Mr. Kipper said the Insurance Division had evaluated different ways to create the desk audit program, one of which was to hire additional auditor positions to staff the program. He reiterated the anticipated cost to implement the program would be approximately \$200,000 annually. The division had researched the cost of outsourcing the program, and contracting two outside auditors to staff the program would cost approximately two-and-a-half times the cost of conducting the program within the division, or approximately \$500,000 annually. Mr. Kipper said because the cost of the program would likely be borne by the state, the division felt it was imperative to initiate the program at the least cost that would allow the division the best control, which was why

he suggested hiring internal auditors as staff of the division rather than outsourcing the program at a greater cost. In order to install the program in a timely manner, the division had commenced with development of a work program. Mr. Kipper believed that the program could realistically be up and running by July 1, 2010, if not sooner.

Assemblywoman Buckley suggested that for the long term, the division could pursue the audit program internally, but for the short term, recognizing the problems facing the state, the division could consider a short-term contract to ascertain whether the revenue figure could be bumped up from \$5 million. She asked Mr. Kipper to consider that option and discuss the possibility with the Department of Administration. She believed a hybrid approach might yield more results.

Mr. Kipper assured Assemblywoman Buckley the division would discuss the issue internally and with the Department of Administration to consider alternatives for perusal by the Legislature.

Senator Townsend asked what methodology was used to arrive at the figure of \$5 million and how was the amount broken out relative to the different types of insurance sold. He asked if the figure was developed by analyzing large companies doing the vast majority of business in Nevada or a mix of smaller companies.

Mr. Kipper explained the division completed a number of examinations, which differed from an actual audit in that an examination was a more thorough review of an insurance company. The division completed 37 examinations that looked exclusively at payment of insurance premium taxes for the years 2008 and 2009. He said the examinations were based on a look-back period of 4 years, and they identified a net of delinquent or underpaid premium taxes of slightly over \$90,000.

Mr. Kipper stated the division also completed an additional 59 examinations that were more comprehensive in nature and looked at other market issues beyond premium taxes. Those additional examinations identified delinquent or underpaid premium taxes of approximately \$200,000. Therefore, said Mr. Kipper, for those 96 companies, the division identified approximately \$300,000 in underpaid or underreported premium taxes over a look-back period of at least 4 years.

Mr. Kipper said 2,286 insurance companies held a certificate of authority to conduct business in Nevada, and roughly half of those actually conducted business and sold policies in the state. It was not unusual for smaller states to have more certificates of authority than companies that actually conducted business within the state. There were some advantages for carriers to indicate that they conducted business in all 50 states. The division extrapolated the \$5 million figure over the breadth of the companies that actually conducted business in Nevada. In addition, Mr. Kipper said the division was close to completing a few examinations of market practices of certain carriers identified as making significant underpayments of premium taxes. By considering those underpaid premium taxes, as well as extrapolating the findings of the 96 companies in the test group, the division had arrived at the \$5 million figure.

Mr. Kipper reminded the Committee that it was highly unlikely the program would continue to generate \$5 million in revenue on an annual basis; rather, it would be a one-time discovery. That did not detract from the efficacy of an ongoing desk audit program, which would likely enhance total compliance with the premium tax program.

Because the \$5 million in revenue would be a one-time event, Senator Townsend wondered how long it would take the division to collect that revenue.

Mr. Kipper replied the timeframe was likely to start as soon as the program was up and running the first part of fiscal year 2011, when the examinations and negotiations with the companies that had underpaid or underreported premium taxes would be finalized. He believed that was a realistic goal for the division.

Senator Townsend asked whether the division anticipated the collection of additional revenue in fiscal year 2010. Mr. Kipper replied the division did not anticipate collecting additional revenue for this fiscal year beyond the approximately \$300,000 it had identified through its examinations.

Senator Townsend asked whether the division believed it could generate an additional \$5 million in revenue during fiscal year 2011. Mr. Kipper believed that was possible based on the methodology that would be used by the division, which was to conduct examinations of the larger insurance companies and work down to the smaller carriers.

Senator Townsend asked why the division had not discovered the under-paid or underreported revenue in the past, particularly involving the larger companies, and why those companies were not being held to the appropriate standard.

Mr. Kipper said the division could not predict that the larger companies were the violators, but it made sense that the likelihood of discovering a significant amount of underpaid or underreported premium taxes would lie with those companies that wrote the most premiums.

Senator Townsend affirmed the larger companies had the most to lose, and companies that were noncompliant with the rules could be closed by the division. Mr. Kipper stated that was correct.

Senator Townsend understood the logic of the program, but the logic on the other side was that perhaps those with the most to lose would abide by the rules. He was trying to be realistic so the Legislature could balance the budget shortfall. There had been many promises made over the past about how much revenue could be generated, and he did not want to get overly enthused only to find that the revenue could not be generated. He asked Mr. Kipper to keep the Legislature abreast of the revenue stream produced by the desk audit process and whether it was larger or smaller licensees that underpaid the premium tax.

Assemblyman Hogan referred to earlier testimony about an amnesty program, and he wondered whether the division had considered the possibility of such a program when it announced the new desk audit program, which presumably would reach most of the participants.

Mr. Kipper said the division had considered an amnesty program, but was concerned about the efficacy of such a program. It was endemic upon the division to discover underpaid and underreported tax revenue and recover as much revenue as possible for the state. Based on the relative cost of the program and the potential recoveries, Mr. Kipper believed an amnesty program would not be as effective as a full audit program. However, the division would consider an amnesty program if that was the desire of the Legislature. Mr. Kipper believed the division would be more successful with a strong and effective compliance program under the desk audit plan, which would deter companies that might take advantage of an amnesty program.

Assemblyman Hogan believed it would be possible for the division to initiate the desk audit program at the beginning of FY 2011, and to also offer an amnesty program during the current fiscal year. He presumed the division currently audited the amount owed for premium taxes, and he believed it was possible to offer an amnesty program followed by the full desk audit program.

Assemblywoman Gansert said she was struggling with the math regarding the proposed audit program. She asked how many auditors had participated in the 96 examinations. Mr. Kipper replied the division had six analysts on staff who conducted examinations. The division employed contract examiners to go into the field to work with the companies, gather the data and conduct the preliminary examination.

Assemblywoman Gansert said the desk audit program would require hiring two additional auditors, and she asked whether they would work in the division or in the field. Mr. Kipper said the new positions would work within the division.

Assemblywoman Gansert commented that the 96 examinations had recovered \$300,000 and therefore yielded just over \$3,000 per examination. She recalled that Mr. Kipper believed the division would conduct approximately 1,100 examinations.

Mr. Kipper said the audit program would conduct 1,100 audits as opposed to examinations. He reiterated that a desk audit would be less work-intensive than a full examination. The division anticipated that the desk audits would be significantly easier, particularly as the program was developed and the auditors became more comfortable with the process. Also, he added, the first audits would be conducted on larger companies, which might be more detailed than audits of medium and small companies.

Assemblywoman Gansert said her concern was that the figure accurately represented what could be achieved during the proposed timeframe, which was relatively short to complete 1,100 audits.

Mr. Kipper noted Assemblywoman Buckley had suggested the division utilize a hybrid program initially to increase its audit capacity, and he thought that made sense. The division would conduct a thorough analysis of that possibility and provide information to the Legislature during the upcoming Special Session.

Assemblyman Hardy asked about the mix of companies involved in the 96 examinations and how many were major players in the industry. Secondly, he noted that some state employees were facing layoffs and he wondered whether the division could consider hiring from among those individuals.

Mr. Kipper responded the control group of 96 carriers that had been examined represented a fairly thorough cross-section of the industry, weighted more toward medium-size companies. The division would certainly consider persons on the state's layoff list prior to hiring the two auditors. Mr. Kipper said that the division had gone from a partially General Fund-supported agency to an almost exclusively fee-supported, non-General Fund agency. The division had added staff and hired persons who had been laid off, which had proven advantageous to the division. Mr. Kipper believed the division could locate appropriate staff from the state's layoff list.

Assemblyman Hardy said it was his understanding the larger companies paid the largest amount in premium tax, which was the reason the division would audit those companies first. Mr. Kipper said that was correct.

Senator Coffin disclosed he had been a licensed insurance agent/broker in Nevada for 41 years. As previously pointed out by Mr. Kipper, the Insurance Division was no longer funded through the General Fund, so budget cuts would not yield much in the way of additional General Fund revenue.

Senator Coffin said he doubted the efficacy of sweeping the Insurance Examiner's Fund for most of its balance. The Governor's proposal would sweep that fund through the end of fiscal year 2011, leaving a small balance, and would also sweep 80 percent of the Insurance Insolvency Fund. Senator Coffin said he would like to know why those funds would be swept.

Senator Coffin remarked he had been in the insurance business for a long time, and he believed that the division should be aware of all industry players, not just the companies, but also the brokers and agents. He noted that \$5 million in discoverable premium tax underpayments would equate to \$100 million in premiums, which would indicate that a significant number of mistakes had been made, not necessarily purposeful, and it also might indicate that bootleg insurance was being sold to avoid payment of the premium tax. Senator Coffin said that employers were constantly offered health insurance schemes where they could avoid paying premium taxes.

Senator Coffin requested further examination of those issues, because he had his doubts whether \$5 million in revenue was available to be found, and he doubted the

wisdom of sweeping the revenue from the aforementioned funds that were the fall-back for persons who were insured by companies that failed.

Mr. Kipper explained the Department of Administration had swept \$8 million from the Insurance Insolvency Fund for the current fiscal year. The Insolvency Fund was designed so that self-insured employers would have the ability to self-fund worker's compensation, and the division provided oversight for the program. Mr. Kipper said the Insolvency Fund was important for employers in Nevada, and the division was monitoring the claims that had been made. It appeared there was an upward trend in claims against the fund. The division was looking at ways to continue to fund the Insolvency Fund through assessments and not put employers in jeopardy, while also allowing some funding to be used for the General Fund.

Mr. Kipper stated the Department of Administration would remove \$600,000 in fiscal year 2010 and \$700,000 in fiscal year 2011 from the Insurance Examiner's Fund. The division billed insurance companies when it conducted examinations, and most of the bill was for the cost of the contract examiners. In addition, Mr. Kipper explained, the division was able to charge an override, which currently sat at 50 percent of the contractor's hourly cost. That revenue was used by the division to fund its analysts and examiners who reviewed the rough product compiled by the contract examiners.

Senator Coffin said he also wondered if there was really \$5 million to be collected in unpaid premium taxes, because that would equate to \$100 million in premiums. He also wondered about the sources of the underpaid premium taxes, i.e., life, property or casualty insurance.

Mr. Kipper reiterated the division had examined a control group of 96 companies, spread throughout the entire group of companies writing insurance in Nevada, and came up with the \$5 million figure through that examination. The division was also close to completing a few examinations of market practices of certain carriers. In those market practices examinations, the division had identified some potential underreported or underpaid premium taxes. Mr. Kipper said by combining the revenue identified through the control group with the revenue identified through examination of the market practices of certain carriers, the division had arrived at the figure of \$5 million.

