

MINUTES OF THE FEBRUARY 9, 2012
MEETING OF THE
INTERIM FINANCE COMMITTEE
LEGISLATIVE COUNSEL BUREAU
Carson City, Nevada

Chairwoman Debbie Smith called a regular meeting of the Interim Finance Committee (IFC) to order at 9:39 a.m. on February 9, 2012, in Room 4100 of the Nevada Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda and [Exhibit B](#) is the Meeting Packet. All exhibits are available and on file at the Fiscal Analysis Division of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Senator Steven Horsford, Vice Chair
Senator Moises Denis
Senator Joe Hardy for Senator Cegavske
Senator Sheila Leslie
Senator David Parks
Senator Dean Rhoads
Senator James Settelmeyer for Senator Kieckhefer
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David Bobzien
Assemblywoman Teresa Benitez-Thompson for Assemblyman Oceguela
Assemblywoman Maggie Carlton
Assemblyman Marcus Conklin
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph Hogan
Assemblyman Randall Kirner
Assemblywoman April Mastroluca

COMMITTEE MEMBERS EXCUSED:

Assemblyman John Oceguela
Senator Barbara Cegavske
Senator Ben Kieckhefer

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Lorne Malkiewich, Director, Legislative Counsel Bureau
Eileen O'Grady, Chief Deputy Legislative Counsel
Rick Combs, Fiscal Analyst, Assembly
Mark Krmpotic, Fiscal Analyst, Senate
Mike Chapman, Principal Deputy Fiscal Analyst
Rex Goodman, Principal Deputy Fiscal Analyst
Sherie Silva, Interim Finance Committee Secretary
Tracie Battisti, Fiscal Analysis Division Secretary

A. ROLL CALL

Lorne Malkiewich, Director, Legislative Counsel Bureau, and Secretary, Interim Finance Committee, called the roll and announced a quorum of both houses was present. Assemblyman Ocegvera, Senator Cegavske, and Senator Kieckhefer were excused.

Chairwoman Smith welcomed Committee members and the public and noted that public comment would be requested prior to Committee action on any agenda item.

B. APPROVAL OF MINUTES OF THE OCTOBER 25, 2011, MEETING.

ASSEMBLYMAN CONKLIN MOVED FOR APPROVAL OF THE
OCTOBER 25, 2011, MEETING MINUTES.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

C. ALLOCATIONS OF FEDERAL GRANT FUNDS FOR WHICH A STATE
AGENCY, COMMISSION OR DEPARTMENT HAS REQUESTED A PUBLIC
HEARING PURSUANT TO NRS 353.337.

1. **Department of Health and Human Services - Welfare and Supportive Services - Field Services - FY 2012** - Transfer of \$300,000 from the Personnel Services category to the Operating category to meet projected expenses through the end of FY 2012. **Requires Interim Finance approval since the amount involves the allocation of block grant funds and the agency is choosing to use the IFC meeting for the required public hearing. Work Program #C22922**
2. **Department of Health and Human Services - Welfare and Supportive Services - Child Assistance and Development - FY 2012** - Addition of \$2,041,952 in federal Discretionary Grant funds and \$16,777 in federal Child Care Mandatory Matching Grant funds to meet rising caseload demands and contract commitments for child care services in FY 2012. **Requires Interim Finance approval since the action**

involves the allocation of block grant funds and the agency is choosing to use the IFC meeting for the required public hearing. Work Program #C22741

Chairwoman Smith noted items C-1 and C-2 required a public hearing. She called for public testimony; there was none.

SENATOR LESLIE MOVED FOR APPROVAL OF AGENDA ITEMS C-1 AND C-2.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

D. WORK PROGRAM REVISIONS IN ACCORDANCE WITH NRS 353.220(5)(b). INFORMATIONAL ONLY – REQUIRED EXPEDITIOUS ACTION WITHIN 15 DAYS.

1. **Department of Health and Human Services - Health Division - WIC Food Supplement - FY 2012** - Addition of \$396,453 in federal Women, Infants, and Children (WIC) Summer Electronic Benefits Transfer for Children (SEBTC) grant funds to support a pilot project to provide a household-based method of delivering nutrition assistance to low-income children during the summer, using a WIC electronic benefit transfer (EBT) technology as the delivery mechanism. This program will provide nutrition assistance to 5,000 low-income children during the summer months when low or no-cost meals are not available through their schools. Transfer of \$4,934 from the Personnel category to the WIC Operational Adjustment Projects category to repurpose funds made available from cost sharing the existing Budget Analyst II position with this new pilot program. Requires Interim Finance approval since the amount added to the Summer EBT for Children category exceeds \$75,000. **RELATES TO ITEM E.24. Work Program #C22889**
2. **Department of Health and Human Services - Child and Family Services - Southern Nevada Child and Adolescent Services - FY 2012** - Transfer of \$40,000 from the Temporary Contract Staffing category to the Maintenance of Buildings and Grounds category to fund an emergency shoring project for the Desert Willow Treatment Center water cooling tower. Requires Interim Finance approval since the amount transferred to the Maintenance of Buildings and Grounds category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C23031**
3. **Department of Conservation and Natural Resources - Water Resources - FY 2012** - Addition of \$27,548 in funds transferred from the Department of Wildlife to fund emergency repairs for the South Fork Dam. Requires Interim Finance approval since the amount added to the South Fork Dam category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22831**

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained Agenda Item D included work programs submitted pursuant to *Nevada Revised Statutes* (NRS 353.220) that required expeditious action within 15 days. Fiscal Analysis Division staff did not have any questions or concerns on the items. He noted they were provided to the Committee for informational purposes; no action was required.

E. APPROVAL OF GIFTS, GRANTS, WORK PROGRAM REVISIONS AND POSITION CHANGES IN ACCORDANCE WITH CHAPTER 353 OF NRS.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated that Chairwoman Smith had requested testimony on item 6, Risk Management; item 9, Department of Agriculture; items 13 and 14, Department of Business and Industry, would be heard together; item 28, Health Division; items 33, Welfare and Supportive Services, and 46, Employment Security Division, would be heard together; items 44 and 45, Department of Employment, Training, and Rehabilitation, would be heard together; items 47 through 68, Department of Corrections, would be heard together; item 69, Department of Motor Vehicles; items 86 and 89, Department of Wildlife, would be heard together; item 96, Department of Transportation; and items 97 and 98, Nevada National Guard, would be heard together.

Mr. Combs noted that items 15 and 25 had been withdrawn. A request had just been received from the Budget Division to withdraw items 33 and 46, but Chairwoman Smith had determined that they should be heard.

Chairwoman Smith asked Committee members for other items on which they wished to hear testimony.

Assemblywoman Mastroluca requested testimony on item E-19, Grants Management Unit, Department of Health and Human Services.

Assemblywoman Carlton requested testimony on item E-27, Health Division, Department of Health and Human Services.

ASSEMBLYMAN CONKLIN MOVED FOR APPROVAL OF THE REMAINING ITEMS AND POSITION RECLASSIFICATIONS IN AGENDA ITEM E.

SENATOR HARDY SECONDED THE MOTION.

Chairwoman Smith asked for public comment on the items that were not pulled for further testimony; there was none.

THE MOTION CARRIED UNANIMOUSLY.

Work Programs

1. **Office of the Attorney General - Consumer Advocate - FY 2012** - Transfer of \$17,945 from the Reserve category to the Operating category and \$32,459 from the Reserve category to the Information Services category to relocate the Las Vegas Bureau of Consumer Protection Office. Requires Interim Finance approval since the amount added to the Information Services category exceeds 10 percent of the legislatively approved amount for that category. **RELATES TO ITEM 2. Work Program #C22038**

Refer to motion for approval under Agenda Item E.