Senator Coffin asked whether it was likely the other 49 states would also be looking at some of the same carriers, and if companies that underpaid premium taxes in Nevada had done the same in other states where they conducted business. He wondered whether other states would also seek payment of under-paid premium taxes from the large carriers, and whether all states could be successful.

Mr. Kipper assured Senator Coffin the division was aware of the players within the insurance industry in Nevada. The division was looking at premium taxes in every line of policy sales – life, health, property and casualty.

In response to Senator Coffin's question about possible action taken by other states, Mr. Kipper said the division had received a tip from a neighboring state about a carrier, which triggered a review by Nevada because of the way that carrier was assessing premium taxes. He said when the division discovered something about a carrier, it communicated with its fellow regulators so that a problem in one state could also be addressed in neighboring states. He said the auditors' "telegraph" worked very well between state capitals, and it would not be long before other states would also examine those carriers.

Cochair Horsford asked if there was a list of the companies that were under review. Mr. Kipper said the division maintained a list of companies it was currently examining, but that list was confidential per state law because companies had the opportunity to rebut or reply to the examination for a period of time after the examination order had been finalized and before the order went public.

Cochair Horsford understood and respected the due-diligence process and the fact that certain steps were in place. He said the Committee would like the division, to the best of its ability and with all the authority available to it, to aggressively pursue every one of the revenue opportunities. As the division finalized its examination of those carriers, Cochair Horsford believed the outcome should be publicly announced, whether or not it was favorable to the company. He believed the public deserved to be aware of insurance companies that were cheating the people of Nevada.

Mr. Kipper advised the division would follow through, and it was the division's intention to make sure the carriers that scoffed at the laws and those that violated Nevada's statutes were identified to the extent of its ability, which included public notification of the actions taken by the division.

Cochair Horsford suggested when it was determined that a carrier was in fact negligent in paying the proper premium taxes, the division could assess the cost of its examination to those companies as fees and recoup the cost of the resources it used to complete the examination.

Mr. Kipper responded that the division was fee-based and funded solely and exclusively by those entities it regulated. In essence, once the internal audit program was operational, those fees would be paid by the entities that the division examined.

Cochair Horsford asked Mr. Kipper to compile an analysis of the approaches recommended by Assemblywoman Buckley and others for review by the Legislature, and also provide information to Fiscal Analysis Division staff regarding the realistic amount that might be collected. Mr. Kipper replied he would be happy to comply with those requests.

Senator Raggio asked for the Committee's indulgence in allowing him to present an idea that he believed was worthy of consideration. His understanding of the current situation was that the Special Session was slated to convene on Tuesday, February 23,

and the goal of the Legislature was to find a way to deal with a shortfall of \$890 million over the remainder of the biennium. The Committee had painstakingly been going through the proposed cuts, not only those that had been discussed with Fiscal Analysis Division staff, but also those discussed jointly with the Executive Branch.

Senator Raggio commented that in review of the latest proposal, he could see a total of between \$200 million and \$300 million in proposed cuts that could be put into various categories; some might be termed ridiculous and some were certainly unacceptable because they would have a severe impact upon those who could least afford the type of cuts that were being suggested. He believed some of the proposed cuts were too ugly to even consider or support during the upcoming Special Session. Those were the cuts that would impact those citizens who were frail, elderly, and on wait lists and would never receive assistance, not to mention the decimation that would occur in higher education and education in general, or the potential layoff of thousands of employees in critical areas, which would deny people essential services that were the core function of state government.

Senator Raggio said when the revenue was added up, whether it was from taxation of net proceeds of minerals, the InsureNet proposal or the estimate from the Insurance Division, the amount of revenue that could reasonably be anticipated was questionable. He reiterated that he had added up \$200 million to \$300 million in proposed cuts that simply were not doable or were unrealistic.

Senator Raggio acknowledged he had been reluctant over his many terms as a legislator to review proposals regarding state-owned buildings. However, he would now like to suggest the Committee at least consider a proposal that had been either employed or proposed by other states such as Arizona, California and a few others, which involved the concept of a state building lease program.

For many years, Senator Raggio explained, the state had attempted to get out of leases and confine its business to state-owned facilities, but many states had found themselves in the same situation as that facing Nevada and had utilized the concept of leasing state buildings. There were various aspects of such a plan, and he believed the Legislature should explore the possibility of a building lease program for a determined period of time, such as 20 years. The state would not actually sell buildings, but rather enter into long-term lease agreements with private investors, and once the term of the leases had expired, the state would regain the operation of those buildings. Senator Raggio further explained that, in concept, the state would seek expert commercial real estate consultation and issue an RFP that would allow all private-sector commercial real estate companies to bid for consulting fees and commissions related to the program.

Senator Raggio said the reason he made the suggestion was because it would be a short-term fix that had the potential within the timeframe of the current biennium to immediately raise approximately \$250 million. It was a realistic approach that would also have a long-term impact on the state's continuing budget problems.

Continuing, Senator Raggio said each of the buildings selected for the program would be appraised, pertinent lease documents would be offered for public notice, a one-day public auction would be organized for qualified bidders, and each successful bidder on the various state-owned properties would be required to pay the entire lease agreement fee at the time of the award. He reiterated the lease could be for a period of 20 years, with a condition that the state would make quarterly or semiannual lease payments. All operation and maintenance costs for the property during the length of the lease would be the responsibility of the lessor, and an amount would be calculated into the lease payment for those services as agreed upon by the state.

Senator Raggio reiterated that according to the best calculations and analysis, such a program would bring in an immediate \$250 million, which would certainly be better than the \$200 million or \$300 million in either undoable or ugly budget cuts being proposed.

Senator Raggio indicated he did not have a list of the potential buildings that could be used for the lease program. Obviously, those that had traditional value and might not be readily accepted for the program, such as the state capitol building, would not be placed on the list. He reiterated the state would not sell the buildings, but rather would continue to occupy them and lease them for a fixed amount over a period of time, calculated into definitive lease payments. At the end of the 20-year term, the state would reclaim the building. Senator Raggio could list buildings that he thought were appropriate should there be an appetite among Committee members to pursue the plan as a better solution than some of the proposed cuts.

Senator Raggio again explained he was considering the lease plan because when he reviewed the proposed budget cuts, he felt they were beyond "off the wall" and actually "punched holes through the wall." He explained that Arizona had made national headlines in recent months because it had completed a proposal and had actually sold a state building to generate revenue under a similar plan, and the state had realized an immediate \$735 million. The program had been so successful that Arizona was looking at the feasibility of selling additional buildings. California had also announced a \$2 billion initiative that included a number of state office buildings entering into a similar lease program.

Senator Raggio hoped there was some appetite among Committee members for the plan that he, as one legislator, believed was worthy of review. The plan was working in other states, and with the fiscal and political realities facing most states today, Senator Raggio thought many other states would consider the same plan.

Senator Raggio believed the plan would accommodate the strong desire of many taxpayers against raising taxes and, while it was not a perfect solution, it was certainly a concept worthy of consideration.

Senator Raggio noted the plan was not his idea originally. He had talked with Brian Sandoval, whose campaign was looking into the program as a long-term solution to

future budget shortfalls. He apologized to Mr. Sandoval if he was stealing an idea from his campaign, but he believed the situation in Nevada was critical. Senator Raggio pointed out that there had not been much forward progress in solving the budget shortfall, and he thought all potential solutions should be considered. He believed it was a concept that both the Legislature and the Governor should consider because it could bring in an immediate \$250 million, which would help to solve the heartburn, the dismay, and the critical issues facing the state. He offered his assistance in exploring the potential of the concept.

Cochair Horsford thanked Senator Raggio for his input and agreed that the forum was to bring forward options that perhaps had not been viewed as viable in the past. He had heard and read about the concept of leasing state-owned buildings and implementation of such programs in other states. Obviously, without an in-depth analysis, Cochair Horsford could not commit one way or another, but he thought the Legislature should review the option. He stated that everyone wanted all options on the table, and the state building lease plan sounded like an option worthy of further consideration.

Assemblywoman Buckley noted that many other states facing a severe fiscal crisis were considering such a plan, and the idea of selling state-owned buildings and properties was rippling throughout the states. Other states were also looking at reductions in professional service contracts and uncollected taxes.

Assemblywoman Buckley recalled that an Arizona lawmaker commented that times were so tough they were mortgaging the halls of the capitol. She was certainly willing to review the financial analysis of Senator Raggio's proposal, but she often worried about the long-term cost of some ideas. It reminded her somewhat of the payday loan operations where a person paid a very high price for the short-term infusion of capital.

Assemblywoman Buckley said Senator Raggio was correct; when compared with some choices that were difficult, if not impossible, the idea seemed feasible. She believed every idea should be on the table, but she would like to see the financial analysis of how much the state would end up paying over the term of the lease for a short-term gain. Assemblywoman Buckley did not think private investors would be interested in the lease plan if there was not a significant gain to be made.

One concern Assemblywoman Buckley was hearing from businesses around the state was their inability to access capital. There were also concerns about existing financial obligations because finances were being "yanked" for non-monetary defaults, which meant businesses were paying the bills on time, but were still having their loans called in and accelerated. Businesses were also experiencing an inability to work with lenders, and Assemblywoman Buckley thought perhaps the Legislature should consider expanding the Nevada Foreclosure Mediation Program to include businesses. Perhaps a fee could be charged to businesses for that service, which would help address the state's budget shortfall.

Assemblywoman Buckley believed if the overall fee for the program was increased and businesses were charged an enhanced fee, perhaps as much as \$40 million could be raised over the existing revenues already collected by the program. The Fiscal Analysis Division staff had a breakdown of the revenue already collected. The Legislature could use the additional \$40 million to avert the layoff of hundreds of teachers, and Assemblywoman Buckley believed it would be appropriate for financial institutions to help the state deal with its budget shortfalls, since the state would not be in the current fiscal crisis but for the housing market collapse.

Senator Raggio did not quite understand how the program could be changed to produce an additional \$40 million in revenue, and he asked for clarification.

Assemblywoman Buckley explained the current Nevada Foreclosure Mediation Program was open only to homeowners of owner-occupied residential property. For example, if a small business owner was experiencing trouble with his lender and his financing was in jeopardy, perhaps that owner would like the opportunity to mediate before the lender foreclosed on his business. She said her proposal would allow the small business owner to participate in the Foreclosure Mediation Program, whereby the owner would sit down with a Nevada mediator and discuss the foreclosure before it happened to determine whether there was an opportunity for the owner to refinance. A fee would be charged to the business owner to participate in the program; the fees that supported the program were foreclosure fees.

Assemblywoman Buckley said lenders paid a \$25 fee every time a notice of default was filed to initiate the foreclosure process. That fee could be increased, perhaps on a sliding scale, higher for residential and slightly higher for business, based on the amount of the loan or based on a flat fee. She pointed out that if every notice of default came with a \$500 fee, the state could raise \$40 million. With a fee of \$750 or \$1,000, obviously the amount would increase.

Assemblywoman Buckley had spoken with Chief Justice James Hardesty to ascertain whether he felt the mediation program could be expanded to include small businesses. Chief Justice Hardesty believed that upon a request from the Legislature, the Supreme Court would be willing to modify the current program.