2. **Office of the Attorney General - Consumer Advocate - FY 2013** - Transfer of \$64,800 from the Reserve category to the Operating category and \$8,400 from the Reserve category to the Information Services category to relocate the Las Vegas Bureau of Consumer Protection Office. Requires Interim Finance approval since the amount added to the Operating category exceeds 10 percent of the legislatively approved amount for that category. **RELATES TO ITEM 1. Work Program #C22946**

Refer to motion for approval under Agenda Item E.

3. **Office of the Attorney General - Violence Against Women Grants - FY 2012** - Addition of \$82,589 in federal ARRA Services Training Officers Prosecution (STOP) grant funds to continue supporting service providers for victims of stalking and domestic, sexual, and dating violence. Requires Interim Finance approval since the amount added to the Prosecution Expenses category exceeds \$75,000. **Work Program #C22931**

Refer to motion for approval under Agenda Item E.

4. **Office of the Attorney General - Violence Against Women Grants - FY 2012** - Addition of \$55,862 in federal Sexual Assault Services Provider (SASP) grant funds and \$190,742 in federal STOP Grant funds, and deletion of \$190,742 federal Rural Grant funds to appropriately align revenue authority and continue to provide pass-through funding for sexual assault victim service providers. Requires Interim Finance approval since the amount added to the SASP Grant category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22925**

Refer to motion for approval under Agenda Item E.

5. **Office of the Secretary of State - FY 2012** - Transfer of \$41,000 from the Personnel Services category to the Enforcement Services category to fund a contract for the enforcement of provisions of the Nevada Uniform Securities Act and the Nevada Commodities Code, as well as the management and coordination of the

civil and administrative enforcement activities. Requires Interim Finance approval since the amount transferred to the Enforcement Services category exceeds 10 percent of the legislatively approved amount for that category.

Work Program #C22924

Refer to motion for approval under Agenda Item E.

6. **Department of Administration - Risk Management - Insurance and Loss Prevention - FY 2012** - Transfer of \$5,920,922 from the Workers Compensation Reserve category to the Insurance Premium Workers Compensation category to cover Workers Compensation expenditures through the end of the fiscal year. Requires Interim Finance approval since the amount transferred to the Insurance Premium Workers Compensation category exceeds \$75,000.
Work Program #C23002

Stephanie Day, Deputy Director, Budget and Planning Division, Department of Administration, introduced Ana Andrews, Acting Risk Manager, Risk Management, Department of Administration.

Ms. Day explained item 6 requested the transfer of \$5,920,922 from the Reserve category to the Workers Compensation Claims category to fund projected workers compensation claims through the end of fiscal year (FY) 2012.

Assemblywoman Carlton asked whether the funds were for unanticipated expenditures and therefore the amounts were unknown during preparation of the 2011-2013 biennial budget.

Ana Andrews, Acting Risk Manager, Risk Management, Department of Administration, explained the expenditures were somewhat reflected in the actuarial study, but there had been three catastrophic claims that resulted in increased payouts. When the budget was being prepared for the 2011-2013 biennium, the actuarial study used was based on calendar year (CY) 2010 claims. The calendar year 2011 actuarial study had just been received, which indicated that worker compensation claims for CY 2012 were expected to be approximately \$11.9 million.

Assemblywoman Carlton asked whether the actuarial study contained a subrogation component. Ms. Andrews replied she believed so, and she added that Risk Management pursued subrogation and subsequent injury aggressively.

Assemblywoman Carlton asked whether an Occupational Safety and Health Administration (OSHA) investigation had been conducted on any of the catastrophic claims.

Ms. Andrews replied she was not aware of any OSHA investigations. One of the three claims involved a traumatic brain injury to a correctional officer; his claims costs currently exceeded \$1 million, and he was projected to be permanently totally disabled.

Another case involved an injured worker who had several back surgeries that failed, and he was declared permanently totally disabled. The third case was a court settlement; the district court ruled Risk Management had handled the claim correctly and required a settlement conference before going to the Supreme Court. The claim was settled at a cost of approximately \$500,000.

Assemblywoman Carlton said she had heard funding in the Workers Compensation Reserve category was swept for budget reductions; she asked whether that was true. Ms. Day replied the Workers Compensation Reserves were not swept for budget reductions.

Chairwoman Smith said she was concerned with the significant increase in medical expenses and the 38 percent increase in vocational rehabilitation. There had been discussion during the recent Legislative Interim Retirement and Benefits Committee meeting concerning the high medical costs.

Ms. Andrews replied workers compensation was very fluid and constantly changing; some years were good, and others were not. She said medical inflation in workers compensation was different than that in health coverage because workers compensation was a statutory benefit for workers injured while on the job. Ms. Andrews said Risk Management must provide injured workers the care that they needed to return to their pre-injury status if possible. She said Risk Management was proactive in trying to get claimants evaluated to rate the extent of their disability. There were multiple expenses involved in vocational rehabilitation: schooling, supplies, and rehabilitation maintenance. The length of vocational rehabilitation was dependent upon the rating the client received; some workers chose to take a lump-sum buyout, which saved money for the state.

Chairwoman Smith asked whether increased expenses were caused by claims increases or increases in medical costs. She asked if there was inflation on the medical side, claims experience, or both.

Ms. Andrews explained the increases were somewhat caused by both. Because of the types of injuries, the managed care organization had to be more involved in the claims, and the costs had increased 31 percent from calendar year 2010 to 2011. It was important that the organization provide the injured workers the treatment they needed, per statute, while at the same time try to contain the costs and avoid expensive treatment that might not benefit the worker. She said one of the causes of increases in medical costs was over-prescription of pain medications.

Assemblyman Conklin asked whether the three catastrophic claims were being closed or they would be evaluated again in the future for an increase or decrease.

Ms. Andrews replied the three claims being discussed were coming to closure, but costs for other open claims would continue until such time as they closed.

Assemblyman Conklin asked whether there were stop/loss provisions or the state carried an umbrella policy by which the state would pay claims up to a certain threshold and then the costs would become a general liability of the state and no longer a budgetary item.

Ms. Andrews replied there was a high-deductible program, and for calendar year 2012 the deductible was \$2 million per claim. The state would pay the first \$2 million, after which the insurance company would assume coverage.

Chairwoman Smith asked for further questions from the Committee; there were none. She remarked the discussion related to how reserves would be addressed during the 2013 Legislative Session.

Ms. Day said the reserves were projected to be nearly depleted by the end of FY 2013. The Budget Division was watching the claims costs very closely to see whether the trends changed. A rate change may be needed in the 2013 Legislative Session to accommodate the claims for FY 2013. She said consideration was being given to other rates, such as the unemployment insurance rate, which could possibly be used to offset the costs charged to agencies for the two types of claims.

Senator Hardy asked whether a cushion would be required in FY 2013 to cover the expenses and if the Budget Division had an estimate of what amount would be required to maintain the cushion as well as cover catastrophic claims if they were to occur again.

Ms. Day replied the current budgeted reserve level for FY 2013 was approximately \$3.6 million. The work program being discussed would nearly deplete that amount. If the claims experience being seen in FY 2012 were to continue, a large problem would exist. She said the claims would be analyzed again in a few months to determine the need for a rate change.

Chairwoman Smith remarked if a rate change was necessary in FY 2013, it would not have been budgeted for in the biennial budget and the agencies would have to find the money to pay for the rate change with some other offset. Ms. Day replied Chairwoman Smith was correct.

Chairwoman Smith asked that the Committee be updated moving forward. Ms. Day agreed to do so.

Chairwoman Smith asked for public comment; there was none.

SENATOR HARDY MOVED FOR APPROVAL OF ITEM E-6.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

7. **Department of Administration - Purchasing - Commodity Food Program - FY 2012** - Addition of \$66,016 in federal Emergency Food Assistance funds, \$83,301 in federal Commodity Supplemental Food Program funds, and \$1,499,388 in Direct Sales Processing funds to provide food to local agencies that distribute food to low income individuals and households due to poor economic conditions and provide commodities to schools. Requires Interim Finance approval since the amount added to the Food Processing Program category exceeds \$75,000. **Work Program #C22964**

Refer to motion for approval under Agenda Item E.