Assemblywoman Gansert voiced support for Senator Raggio's lease program. As she reviewed the budget documents and spreadsheets available to the Committee, there appeared to be holes everywhere. Some proposed budget cuts were probably ridiculous, and there were areas that the state would apparently depend on to produce tens of millions of dollars, but that funding might never be realized.

Assemblywoman Gansert had also researched the lease program, and it was her understanding the state would be able to cap the interest rate. Her concern was with the cost to the taxpayer. She reiterated that some states had capped the interest rate at 5 percent and still realized a significant amount of revenue over the term of the lease

period. Assemblywoman Gansert believed the Legislature should take the time to review and vet the program.

Continuing, Assemblywoman Gansert said a major concern was to stimulate the economy via jobs and job growth, as previously pointed out by representatives of the AGC. One concept that might be considered was to provide some backing through the state to allow regular lenders to provide funding that would create some type of incubation system for businesses. She noted that businesses faced a huge problem in accessing capital. The State Treasurer's Office had authored a bill during the 2009 Legislature that addressed loans for women minorities and depicted ways to incubate businesses. Perhaps that idea should be reviewed on a larger basis. Assemblywoman Gansert reiterated the state would not be carrying the debt or making the loans, but perhaps it could provide banks with some backup to make sure the interest rates were lower and the funds were accessible.

In the end, Assemblywoman Gansert said, the way the state could come out of the recession and its current fiscal crisis was through the creation of jobs, rather than increasing taxes or fees. The state should address growth in private-sector jobs, and Assemblywoman Gansert felt the Legislature should review plans to support job growth in Nevada without removing money from the economy.

Cochair Horsford said legislators should be brainstorming ideas, and he believed all ideas put on the table should be considered, whether the plan would deal with the immediate budget crisis or with the crisis that would be faced by the 2011 Legislature. He noted the Legislature would continue to be plagued by many of the current fiscal issues.

Cochair Horsford had also been looking at ideas, and one that he felt had merit was one that was just passed by the New Mexico Legislature, which was to move all state accounts away from large corporate banks to community-based banks and credit unions. He noted that based on the previous suggestion by Assemblywoman Gansert, one issue appeared to be capital for small businesses and the fact that the average person was not able to secure a loan from big banks. Cochair Horsford said if the Legislature was somehow able to put the state's resources into community-based banks and credit unions, allowing them to grow and flourish and provide incentives to encourage investment in the state's small businesses, the impact would be provision of capital to grow jobs, businesses and the state's communities.

Senator Coffin said he had asked the Public Employees' Retirement System (PERS) to look into purchasing state buildings and leasing them back to the state. He was very much aware of the current sale/lease trend throughout the country, at least among the other equally desperate states. Senator Coffin explained the idea had been suggested to him by a professor at the University of Nevada, Las Vegas, and he had looked into the issue. A representative from PERS had contacted him with an answer to his inquiry, which he would be happy to share with members at a later time.

Senator Coffin recalled he was a freshman assemblyman in 1983, which was during the last worst recession before the current crisis, at which time he had the ugly task of voting for tax increases. At that time, a representative from Goldman Sachs approached the Legislature with a proposal to purchase two state buildings, the Lawlor Events Center in Reno and the Thomas and Mack Center in Las Vegas, but the Legislature rejected that proposal. Senator Coffin pointed out the sale/lease idea had been considered in the past and was now being considered again, and he would not reject the idea. However, he asked Committee members to remember there was a difference between borrowing and spending and taxing and spending.

Senator Townsend believed the ideas that had been put on the table all had high value and should be expeditiously pursued. He believed the idea put forth by Assemblywoman Buckley had great value and should be pursued, because it would be a win-win situation for everyone involved. The proposals from Assemblywoman Gansert and Cochair Horsford were also ideas that he believed should be considered. Senator Townsend added that he sat on the board of a bank, and he believed those proposals had value to the public.

Senator Townsend wanted to underscore the proposal brought forth by Senator Raggio of the sale/lease of state buildings. The proposal would not include the sale of any state assets, and he asked that legislators not confuse the proposal with past proposals about the sale of state buildings. In essence, he said it was a government bond, and the type of investor suggested by Senator Coffin, such as PERS, would be the real buyer of those bonds. The purchasers would likely be institutional investors and private-equity individuals. Senator Townsend believed very few individual investors would look at something of that magnitude.

Cochair Horsford thanked everyone for their input and brainstorming. He said the Committee would hear other presentations, as well as hear public comment. The Committee wanted to hear from the Governor's Office regarding the InsureNet proposal and from the Department of Motor Vehicles regarding implementation of the Nevada LIVE (Liability Insurance Validation Electronically) program.

Assemblyman Hardy noted when the state was attempting to attract new businesses, tax abatement programs were sometimes offered, and he believed the Legislature should recognize that, in order to create new jobs, the state had to attract new businesses and favorably represent itself. He believed offers of rebates or abatements should be part of the mix of solutions. Obviously, public/private partnerships could be initiated, as had been done in the past.

Looking at the dignity of work and having done work without pay, Assemblyman Hardy recognized it put him in a position to network with people and to eventually do other things. He believed people who were unemployed should be allowed to be actively working in some manner. He had not seen local governments coming forward to offer options, such as possibly reducing a regulation to optimize the ability to attract business and/or revenue growth to the state. Assemblywoman Hardy wanted to make sure local

governments had a stake in regulatory policies that could be expanded, either regionally or statewide, to allow them to be part of the overall solution; everyone was facing the same crisis.

Assemblywoman Buckley asked whether Assemblyman Hardy was proposing that the state lease the county office buildings rather than state buildings and keep the revenue. Assemblyman Hardy replied that some of proposals might be "as good for the goose as the gander."

Lynn Hettrick, Deputy Chief of Staff, Governor's Office, introduced himself and clarified that the Governor's Office was not representing InsureNet per se. However, he would happily represent the proposal included in the Governor's budget solution plan and answer questions about the proposal.

Cochair Horsford asked Mr. Hettrick to provide a general explanation of how the InsureNet program would work. The Governor's Office had met with representatives from InsureNet, and the Committee would like to hear how the program actually worked and the revenue it might generate. Cochair Horsford noted the Governor's budget proposal included \$30 million in revenue from the InsureNet program.

Mr. Hettrick explained InsureNet was a system that used automated license plate readers. The system could read individual license plates in an instant and hundreds of plates each hour. The program was associated with the National Law Enforcement Telecommunications System (NLETS), a system that had been in place for decades. Mr. Hettrick said the system read the license plate and determined whether or not the car was properly insured and/or registered. If the car was insured and properly registered, the license plate and all reference to the vehicle would be dropped by the program within approximately ten seconds. However, if the vehicle was not properly insured or registered according to the records of NLETS, that information would be forwarded to a processing center staffed by Nevada law enforcement officers certified through Peace Officers Standards and Training (POST). Those officers would review the finding and determine whether a notice should be sent to the owner of the vehicle.

Mr. Hettrick said the owner of record would be notified that, according to a record that was created that day, his vehicle was operated on a Nevada roadway with either no insurance or improper registration. The notice would ask the owner to provide proof of insurance and/or registration. Mr. Hettrick stated there were many safeguards built into the system to ensure that no problems were created for owners of vehicles that were properly insured and registered.

Based on the number of vehicles estimated to be uninsured, unregistered or both in the state, which was as high as 22 percent, Mr. Hettrick said InsureNet estimated the revenue generated by the system would be upwards of \$100 million per year. That revenue stream would not last forever, because over time people would learn that vehicles not properly registered or insured were being caught, and they would be more apt to maintain insurance and properly register their vehicles.

During the initial discussions about the program, Mr. Hettrick said legislative leadership had asked the Governor's Office to advise InsureNet that no funding would be forthcoming without a guaranteed stream of revenue. The Governor's Office advised InsureNet that the state could not deal with "maybes" and needed some assurance that the state would actually realize the revenue.

Mr. Hettrick said representatives from InsureNet met with staff of the Governor's Office, the Fiscal Analysis and Legal Divisions of the Legislative Counsel Bureau, and Assemblywoman Smith. At that time, InsureNet indicated it could implement the system at no cost to the state, and if the state would fully implement the recommendations included in the proposal, InsureNet would guarantee the state would receive revenue of \$30 million before the end of the biennium. Mr. Hettrick indicated there was a potential to earn far more than that.

Assemblyman Hardy said it appeared the source of revenue would come in on a steady flow rather than a lump sum, and he asked how long it would take for the state to realize the \$30 million total.

Mr. Hettrick believed that once the InsureNet system was installed, revenue could be generated within 90 to 180 days. He said the technology was not unique and was already used by the Las Vegas Metropolitan Police Department (LVMPD) to check for stolen vehicles, but LVMPD did not run the information through NLETS because InsureNet was the only company with that ability.

Assemblyman Hogan recalled that when the InsureNet proposal was first reviewed by the Assembly Committee on Transportation during the 2009 Legislature, the program had not been installed in other states, and he wondered whether Nevada would be the first to install the system.

Mr. Hettrick said he did not think Nevada could move fast enough to be the first state to install the program. He was not at liberty to disclose other pending contracts with InsureNet, but he was under the impression that at least two other states were in the process of implementing the program. To his knowledge, neither one of those states had been given the same guarantee as Nevada from InsureNet. He understood that one of the two states had actually realized \$95 million in revenue.

Assemblyman Hogan asked what other information might become part of the record other than information about insurance and registration.

Mr. Hettrick said the license plate number and a photo of the rear plate on the vehicle to identify the vehicle was the only information saved in cases when the vehicle was not properly insured or insured. For example, if the photo depicted a license plate for one make and model of vehicle and the plate had been placed on another make and model, the only information saved would be a picture of the license plate improperly placed on

a different vehicle. Mr. Hettrick said if the information depicted a fully-insured and properly-registered vehicle, that information would disappear in seconds.

Senator Raggio asked how many reading devices would be installed by InsureNet and the location of those devices. There had been some indication the devices would primarily be located on major highways on Nevada's borders, and he wondered whether that would capture more out-of-state residents than in-state residents.

Mr. Hettrick replied InsureNet indicated the devices would be installed on the interstate highway system. He understood the devices would be placed in high-traffic locations in multiple areas. One advantage of placing the devices in areas such as Las Vegas was obviously the volume of traffic. Another advantage was that after local residents who were not properly insured were identified, those persons would be required to purchase insurance. Therefore, the state would receive revenue from both the fine paid by the owner to reinstate the vehicle registration and through the insurance premium tax.

Assemblyman Goicoechea said it appeared InsureNet would take a picture of a vehicle's license plate and notify the owner that he was traveling on a Nevada highway without proper insurance. He wondered what would occur next, and if the DMV would be notified. He also wondered whether the \$250 fine to reinstate a lapsed vehicle registration would be collected directly by the DMV or through InsureNet. Assemblyman Goicoechea asked if installation of the InsureNet system would "make waves" through the DMV's Nevada LIVE system.

Mr. Hettrick agreed the InsureNet system would have to be coordinated with the DMV system. He believed the Nevada LIVE system would be used to verify that a vehicle was insured and properly registered in Nevada. The DMV system would identify persons who attempted to register a vehicle in Nevada and failed to produce the proper insurance information, as well as identify persons who paid for insurance coverage for a short period of time in order to register their vehicle and then allowed the insurance to lapse.

Mr. Hettrick believed the DMV system could benefit from some of the suggestions from InsureNet. The preference would be that the DMV system would identify persons who had no vehicle insurance before they were identified by InsureNet so the state would receive the revenue from the \$250 fine at the time the vehicle registration was reinstated. He pointed out the fine could only be levied on residents of Nevada, and when those persons reinsured their vehicle, the state would also benefit from the insurance premium tax.

Assemblyman Goicoechea said he wanted to make sure that when the DMV identified a vehicle that was not insured or properly registered, the fine would be collected by the state and not split with InsureNet.

Mr. Hettrick assured the Committee the revenue generated through the Nevada LIVE system would not be split with InsureNet. However, if InsureNet identified the vehicle,

the revenue would come to the state through that process. Quite frankly, Mr. Hettrick hoped that the Nevada LIVE system identified every vehicle that was not insured or properly registered so the state would not be required to share the revenue with InsureNet. However, InsureNet had guaranteed the state would receive \$30 million in revenue by the end of the current biennium, and the Governor's proposal would take advantage of that guarantee.

Mr. Hettrick said he was not aware of any other sources of revenue that had been suggested that would be guaranteed, because other revenue sources depended on taxes and the state of the economy. The only proposal that guaranteed revenue was the InsureNet program. Mr. Hettrick explained the revenue would be placed in a trust account, and any revenue generated through the InsureNet system would be credited against that trust account. At the end of 2011, if the state had not received \$30 million, the state would receive the balance of the money in the trust account.

Cochair Mathews said she would feel better about the proposal if there was concrete evidence from another state that the InsureNet system worked. It had been her experience that when something appeared to be too good to be true, it was usually not true. She said it simply sounded too good to be true. She advised Mr. Hettrick that she would like proof that the InsureNet system was as good as it sounded. A guaranteed amount of \$30 million was significant, but she recalled the amount had been \$50 million in the past.

Cochair Mathews reiterated she was concerned, and if she had to vote on the proposal today with the information that was available, it would not be favorable. She was not suggesting that Mr. Hettrick would mislead the Legislature, but she needed more information before she could consider the InsureNet proposal.

Mr. Hettrick assured the Committee that the Governor's Office would not proceed with the proposal from InsureNet without assistance from the LCB Legal Division and the Executive Branch in examining each and every contract. Necessary steps would be taken to make sure the state was entering into a sound contract with InsureNet that guaranteed a return to the state of \$30 million.

Cochair Mathews asked whether Arkansas had installed the InsureNet program. Mr. Hettrick replied even if he was aware of the names of the states, he could not divulge that information; but he did not know which states were contemplating installation of the InsureNet system. Mr. Hettrick said he believed in the InsureNet system. InsureNet offered a guarantee that Nevada would receive a certain amount of revenue and truly believed that at least three times that amount would be realized.

Cochair Mathews reiterated she would like to receive something in writing about the program and wanted to wait until the LCB Legal Division had reviewed the program. She asked whether InsureNet would guarantee the \$30 million up front. Mr. Hettrick replied InsureNet guaranteed that Nevada would receive \$30 million in revenue by the end of 2011, so the revenue could be used to help fill the hole in the current budget.

Cochair Mathews said it appeared InsureNet was going to install its program in at least two other states where it had also guaranteed revenue. She wondered why InsureNet would want to install its system in Nevada if other states were already utilizing its system and the company was making money. Mr. Hettrick replied InsureNet was like any other entrepreneur that seized an opportunity to make additional money. Those were the people who paid taxes.

Cochair Horsford noted that InsureNet was not a Nevada-based business yet, and unless it planned to incorporate with the Secretary of State, it was not paying taxes in Nevada at the present time.

Senator Coffin said he had a background in the insurance business, but not the auto insurance business. He would not invest anything to help insurance companies nail customers, but he understood persons were required by law to properly register and insure their vehicles. He could support efforts that prompted people to properly register their vehicles, but he believed the state had been doing that. The Legislature had invested a great deal of money in the new Nevada LIVE system that would be brought online in March 2010. He understood there had been privacy concerns with the InsureNet system, and he wondered why the state would want to install such a system. There were many uninsured drivers on the road, but there were also those drivers who maintained proper insurance on their vehicles that the records identified as uninsured drivers. Senator Coffin said those people were often caught in the bureaucracy of government.

Senator Coffin believed the question was whether the state wanted to create such ill will with respect to out-of-state drivers who often came to Nevada with money in their pockets to gamble. He felt that public ill will would be a very significant cost to Nevada if people by the thousands received letters from some company saying that they owed money because they drove an uninsured vehicle on Nevada's roadways and were asked to prove their innocence. Those persons would then have to locate their insurance papers and send a letter to Nevada, perhaps via an envelope provided by InsureNet, which might prove to be a problem. He was worried that it would not behoove a state such as Nevada that relied on tourism to alienate those tourists.

Regarding the InsureNet camera system, Senator Coffin suspected that like all cameras, there would be a certain amount of resolution, and maybe the license plate number would be correct or maybe it would not be. Cameras were not perfect, and Senator Coffin believed there had to be a certain error rate, which also worried him. All in all, Senator Coffin was as skeptical as Cochair Mathews about the InsureNet proposal.

Assemblyman Hardy noted there was an Indian gaming casino in Auburn, California, that siphoned off those traveling to the northern Nevada area for gaming, and he asked what would preclude a neighboring state with a \$40 billion deficit from setting up a camera system just inside the California border from Nevada to capture the people

Nevada was attempting to capture. He believed that would be problematic. He also wondered whether there could be guaranteed revenues received every six-month period rather than at the end of 2011, in order to allow the Legislature to have some type of predictable revenue source over the current biennium.

Mr. Hettrick indicated he had a great deal of faith in the records maintained by the DMV and other state entities, and he did not believe that records would be shuffled back and forth between entities. He pointed out all entities would use the same records system, whether it was the Nevada LIVE program, InsureNet, or the insurance carriers.

Mr. Hettrick said the Nevada LIVE program would target only Nevada residents, and the InsureNet program would pick up residents from Nevada and other states. The law, however, applied to Nevada's highways and stated that a person could not operate a vehicle on the highways without insurance or proper registration. He believed the Nevada LIVE program would be elective enforcement of the law rather than a system that would theoretically enforce the law in a more evenhanded manner.

Mr. Hettrick pointed out that if the InsureNet camera system was unable to read a plate, the system would not locate a match and that photo would be eliminated from the system as a misread. Unreadable plates, doctored plates or plates that were obscured with mud or other substances would be a misread for the system and would not cause problems for the driver. Mr. Hettrick noted that a driver could not be cited if the plate could not be read.

In terms of cost to implement the system, Mr. Hettrick indicated the installation of the system was free. InsureNet was offering to hire and pay all POST-certified law enforcement officers necessary to issue the citations, and those officers would be housed in Nevada. InsureNet would also open an office in Nevada. Mr. Hettrick said if enhancements to Nevada's computer systems were necessary, InsureNet would also absorb that cost. It would cost the state nothing to try the InsureNet system, and the state was guaranteed revenue of \$30 million by the end of the fiscal year.

Assemblyman Hardy said as he understood the proposal, the revenue was not guaranteed until the end of 2011, and he wondered whether there could be some type of a prorated guarantee. There was also the issue of California having the ability to cite drivers before those drivers entered Nevada and, therefore, the pool of potential donors to the state's General Fund would be decreased.

Mr. Hettrick stated that the minute InsureNet actually generated revenue, that revenue would immediately come to Nevada and would simply be a credit against the balance due to the state of the \$30 million in the trust account established by InsureNet. The state would realize the revenue as soon as it was received, and InsureNet believed it could raise the balance of the trust account to as much as \$100 million. Mr. Hettrick believed the proposal could be negotiated to include a guarantee of \$10 million in six months. He reiterated the proposed guarantee was the state would make at least \$30 million before the end of the current biennium.

Mr. Hettrick agreed that California could install a similar program and ticket Nevada residents for driving in California without insurance or proper registration. Nevada could not prevent another state from installing the same type of program, but it would be advantageous for Nevada to install the program first.

Assemblyman Hardy believed that a guarantee of \$10 million within six months would be better than a \$30 million guarantee by the end of the biennium, because the state was facing a critical need at the current time.

Assemblywoman Smith said she had spent a great deal of time reviewing the InsureNet proposal, both now and during the 2009 Legislature. As a person who maintained the proper insurance on her vehicles, she believed other drivers should also properly insure their vehicles. However, she was very hesitant about the InsureNet system and was looking forward to the revenue that the Nevada LIVE system would bring to the state through additional vehicle insurance.

Assemblywoman Smith said she was concerned about the complexity of the InsureNet proposal, which was very technical, and the worry was that the Legislature would take action too quickly, which might have major ramifications for Nevada's residents. The figures had been questioned; she understood the proposal was to include new estimates, but that had not occurred. Nevada's economy was very tourism-based, and it appeared the figures were dependent upon InsureNet identifying and citing out-of-state drivers. Assemblywoman Smith agreed that because of the current economic downturn, that would send a bad message to tourists.

When Assemblywoman Smith originally reviewed the proposal from InsureNet during the 2009 Legislature, she was worried about the "big brother" aspect of the program. It reminded her of the red light camera system, which was in total disarray in Arizona after having been installed during the past year. The Arizona Legislature would consider a bill during the current session to repeal the system. Assemblywoman Smith believed that residents of both Arizona and Nevada were very nervous about those types of programs.

Assemblywoman Smith's biggest concern was the legal and technical aspects of the InsureNet proposal. The state absolutely needed the revenue, but she did not think the Legislature wanted to make major mistakes in the state's laws because of that need. InsureNet did not have a track record in the United States; she believed the two states that were in the process of approving the InsureNet proposal could establish the track record, and the Nevada Legislature could continue to monitor those states and determine whether it was a viable program.

Assemblywoman Smith pointed out the LCB Legal Division had concerns about constitutional issues with the collection fines and distribution of the revenue. She believed the Legislature should continue to review the InsureNet proposal, but it should

also observe the Nevada LIVE program and consider the InsureNet proposal at a later date when it could conduct a more thorough review.

Assemblywoman Buckley commented that she disliked the InsureNet proposal for many reasons; there had been much criticism of the proposal. However, forward ideas should be brought forward and discussed by the Legislature, because the idea of simply approving a 13-percent or higher cut in K-12 education made every idea worthy of consideration. She appreciated the time that Mr. Hettrick and the Governor's Office had spent looking into the InsureNet proposal.

Cochair Horsford asked Mr. Edgar Roberts to address the Committee concerning the Nevada LIVE program.