8. **Department of Education - Other Unrestricted Accounts - FY 2012** - Deletion of \$380,117 in Balance Forward from Previous Year funds and \$799,456 in Miscellaneous Program (Charter School) Fees to de-obligate funding and authority related to Charter School fees since these activities will no longer be posted to this account. Requires Interim Finance approval since the amount deducted from the Personnel Services category exceeds \$75,000. **Work Program #C22859**

Refer to motion for approval under Agenda Item E.

9. **Department of Agriculture - Veterinary Medical Services - FY 2012** - Addition of \$63,490 in State Homeland Security, Division of Emergency Management Grant Program funds to purchase a real-time polymerase chain reaction machine and associated costs to conduct in-house testing of high impact infectious diseases that could be utilized during an agro terrorism or bioterrorism event. Requires Interim Finance approval since the amount added to the Equipment category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22913**

John McCuin, Administrative Services Officer, Department of Agriculture, introduced Anette Rink, D.V.M., Supervisor of the Animal Disease Laboratory, Veterinary Medical Services, Department of Agriculture.

Mr. McCuin explained item 9 was a request to receive a subgrant from the Division of Emergency Management to purchase a machine for the Veterinary Medical Services laboratory, along with a one-year maintenance agreement and supplies [reagents] for the machine.

Assemblyman Goicoechea asked whether the second year [FY 2013] would require \$15,000 to purchase the reagents and fund the maintenance contract.

Dr. Rink replied yes, \$15,000 per year would be a continuing cost. The equipment would enable the laboratory to participate in surveillance disease investigations. If future funding was not available, the lab would still have the platform in the event of an emergency, and the costs for supplies could be addressed then. Without the equipment, it would not be possible to quickly implement testing during an emergency.

Assemblyman Goicoechea said he understood that the state was currently contracting outside for infectious disease testing. Dr. Rink replied he was correct.

Assemblyman Goicoechea said he wanted the Committee to understand that avian or swine influenza affected birds in urban centers as well as farm areas, and there was a high risk of contact. He suggested the Department of Agriculture include the funding in its biennial budget if there was no other funding source. He noted there would be an ongoing cost of approximately \$9,000 a year for the reagents and \$6,000 for the machine's maintenance contract.

Dr. Rink said Assemblyman Goicoechea was correct, adding that if Nevada was able to get back into the National Animal Health Laboratory Network, the state would be eligible for funding through the Federal Farm Bill. Non-member laboratories were not eligible for the federal funding for infectious diseases.

Assemblyman Goicoechea remarked if national certification for the laboratory could be obtained for \$15,000, that possibility should be considered.

Chairwoman Smith wanted assurance that ongoing funding would be a priority of the Department. She said it did not make sense to purchase the machine but not be able to fund the reagents or maintenance contract required to operate it.

Dr. Rink replied the laboratory was previously a member of the National Animal Health Laboratory Network, but lack of funding did not allow continued participation. To be a member, states must maintain a certain minimal level of infrastructure, but Nevada was unable to do that in the current biennium. In the past, the state received federal agreement funding for purchase of the reagents, but the cooperative agreement monies from the United States Department of Agriculture (U.S.D.A.) had been dwindling, and the state had lost 60 percent in U.S.D.A. funding over the past four years. In addition, the Department of Agriculture had experienced reductions in its General Fund appropriation from the state, which was why the laboratory was unable to maintain federal certification.

Chairwoman Smith again asked whether the Department was committed to trying to return to the level needed to maintain certification.

Dr. Rink replied absolutely, which was why the Department was attempting to obtain every penny it could in federal funds. The Department's long-term plan was to maintain membership, but because of the current financial situation, planning was being done on a twelve-month basis.

Assemblyman Goicoechea asked what the shortfall was that prevented continuous national certification.