Edgar Roberts, Director, Department of Motor Vehicles, reported that the Nevada LIVE (Liability Insurance Validation Electronically) system would be implemented on March 15, 2010. By working with insurance companies, insurance lobbyists and legislators, Senate Bill 312 of the 75th Legislature was passed. The law now required evidence of Nevada insurance when a person came to the DMV to register a vehicle. Mr. Roberts said the DMV hoped the change would increase the number of insured motorists on the highways. The Nevada LIVE system would be able to verify the status of insurance on a vehicle instantly, which was one very positive aspect of the new system. He said the DMV expected to see the number of insured vehicles increase in Nevada as a result of the new law. The system would check the policy status monthly and depict the policy expiration date so the DMV would be aware if the policy was not renewed.

Regarding potential revenue from the Nevada LIVE system, Mr. Roberts reported the DMV expected \$5.4 million in increased revenue. The system would also lead to an increase in revenue from insurance premium taxes.

Cochair Horsford noted there were questions regarding the collection and distribution of fine revenue and whether changes had to be made to the statutes. He asked Mr. Roberts to work with Fiscal Analysis Division staff and provide the necessary information regarding those areas.

Mr. Roberts replied he would be happy to work with Fiscal staff. He added that part of the existing revenue from the insurance verification program was allocated to the General Fund and part was allocated to fund DMV budgets.

Mr. Roberts advised the Committee that the DMV would like to increase the current \$250 reinstatement fee on progressive sanctioned levels: \$250 for the first offense; \$500 for the second offense; \$750 for the third offense; and \$1,000 for the fourth offense. The reason the DMV requested the increase was to address those drivers who would simply wait to get caught and pay the \$250 fine rather than properly insure their vehicle. Mr. Roberts pointed out the average yearly premium for a vehicle insurance policy in Nevada was \$645, and the progressive fine levels would encourage drivers to

properly insure their vehicles. He asked the Legislature to consider such action during the upcoming Special Session.

Assemblywoman Buckley believed the proposal would fit in well with the ideas that had been brought forth previously. She agreed that an increase in fees would encourage drivers who had no insurance to purchase insurance, as well as discourage drivers who were ticketed from purchasing insurance for 30 days to reinstate their registration and then allow their insurance to lapse. She added that perhaps the state could bond against the revenue from the increased fees and create some construction jobs, thereby helping Nevada's economy.

Mr. Roberts thought that was a good idea. He added that the Nevada LIVE system would track the offender through the various levels, from first- to fourth-time offenders. The DMV was excited that it could extrapolate that information from the Nevada LIVE system. Again, Mr. Roberts pointed out that a statute change to a progressive sanctioned fee level would be required to implement the program.

Assemblyman Conklin said his only concern was whether the initial fine of \$250 was a sufficient amount to discourage the first-time offender. Because the average insurance policy was \$645 and the fine was only \$250, he thought a person who could not afford the \$645 would simply pay the fine and hope to not get caught in the future. His question was whether \$250 was a significant fine for the first level.

Assemblyman Hardy asked whether the Nevada LIVE system could track the drivers who had been fined \$250 and determine whether those drivers had purchased insurance on a month-to-month basis. Once it was determined that the driver had not purchased insurance, that driver could then be fined \$500.

Mr. Roberts affirmed the Nevada LIVE system would track the violators and continue to send them the increased sanctioned fine.

Cochair Horsford liked the idea of using the money to create jobs so people could afford to purchase insurance; that should be the goal and the mission of the Legislature. However, it appeared action would be taken against the very people who could not afford to maintain insurance on their vehicles because they were struggling to survive.

Cochair Horsford thanked Mr. Roberts for his informative testimony. He then opened Agenda Item C, Public Comment. He remarked that the Committee was looking for ideas, suggestions or alternatives to the budget shortfall that had not yet been discussed.

B. PUBLIC COMMENT.

Ed Gobel, Nevada Veterans' Organizations, stated he had been very encouraged by listening to the Committee today. As a member of the disabled community, Mr. Gobel

thanked Assemblywoman Buckley for having always taken the time to invite him into her office and for always listening to everyone.

Mr. Gobel said he had various health issues and was a member of the "senior diaper club" and it was difficult to admit that was a service he used. People often did not realize that many disabled persons suffered in silence.

With regard to the balanced budget amendment to the State Constitution that required a balanced budget, Mr. Gobel said he wanted to discuss where there could be significant savings. He recalled at the end of the 2009 Session, the issue of spending approximately \$75 million to recreate the "F" Street exit on Highway 15 in Clark County was discussed. He had taken pictures of the area, and he believed that if the 40 houses could be rehabilitated at a cost of \$1 million each, the state would still save \$35 million.

Mr. Gobel referred to the Millennium Scholarship Fund, which was originally funded with the proceeds from the tobacco settlement. The proceeds from that settlement were supposed to help educate people not to smoke and to offset the cost states suffered because of tobacco-related illnesses. Mr. Gobel believed that the University Medical Center (UMC) in Las Vegas, as well as other hospitals throughout the state, handled many cases of tobacco-related illnesses. The UMC was no longer self-sufficient and was always in danger of going bankrupt. Mr. Gobel said money had been taken from the unclaimed property fund, but the state was not paying for education and was not reimbursing hospitals for expenses incurred by those with tobacco-related illnesses either through Medicaid payments or write-offs incurred by the hospitals.

Mr. Gobel indicated there was one successful rehabilitation program that was run by the Veterans' Administration (VA) that dealt with adult day care and other issues facing seniors and helped rehabilitate seniors so they could still function in the current economic climate. Mr. Gobel wondered whether the state could partner with the VA, because many veterans ultimately ended up in state-run facilities because they were not aware that the VA offered rehabilitation.

Mr. Gobel said his sister was at the meeting with him because he tended to forget things, and she could explain further. He thanked the Legislature for the dignity and respect the members had always shown him.

Linda West Myers said she would echo the concerns of her brother, Ed Gobel. Ms. Myers stated that Nevada currently had the fourth highest-paid entry-level teachers in its public school system, which was wonderful; however, that was also a challenge because of the pension plan. She said Nevada paid 20.5 percent above a teacher's salary into pension funds, while the teachers contributed nothing. Other states did not hire entry-level teachers, so in three to five years some teachers took their full pension from Nevada and went to other states where, as experienced teachers, they could get hired.

Ms. Myers said she would like to see the state take action that would not allow teachers to take their pensions out of the state until they had been a teacher in Nevada for at least ten years. That would save Nevada a lot of money in recruitment of new teachers.

The last time Ms. Myers had reviewed the budget for higher education in Nevada, she found 14 positions that were paid above \$80,000 with no job description, and if there was no function for those positions to serve, the question was why they even existed. Ms. Myers believed there was a lot of obfuscation in Nevada's education budget that needed to become transparent. Ms. Myers said those were examples of things that could be implemented quickly, but the education budget would demand much further scrutiny and transparency.

Mark Murphy, Fiscal Policy Analyst, AFSCME (American Federation of State, County and Municipal Employees), introduced himself to the Committee. He wanted to address areas where AFSCME saw potential savings in the budget. He referenced the handout entitled, "Nevada Contract Services and Other Overlooked Expenditures," ([Exhibit F](#)), which had been presented to Committee members. Mr. Murphy stated that AFSCME was gratified that the Legislature was looking at professional service contracts. He was aware of the work that had been done over recent years to try and tighten up the regulations around the revolving door of temporary workers and outside professional service contractors.

On the public website maintained by the state, Mr. Murphy found hundreds of millions of dollars in various types of contracted services spending, not just for contract services, but in aid to private organizations, professional services separately stated, computer programmer charges and operating leases, all of which added up to quite a bit more than the amount considered by the Legislature in cutting professional service contracts by 10 percent.

Mr. Murphy said if the Legislature was looking at finally reigning in spending on contractors, AFSCME hoped it had all the necessary information to make that decision. From the standpoint of members who had sacrificed and accepted an 11 percent cut in pay over the past year, AFSCME believed it was only fair to try and spread the burden of solving the budget shortfall, rather than simply declaring another pay cut for state employees and cuts to those who required services.

Mr. Murphy indicated he would like to outline a few areas where AFSCME members had located the potential for savings. Correctional officers were interested in moving to 12-hour shifts, and they had asked AFSCME to research what was allowed under current statutes and what the state could do to make that possible. He stated the federal Fair Labor Standards Act (FLSA), section 7K, allowed law enforcement employees, including correctional officers who worked 12-hour shifts, to work more than 80 hours in a two-week period without incurring overtime. Therefore, said Mr. Murphy, a 12-hour shift and an 84-hour work period over two weeks would not trigger overtime requirements, and that would immediately save between \$6 million to \$15 million in overtime costs. Also, Mr. Murphy continued, there were very few things that could

actually improve morale while saving money, and a 12-hour shift was something the state's correctional officers would very much appreciate. It would lower their commuting costs, officers could carpool and it would make scheduling much easier for them.

Mr. Murphy said the AFSCME sent a survey to its members soliciting ideas about areas where money could be saved. He had just received the first responses to that survey, and one issue that was mentioned was that state-owned vehicles were being driven home by upper-level managers who did not necessarily need them. Also mentioned was there appeared to be an overabundance of administrators, and that paperless offices were still using a significant amount of paper unnecessarily. Mr. Murphy said members felt that one of the downsides of the furlough program was that agencies hired contractors and temporary workers or approved overtime to deal with the furlough program. He looked forward to reviewing additional responses to the survey and providing additional information to the Legislature.

The AFSCME believed it would be prudent to look ahead, past the upcoming Special Session and look at management ratios within state government in Nevada. Mr. Murphy was aware it would be very difficult to actually generate quantifiable savings by the upcoming Special Session by tightening the management ratios, but he pointed out that Iowa, Texas, and the state of Washington had all undertaken such an endeavor and had discovered that over time the management levels, both the number and the layers, had increased. He believed that was one area the Legislature could address to create a significant savings in the future.

Assemblywoman Buckley stated she would appreciate information from Mr. Murphy about leasing state buildings. Obviously, the state would pay many lease payments over the long run and after reviewing the cost-benefit analysis, she wondered whether it would be a worthwhile endeavor. She asked Mr. Murphy to share his thoughts about the short-term gain. She pointed out that in the long term when the economy recovered, that would be money and premiums paid by the state to the detriment of financing for schools and essential state services.

Assemblywoman Buckley also would welcome input from Mr. Murphy and AFSCME regarding the issue of 12-hour shifts for correctional officers. The Committee had received the housing plan relative to the closure of the Nevada State Prison (NSP), and the Legislature wanted to ensure that there was sufficient space within the Department of Corrections to house those inmates. The Legislature was also concerned about the possible elimination of the unit at the High Desert State Prison that was scheduled to be used as a medical facility to cut down the cost of medical transport that would instead be used for beds if the NSP were closed.

Assemblywoman Buckley noted that Assemblywoman McClain, Assemblyman Horn, and representatives from Administration were currently reviewing the issue. The Legislature was also concerned about saving costs in a prudent manner that would not hurt the state's correctional officers. Eliminating the pay differential plus initiating the furlough program would mean that some correctional officers would suffer

a 17-percent pay cut, which Assemblywoman Buckley said she could not support. She felt the pay cut for correctional officers should be the same as every other state employee, not more and not less.

Assemblywoman Buckley reiterated the Committee would welcome any input from Mr. Murphy and AFSCME regarding the sales/lease proposal and 12-hour shifts for correctional officers. She asked that Mr. Murphy provide that information as soon as possible in light of the upcoming Special Session.

Cochair Horsford asked Mr. Murphy to work with Fiscal Analysis Division staff in preparing the analysis. Mr. Murphy stated he would be happy to comply with the request.

Barry Gold, Director of Government Relations, American Association of Retired Persons (AARP) Nevada, stated that he had emailed a letter to Committee members on February 17 ([Exhibit G](#)).

Mr. Gold indicated that AARP Nevada was gratified to hear several members of the Committee talk about not just their concerns regarding the impact some of the cuts would have on the state's most vulnerable, but their desire to take action to stop that from happening. He noted that everyone had aged family members.

Mr. Gold referenced the proposal to cut funding for adult day care and the case of one woman who pleaded with the members of the interim Legislative Committee on Health Care that she did not want to put her mother back into a nursing home, which would not happen if she could continue to utilize adult day-care services.

Mr. Gold said there were 106 persons on the waiting list for the Community Home-Based Initiatives Program (CHIP), which was in part caused by a slowdown in the eligibility process. He stated that slots in the Community Service Options Program for the Elderly (COPE) were going to be cut, but he was told those cuts were now off the table, which was wonderful. However, he understood there were only 2 people on the waiting list for that program, while there were 106 people on the waiting list for CHIP. Mr. Gold emphasized there was nothing he could say that would lessen the impact of the proposal to cut incontinence products, including adult diapers.

Mr. Gold referenced "optional" Medicaid services, which was the standard language in Medicaid. However, services needed by older persons who were sick, poor or suffered from other ailments should not be termed "optional."

Mr. Gold thanked the Committee for allowing him to testify on behalf of the 311,000 AARP Nevada members.

Cochair Horsford appreciated Mr. Gold's patience in waiting to testify and hoped that he recognized that funding had been restored for some programs, to the Governor's credit. The Legislature would continue to work on options to restore funding for some of the

other proposed cuts to health and human services that it termed "the worst of the worst."

Michael McGee testified he was a lifelong Nevada resident and small business owner. He referred to the handout entitled, "Nevada Budget Savings Proposal, February 15, 2010," which had been presented to the Committee, ([Exhibit H](#)), and proposed suspending the 100-percent dollar-for-dollar match on retirement contributions for state employees.

Mr. McGee explained the way the system worked today was that 10.5 percent was contributed by the employee to the retirement fund, regardless of whether it was the Public Employees' Retirement System (PERS) or systems that applied to exempt employees, and the state provided a 100-percent dollar-for-dollar match on that money. That was an extremely generous benefit, and Mr. McGee said that in private business, those were the first things that were suspended until economic times got better.

Mr. McGee said the example provided in [Exhibit H](#) was the Nevada System of Higher Education (NSHE). With the publicly available data, the estimate for that system penciled out to be approximately \$144 million in savings for the remaining four months of the current fiscal year and all of fiscal year 2011.

According to Mr. McGee, for the state as a whole, using available data from PERS which depicted the average payroll contribution, suspending just the match would pencil out to about \$470 million in savings over the biennium. Such action would not change the base salary of the employee, and the employee's ability to contribute their full contribution to PERS would not change, but the match that would normally be added by the state would be suspended until economic times were better.

Mr. McGee believed that was a common-sense approach to limiting benefits that would eliminate the need to lay off state employees. Such action could be put into effect relatively quickly within the exempt employee groups, depending upon their location, such as NSHE where exempt employees were contracted through the Board of Regents and where contracts would be renewed shortly. Mr. McGee pointed out it would take action by the Legislature to suspend state matching retirement funds for other state employees. Such action would save a significant amount, and it seemed reasonable that during the current economic downturn, the state would not match 100 percent of its employees' retirement contributions.

Mr. McGee remarked that [Exhibit H](#) contained the details behind the proposal, which he believed was fair and would apply to everyone. It was a reasonable proposal because there would be no reduction in take-home pay or plan balances, no restrictions on the ability of employees to contribute to their retirement, and it would be very effective because it would minimize or avoid layoffs and program closures. Mr. McGee believed it was a "big bang" approach, and it would hit the highest component of the state's budget, the human resources side.

Assemblyman Hardy said it was his understanding that the NSHE included classified state employees that were not technically part of the NSHE system; it appeared that classified employees were under the state, while other employees were under the NSHE system. He asked whether the Legislature could consider placing the classified employees within the NSHE system, which could work in conjunction with Mr. McGee's proposal.

Mr. McGee said that could be done, but it was important to remember the matching contribution from NSHE was identical in terms of dollars. Assemblyman Hardy's comments about NSHE employees were accurate, and he referenced a table included in [Exhibit H](#) that broke down the classification and the benefits. Mr. McGee noted that in real dollar terms, at least in the NSHE budget, about 75 percent of the dollars went to exempt employees and about 25 percent of the real dollars went to the classified system. In either case, whether retirement was employer- or employee-paid, the match was the same, about 10.5 percent. That also applied to school district employees, but the numbers were even more significant for public safety employees. Mr. McGee said he had reviewed the various school districts, state classified employees and NSHE.

Sandy Waters testified she was present because her brother was mentally disabled and she was his caregiver, but she was his sister first. Ms. Waters had taken the day off work because she wanted to be present to let legislators know how important the adult day-care center was to her brother. He needed to be supervised and could not be left on his own. She said her brother had wandered away from home on one occasion and was molested.

Ms. Waters said she loved her brother and needed a day-care program for him. The center he currently attended had only opened during the past month, and she recently found a service to pick up her brother at day care and drop him off at home in the evening. She rushed home to make sure she arrived prior to her brother; otherwise he would again wander away from home. Ms. Waters stated that she suffered from epilepsy and chose not to drive for her own safety and the safety of others. She asked legislators to support her and her brother and to fund adult day-care facilities for people in need. She believed that persons who placed their disabled or ill family members in rest homes simply did not want to be bothered with their care, but she loved her brother and wanted him to remain at home with her. To facilitate his living at home, she needed a place for him to stay while she had to work. If there was no day care for him, Ms. Waters would be forced to quit work, which would add to the state's burden for her livelihood.

Charles Perry introduced himself as the Executive Director/CEO for the Nevada Health Care Association (NHCA), which represented skilled nursing and rehabilitation facilities.

Mr. Perry stated that he and the members of NHCA wanted to thank the Legislature for the opportunity to present testimony regarding the proposed budget cuts in Medicaid payments to skilled nursing and rehabilitation facilities. The NHCA acknowledged and was aware of the financial difficulties facing the state and appreciated the efforts of

everyone in helping the state get through the current rough patch. However, the NHCA believed that a better way must be found and felt that the suggested remedy might very well be "worse than the disease."

The problem as viewed by the NHCA was that the administration was proposing to reduce Medicaid reimbursement to facilities for the resident population by \$10 per patient per day. Mr. Perry said a report from the nationally-recognized accounting firm, Eljay, LLC for the American Health Care Association, released in November 2009, identified Medicaid under-payments to skilled nursing facilities on a nationwide basis. Nevada was reported as being under-reimbursed for actual cost by \$12.27 per Medicaid patient per day. Mr. Perry stated that adding the \$10 reduction for Medicaid patients per day for all Medicaid patients in skilled nursing and rehabilitation facilities, including patients on dialysis and ventilators and pediatric patients, would make the average loss to provide care for those residents \$27.61 per Medicaid patient per day.

Mr. Perry respectfully submitted that providers simply could not absorb such a loss. The question concerned the options available, short of closure of facilities, and Mr. Perry said the most obvious option was to refuse admission for anyone with a pending Medicaid application. Although the overwhelming majority of those applications were usually approved, the facilities received no payments for services provided unless the resident was able to meet the copay for an average of 90 to 120 days. Mr. Perry stated that upon notification of authorization to bill from Medicaid, it took another 30 or more days for payment to be received. The second option was to lay off employees and the third option was to take beds out of service. After all of those things had been done, the NHCA could still identify one, two or perhaps three facilities that it believed would have no choice but to close their doors and go out of business.

Overwhelmingly, Mr. Perry continued, admissions to skilled nursing and rehabilitation facilities were from acute care hospitals. If the skilled nursing and rehabilitation facilities were forced to refuse admission to anyone without a verified pay source after Medicare coverage was exhausted, or withdraw beds from service because of the inability to retain qualified staff, the effect on the entire health care delivery system would be devastating. Mr. Perry indicated that hospital patients ready to be discharged to less expensive post-acute care would have no place to go and would take up space needed by those waiting for admission for hospital care.

Cochair Horsford advised Mr. Perry that the Committee was limiting comments and Committee members were in obvious agreement and understood the negative impact of the cuts to skilled nursing care.

Mr. Perry said he understood the time constraints facing the Committee, and his written comments had been presented to the Committee for review ([Exhibit I](#)).

A recurring question for Mr. Perry, as a person obviously not schooled in government accounting, was why the proposed \$10 cut per Medicaid patient per day in skilled

nursing and rehabilitation facilities would only save the state \$3.60 per day, while losing \$6.40 per day in federal matching funds. As a regular person living in the real world, the so-called logic of that equation was beyond Mr. Perry. If a savings of \$3.6 million was needed, he wondered about the rationale of decreasing revenue derived from the provider tax fund of \$6.4 million. He questioned who that would benefit. Mr. Perry said the NHCA stood ready and willing to work with the Legislature to try to find solutions to the problem.

Cochair Horsford thanked Mr. Perry for his input, along with the members of NHCA and the facilities that provided care to some of Nevada's most fragile elderly citizens. The Committee did want to follow up with the NHCA regarding recommendations. Cochair Horsford emphasized that a solution to cutting funding for Medicaid patient days remained on the Legislature's priority list.

Floyd Burns introduced himself to the Committee and stated that he bought and sold insurance companies and had been in the business since 1955. He graduated from law school and practiced law for three years, but only made \$5,000 during his best years as a lawyer. Mr. Burns then went into the insurance business and had been the president of two companies.

Mr. Burns testified he had helped write the insurance code (NRS Chapter 679A) for Nevada in 1972, but he believed the laws were too strict. At that time, those working on the insurance code were afraid that the insurance business would become involved with the mafia, and those laws were still on the books.

Mr. Burns stated the insurance business in Nevada should be a thousand times larger than it was. He noted that each year citizens of Nevada sent billions of dollars in premiums out of state. That was investment capital that should be kept at home rather than sent to out-of-state companies.

The life, health, property and casualty insurance companies represented the largest pool of private investment capital in the world, and there were practically none located in Nevada. Mr. Burns reported there were two very small companies in Reno that belonged to out-of-state finance companies. In that category, Nevada was upended by only Wyoming and Guam.

Mr. Burns stated that the largest global insurance and financial services group in the world was AXA-UAP headquartered in Paris, France. With the merger mania currently going on in the field of financial services, Nevada stood to be left out.

Mr. Burns indicated that according to reports from the A.M. Best Company, there were over 400 insurance companies in the United States, each having over \$1 billion in assets, but none of those companies were located in Nevada. Nevada had passed up the largest form of commercial endeavor in the world. Insurance companies in the United States alone would approach assets of \$4 trillion.

According to Mr. Burns, the Insurance Holding Company Act was passed in all states, including Nevada, in 1971-1972 and was a model act that allowed each state to design and implement its own laws. He stated the legal requirements for capitalization were now in line with the Nevada Legislature which, in addition, had implemented other inducements for qualified persons to bring insurance companies into Nevada.

Cochair Horsford thanked Mr. Burns and asked him to submit his written testimony for the record ([Exhibit J](#)).

William Evans introduced himself and explained he was a full-time college student and was currently unemployed. His primary objective was to defend education, but he also felt that human welfare was extremely important.

Mr. Evans indicated he had received an email that alerted him that tuition increases were on the planned schedule for review by the Legislature. He believed that teacher layoffs and increasing class sizes were very bad ideas. Mr. Evans graduated in 2000 from a high school in California where he took pre-calculus with about 54 other students in one classroom. He discovered it was not possible to learn pre-calculus with that many students in one classroom. He said increasing class sizes was a recipe for failure, and he urged the Committee to strike that idea from the proposals.

Mr. Evans said he was attending the College of Southern Nevada (CSN) and paying his way through college. For a full-time class schedule, including books, it cost him about \$1,000, and working and putting himself through school was very challenging without additional costs for tuition. He believed that additional costs could hamper his pursuit of education.

Mr. Evans said he had some solutions for the economy in mind through creation of jobs. He believed that legalizing the use of marijuana was a good idea that would create a significant return via tax revenue and also create many jobs.

Mr. Evans believed another good idea would be the creation of recycling centers. Rather than throwing trash in the landfills, which was very unintelligent, he thought recycling was completely underscored. The state should build centers that would create construction jobs; perhaps federal stimulus funds could be secured to build the centers. Mr. Evans said that ultimately there could be centers where people were employed to sort the recyclable items such as plastic and paper.

Mr. Evans reviewed other options that had been submitted to the Committee, such as outsourcing the auditor positions in the Division of Insurance, and he suggested accelerating the hiring process. He noted there had been concerns voiced about implementing the InsureNet and the Nevada LIVE programs and the effect on tourism, and he suggested that Nevada communicate with its neighboring states so that it would not be the only state to implement those programs and the effort could be coordinated.

Michael McAuliffe was the Executive Director of Nevada NORML (National Organization to Reform Marijuana Laws). He said it was his honor to once again take part in the American experiment in government. The President had called upon citizens to be activists, which sounded to him like part-time legislators without pay.

Mr. McAuliffe said he had appeared before the Legislature during the 2009 Session, which was a time of dire financial crisis, to demonstrate how the state could fill the budget hole. However, he observed, not many legislators were willing to consider that desperate times called for desperate measures.

Mr. McAuliffe noted that citizens of Nevada could lose their entire life savings in the casinos while getting drunk on free drinks, but everyone believed that marijuana remained a great evil. He pointed out the plant had been widely considered in the past as most useful. Mr. McAuliffe remarked that since the 2009 Legislature, the economy had worsened and even though many grow-houses in Las Vegas had been raided, business was booming at the garden supply shops. Unemployment led to desperate measures, such as bigger marijuana gardens, houses used as grow-houses and headaches for rental property owners.

Mr. McAuliffe did not believe that legislators were ready to approve the use of marijuana. Over 150,000 pounds of cannabis was illicitly consumed last year in Nevada despite the commendable efforts of law enforcement, and with the \$50 per pound excise tax he had proposed to the 2009 Legislature, the state could have realized \$120 million in revenue. Even now, with the state headed toward financial catastrophe and cannabis use unabated within the population, Mr. McAuliffe did not think that politicians had the gumption to bring the issue to a full debate.

However, Mr. McAuliffe continued, expedience demanded that something had to be done, and since a politician's first duty was to get re-elected, he had an easy solution for the Legislature. An ABC News/*Washington Post* poll released in January 2010 showed 81-percent support nationwide for medical use of marijuana. Mr. McAuliffe believed there were serious flaws with Nevada's implementation of the medical marijuana program. If the Legislature was willing to take a few steps to correct those problems, legitimate health-care reform could be enacted through a program that the vast majority of Nevadans already supported.

Mr. McAuliffe said he had spent the last few months between Las Vegas and Colorado Springs, where he was on the board of an industry council establishing a set of standards and ethics for medical cannabis wellness facilities. He agreed with earlier comments by Senator Raggio indicating the state needed a joint solution. Every sector must contribute, and the medical cannabis industry existed in Nevada. He recalled Assemblywoman Buckley had said that with the risks to K-12 education, every solution had to be considered. The illicit marijuana market existed, and Mr. McAuliffe guaranteed that its users would rather pay taxes on that use than be arrested and placed in jail.

And, finally, Mr. McAuliffe said earlier comments made by Assemblywoman Smith indicated that while the state needed revenue, she did not want the Legislature to pass a bad law in haste. Everyone hoped to live in a perfect world, but most had to live in the reality that surrounded them. Mr. McAuliffe stated that the money paid for illegal cannabis was going into the hands of drug cartels, and he wondered why the revenue could not be realized by the state. Mr. McAuliffe submitted his written statement for the record ([Exhibit K](#)).

Liza Sanchez wanted to discuss the adult day-care center that was slated for closure. She believed that such action would be horrible. The first thing she noticed when she drove into the parking lot today was the handicapped parking spaces, which she felt was appropriate because those persons needed assistance.

Ms. Sanchez believed some persons thought the adult day-care center was used for recreation for handicapped persons. Most persons who attended adult day-care centers could not even dress themselves. When she picked up her mother from adult day care in the evening, she again became the full-time caretaker. Her point was that she got relief from full-time caretaking duties during the day while her mother was at adult day care. Ms. Sanchez explained that her mother suffered a stroke and needed the rehabilitation provided by adult day care.

Ms. Sanchez pointed out that many persons had to work while caring for family members, and elimination of adult day-care facilities would prevent them from working or would force them to leave their family members alone in the home. She was lucky to have two children still in her home who helped her care for her mother, but she knew other families that were forced to leave their parents alone during the day. Ms. Sanchez hoped that the Legislature would maintain the funding for adult day-care centers.

Cochair Horsford noted that the Interim Committee for Health Care had met on January 17 and received a report about the centers. He explained the Legislature was working very diligently to locate revenue and restore funding for adult day-care centers. The Legislature recognized the importance of those centers and the fact that without adult day-care centers, people would be in even more dire circumstances, impacting themselves, their families, and the community in general. Cochair Horsford thanked Ms. Sanchez for her comments.

Terry Piper stated he was from Assembly District 34. He was present to share his ideas about what could be done to offset the deficit facing the state.

Mr. Piper also believed that all options to increase revenue for the state should be put on the table. He pointed out that the Legislature passed a medical marijuana program in October 2001. In February 2010, the program had just over 3,000 people currently enrolled, and that did not count the people who lacked sufficient funds to continue to pay the state to remain in the program.

According to Mr. Piper, the medical grade cannabis for those 3,000 persons would cost approximately \$400 per ounce on the street, which he thought was atrocious. At \$400 per ounce, using the current tax structure that the state used for cigarettes that cost about \$5 per pack, the state could bring in about \$960,000 per month, which would equate to about \$11.5 million over one year. He said that would only be a drop in the bucket when the deficit was over \$800 million, but he believed that every drop in the bucket counted at the current time.

Mr. Piper stated he had served his country in the Armed Forces and had fought in Desert Storm and was a decorated war veteran. Originally he was against legalizing marijuana until he was injured, but when it was proven to him that marijuana could help with his injury, his opinion changed. He believed there was more to the program than the taxes it might bring to the state, and that was the relief that medical marijuana provided to persons who had suffered injuries.

Cochair Horsford reminded everyone that while the Committee valued their testimony, members had heard several days of testimony regarding the proposed budget cuts and those issues did not require reiteration. He asked that persons provide ideas that dealt with possible solutions rather than the proposed budget cuts.

Christopher Roller, Director of Advocacy, the American Heart Association of Nevada, testified that one idea that had been put forward in the past by the Heart Association and other health organizations was to increase the state tobacco tax. Mr. Roller stated that increasing the tax by \$1.00 per pack would present a short-term solution to the budget shortfall by bringing in approximately \$80 million in revenue, which was a conservative estimate. The revenue would depend on the number of people who quit smoking, which was the focus of the Heart Association in increasing the tax on tobacco products. Mr. Roller said that an increase in taxes on tobacco products in theory would reduce the number of people who smoked. People would be more compelled to quit, and youth would be less compelled to take up smoking in the first place. He noted the number of people who would quit smoking depended on the amount of the tax increase.

Currently, Mr. Roller said, the Heart Association was dealing with the proposal to cut state tobacco cessation and control programs, which the Heart Association opposed. Should the Legislature consider increasing the tobacco tax, that revenue could be used to maintain the tobacco cessation and control programs. He said smokers who were dealing with illnesses such as chronic obstructive pulmonary disease (COPD), heart disease, stroke, emphysema, lung cancer and other chronic health conditions that resulted from smoking, would help pay the cost for the programs. He believed that allocating more of that money into prevention to decrease the number of smokers would be a good long-term solution.

Mr. Roller noted that Assemblyman Conklin had talked about the downward spiral of the cost to Medicaid as the result of cutting reimbursement rates, and there could be even more people on Medicaid if funding was eliminated for tobacco cessation programs for the state. Eliminating programs could cause an increase in the number of smokers,

particularly in the number of youth who would take up smoking, and could incur long-term health care costs.

Mr. Roller said he had been a smoker for seven years, but he did not think he would have smoked as much or even taken up the habit in the first place if cigarettes had been more expensive. The point was that not everyone who smoked wanted to continue the habit; most people wanted to quit, and by increasing the cost of cigarettes through taxes, those persons would be more compelled to quit. Mr. Roller said his grandfather had been a long-time smoker and died in 1971 from lung cancer before he had the opportunity to meet him. Perhaps if cigarettes had not been as cheap as candy when his grandfather was a smoker, he would not have taken up the habit in the first place.

Lynda Burns was present to discuss the Nevada Adult Day Healthcare Centers (NADHC) program. She introduced her mother, who attended the NADHC program, to the Committee. After listening to testimony presented to the Committee regarding the scope of the problem facing the state, Ms. Burns realized legislators wanted to address the health-care issues.

Ms. Burns wondered whether legislators had family members who suffered from dementia and other debilitating diseases, or whether they had ever visited an adult day-care facility to see what occurred on a daily basis. As a caretaker who utilized the NADHC facilities, she could not praise or say enough about the staff and what they accomplished on a daily basis.

Ms. Burns stated that the day-care facilities provided respite for caretakers at home. She had a very supportive family, but many of the persons who utilized day-care facilities had no help in caring for their family members. Obviously, if adult day-care facilities were closed, there would be a ripple effect that might cause people to quit their jobs or leave their loved ones alone.

Ms. Burns believed the adult day-care situation was a combination of both the family members and the day-care centers taking responsibility together to care for the loved ones of the families, which was a far better situation than placing family members in nursing homes. Day-care centers allowed the family member to retain a relationship with the family as long as possible and yet still receive the necessary care.

Even in the best situations, Ms. Burns said she could not provide the services or the care that was provided by the staff at NADHC. Ms. Burns wanted to maintain the dignity, independence and love that she had for her mother for as long as possible. She praised the staff of NADHC, where her mother spent her days; she felt confident that she could walk in at any time and find her mother in the best hands possible. The day-care centers provided more than simply social activities, and she believed her mother would have gone downhill more quickly had she not been involved in the programs offered by NADHC.

Assemblywoman Smith thanked Ms. Burns for her testimony. She explained that she had taken a leave of absence from her employment to care for her dying father because

there were no other options available and her father lived with her. She understood Ms. Burns' concerns, and she believed that the Legislature was extremely committed to trying to find solutions to funding the adult day-care services.

Christopher Vito, Founder and President, Nevada Adult Day Healthcare Centers, Inc., (NADHC), explained the mission of the NADHC was to stimulate, educate, socialize and exercise its clients. Mr. Vito said the facility promoted preventive care similar to a triage center. The staff of the NADHC consisted of three registered nurses, three licensed practical nurses, a physician, a dentist, a podiatrist and a psychiatrist. Services offered by the NADHC included chest x-rays and drawing blood at no cost to the client.

Mr. Vito said it was very clear that if the Legislature eliminated the funding for adult day-care services, the costs would be exponential, but he could offer a solution. A study conducted by the University of California, San Francisco (UCSF), Institute of Aging, proved that community-based adult day-care services were not only clinically effective, but also cost-effective for the state.

Mr. Vito said his proposal was to "share the care." Typically, many families who could no longer care for aging family members placed them in nursing homes, leaving their care up to the state. He said that to share the care, the state, via adult day-care services, could care for loved ones during the day and the family could care for them during the evening. The cost of adult day care under Medicaid was \$54 per day and the cost for nursing home care was between \$150 and \$300 per day. When persons in nursing homes became ill, they were rushed to the University Medical Center (UMC) at a cost of \$3,000 to \$4,000 per day.

Mr. Vito indicated that a study conducted by the Robert Wood Johnson Foundation revealed that in 2003, Nevada needed 49 adult day-care centers, and at the time there were only 5 operating facilities. At the same time, Clark County needed 33 day-care centers and there were only 3. Today, there were only 5 or 6 adult day-care facilities in southern Nevada.

Another issue brought forth by the study was that 100 percent of adult day-care facilities eventually filed bankruptcy. Mr. Vito said the NADHC had now existed for seven years and had figured out a solution to survive in the business; however, he noted the Medicaid rate of \$54 per day per patient was already a problem. He asked the Legislature to reconsider funding for adult day-care centers.

Cochair Horsford clarified that no decision had been made by the Legislature regarding adult day-care funding to date. Apparently there had been some misrepresentation regarding the issue, because letters were issued and notice given based on the Governor's recommendation, but until the Legislature acted on the issue, no final decision had been made on the proposal.

Christina Vito stated she was a registered nurse and the Administrator and Director of Nursing for the Nevada Adult Day Healthcare Centers (NADHC). She had been a nurse for 27 years and had a critical care/emergency room background.

Ms. Vito said she and members of her staff had presented testimony to the Interim Committee on Health Care at its meeting on February 17. After that meeting, she returned home somewhat discouraged because she felt the testimony she and her staff presented was not really heard. She had spent an hour praying that legislators opened their eyes, ears, minds and hearts and listened to the testimony about adult day-care. That was the reason she attended the meeting today.

Ms. Vito had been encouraged by comments from Assemblywoman Buckley that she could not fathom closing or eliminating the funding for adult day-care services. Ms. Vito stated that adult day-care services were very cost-effective for the state and for Medicaid. The NADHC had clients who stayed at the center 12 hours a day, and that care was provided for \$54 per day. Without day-care services, families would end up placing their loved ones in nursing homes, which would cost the state even more money.

Ms. Vito also pointed out that quality care was not available in nursing homes. In the 27 years she had been in the nursing field, the past seven years in the adult day-care setting had been the best years of her career. Many of the patients had improved since they began attending adult day-care, and they were able to remain at home with their families. The key to the NADHC program was to keep loved ones at home as long as possible with their families.

Cochair Horsford said the Legislature was listening, and public comment would be very important to legislators in their decision-making.

Gwendolyn Ausburn wanted to testify on behalf of adult day-care services. She explained her mother-in-law suffered from dementia, and it had become more and more difficult to take of her. The family was very concerned, and then they discovered the Adult Day Care Center of Henderson. Ms. Ausburn said the family toured the facility and was very impressed. Her mother-in-law was suffering because family members could not get her to eat, and she could no longer communicate with the family.

After a short time in the adult day-care program, Ms. Ausburn said the change in her mother-in-law's condition was unbelievable. Adult day care was the best thing for everyone, including young adults, senior citizens, or anyone who was experiencing physical or mental problems. Ms. Ausburn commented that anyone who was not able to remain at home alone benefitted from the day-care programs while family members worked and took responsibility together. Ms. Ausburn said the issue of adult day-care facilities needed careful consideration, because if the state took those services away, it would end up spending even more for care.

Diane Hart, Clinical Social Worker, Adult Day Care Center of Las Vegas, commented that when she was in school at the University of Wisconsin, she learned that elderly people who were able to remain in their own homes enjoyed better health and lived longer than those in facilities. The mission of the Adult Day Care Center of Las Vegas was to help its clients remain in their own homes as long as possible. She reiterated that the cost of adult day care was approximately \$55 per day, which was paid by Medicaid, and most Medicaid clients came to the facility six days per week; it was very cost-effective for seniors to attend adult day-care centers.

Ms. Hart explained the clients at the center were not only senior citizens; they ranged in age from 26 to 103 years old. Many suffered from mental health problems, physical problems or both, and the center did not want to turn away any clients. The only reason a client would be turned away was if the person was too aggressive or too dangerous to other clients. When Ms. Hart worked for the Clark County Senior Citizens Protective Services for seven years, she had clients who were in danger in their homes. When there were no other facilities or agencies that could help, she would refer clients to the adult day-care centers for their safety.

Ms. Hart stated the programs at the Adult Day Care Center of Las Vegas were also very therapeutic; it was not simply a holding place. The center offered many choices of therapeutic programs such as yoga and music therapy. The center also employed a very good art teacher who transformed the clients' suffering from dementia into artists. Ms. Hart reported that some clients suffered from traumatic brain injury and Alzheimer's disease, had been paralyzed by stroke, and many other physical and mental health problems. The therapeutic programs had improved the wellbeing of the center's clients in many ways. Two clients who suffered from schizophrenia came to the center with very little physical or mental activity, and today they were very assertive and were leading a group of 60 to 65 other clients in the Pledge of Allegiance.

Ms. Hart stated that adult day-care centers were on the same team and wanted to work together as partners, which was the reason she was present today. She invited legislators to visit the day-care centers and observe the clients so they could make informed decisions regarding funding.

Dee Dee Woodberry stated she was the Activity Director for the Adult Day Care Centers of Las Vegas and Henderson. She could not add much more to the statements of those before her, but she asked that legislators please not cut the financing for adult day-care centers. There was a great need in Las Vegas for those services, and adult day-care facilities responded to the mission of keeping their clients independent with dignity in the community.

Ms. Woodberry indicated that Las Vegas had the highest suicide rate among seniors, and cutting funds or cancelling adult day-care programs would only increase those numbers. She pointed out that everyone would "walk down this road" one day.

Jeffrey Klein, Executive Director, Nevada Senior Services, explained that Nevada Senior Services operated two of the adult day-care centers in southern Nevada. Nevada Senior Services was a not-for-profit organization and turned no clients away. He said the day-care centers provided services to the most fragile, the most vulnerable, and those with the least resources.

Mr. Klein noted the question was whether there was a creative solution to discover the dollars needed to fund adult day-care programs, which legislators knew were more cost-effective than the alternative. Through the state's Title III and Independent Living Grant (ILG) programs, Nevada had one of the finest networks of integrated social service agencies in the country. Mr. Klein indicated the agencies conversed with each other and were bound by common meetings, common data systems, and now through the website for the Aging and Disability Resource Center (ADRC). Through that network, Nevada had the opportunity to identify people at eminent risk for nursing home placement. If three persons were identified each work day, the difference between nursing home care and adult day care or other caregiver support services over the course of a year for those 900 clients would be \$48 million. Mr. Klein said that would be a direct savings to what the state would otherwise spend out of its Medicaid coffers during the current year for that level of care.

According to Mr. Klein, the resource base was already in place, staff was in place through the Division of Aging and Disability Services, and there was a natural connection through the municipalities and their social service programs. A program to identify people at eminent risk could be in place by July 1, 2010.

Mr. Klein said another component that could be added was the hospitals in the state and their social services elements. As President of the American College of Health Care Executives, Nevada Chapter, he could speak for his colleagues who would tell the Legislature that they would gladly link their social services departments to a system for the purpose of facilitating more effective discharge plans and a better quality of care.

Cochair Horsford said the Committee would like to follow up with Mr. Klein regarding the idea of partnering, because that was exactly the type of collaboration the Legislature believed would be necessary during the current difficult times.

With no further comments or public testimony to come before the Committee, Cochair Horsford called for a motion to adjourn.

ASSEMBLYMAN DENIS MOVED THAT THE COMMITTEE ADJOURN.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED.

Cochair Horsford declared the meeting adjourned at 5:23 p.m.

Senator Horsford, Cochair
Interim Finance Committee

Senator Mathews, Cochair
Interim Finance Committee

Lorne Malkiewich, Director
Legislative Counsel Bureau and Secretary
Interim Finance Committee

**EXHIBITS
INTERIM FINANCE COMMITTEE**

Exhibit	Witness/Agency	Description
A	Fiscal Analysis Division Legislative Counsel Bureau	Agenda
B	Fiscal Analysis Division Legislative Counsel Bureau	Guest List
C	Dino DiCianno, Director Department of Taxation	Department of Administration Division of Internal Audits – Audit Report Insurance Premium Tax
D	Senator William Raggio	Letter dated from Nevada Conference of State Legislators dated February 5, 2010 re: Sales Tax on Online Transactions
E	Ross Miller, Secretary of State	Letter dated February 17, 2010 re: Secretary of State Budget Reduction Proposals
F	Mark Murphy, Fiscal Policy Analyst American Federation of State, County and Municipal Employees	Analysis of Nevada Contract Services and Other Overlooked Expenditures
G	Barry Gold, Director of Government Relations - American Association of Retired Persons	Letter dated February 18, 2010 re: Opposition to Proposed Budget Cuts for Seniors and Disabled Persons
H	Michael McGee	Nevada Budget Savings Proposal dated February 15, 2010
I	Charles Perry, Executive Director, Nevada Health Care Association	Written Public Testimony
J	Floyd Burns	Written Public Testimony
K	Michael McAuliffe, Executive Director National Organization to Reform Marijuana Laws.	Written Public Testimony