Dr. Rink replied the overall shortfall was between \$60,000 and \$80,000 per year, which was nearly equivalent to the amount of the recent cuts. She said currently there were

two Diagnosticians, two Technicians, and one Administrative Assistant left in the laboratory. The lab had no search capacity, but it had maintained three employees with the expertise to run the high-impact tests. One piece of equipment was non-eligible, and the machine to be replaced was also non-eligible. She noted the laboratory had never had an equipment budget from the state; all equipment currently being used for testing was purchased with federal funds.

Dr. Rink added that the laboratory currently had an \$80,000 to \$90,000 deficit in employee funding because the Diagnosticians and Technicians were no longer General Fund based. The amount of fee volume during the current year would determine whether the laboratory would be able to maintain operations.

Assemblyman Goicoechea said he assumed the laboratory would be looking toward a combination of federal funds and fee funding. He suggested that the Department include the shortfall amount in its biennial budget request.

Senator Denis noted national certification required financial commitment as well as eligible equipment, and he asked whether the state had ever had eligible equipment.

Dr. Rink replied the laboratory had one piece of eligible equipment and some less-expensive pieces of equipment. The federal certification program prescribed a specific set of equipment to be used; the tests were highly specific and could be administered only on a certain platform. She said the machine being requested was not the cheapest piece of equipment, but it met the U.S.D.A.'s established protocols.

Dr. Rink explained the laboratory was strictly regulated in how it could run a federal regulatory test, including what pieces of equipment needed to be purchased and from whom, and what types of equipment could be used for certain types of tests. An annual checklist sent to laboratories included a question whether the laboratory had sufficient funding to participate in the program and maintain a stockpile of reagents to initiate surveillance testing when needed. Dr. Rink said the answer for the last three years had been no, because the laboratory could not use operating funds to purchase \$4,500 to \$5,000 worth of reagents that would not be used in surveillance [normal] conditions and subsequently would expire within twelve months. The laboratory would have then lost the opportunity to use those appropriated funds to generate fee income [from non-high impact disease tests].

In addition, Dr. Rink continued, the Department did not have funding to send Diagnosticians and Technicians to training. The expectations of the federal government were that the laboratory would operate under national quality standards, which required money. She said a lab in the twenty-first century could not be run on a shoestring, and currently the Veterinary Medical Services laboratory was extremely strapped financially.

Senator Denis asked whether the equipment being requested would replace old equipment.

Dr. Rink said it would provide the second piece of equipment for the three certified employees to run a significant number of tests immediately. Without it, the lab would not be eligible to apply for recertification. She noted the existing piece of equipment was three years old and nearly at the end of its lifespan.

Senator Denis asked whether the new machine would be good for only three years. Dr. Rink replied theoretically the lifespan of equipment was three to four years. Every time a new model came out, the assumption was that the old model became obsolete. She said currently the lab was running two nine-year-old machines and a three-year-old machine; a seven-year-old machine had just been lost. She noted the equipment being requested was a platform specifically for emergency preparedness purposes, and in the event one of the older machines failed this summer, it may have to be used as a backup for the normal tests performed on the older machines.

Senator Hardy noted the animal disease laboratory was doing real-time PCR (polymerase chain reaction) testing for viruses shared by humans and animals. He wondered whether animal foot and mouth disease was linked with human hand and mouth disease. He asked whether the Veterinary Medical Services lab was able to conduct animal and human testing and if the University Medical School had equipment capable of conducting PCR real-time testing that could be shared.

Dr. Rink explained foot and mouth disease referred to a disease in cloven hoofed animals only. Hand and mouth disease in humans was a different virus, and the Veterinary Medical Services laboratory would never process samples of human origin. She noted that an introduction of foot and mouth disease in the United States would cause an economic fall-out that would far exceed 9/11 [September 11, 2001 attacks]. Every state was supposed to maintain minimum infrastructure to initiate surveillance and prove freedom of disease.

Senator Hardy asked whether there was a machine that could conduct both animal and human testing, and Dr. Rink replied there was a machine that could do so, but personnel must be certified to run the tests.

Senator Leslie pointed out that this was another example of an area of the budget in which the cuts were putting the state and its citizens at risk. She agreed with Assemblyman Goicoechea's remarks, and she emphasized that the Department of Agriculture needed to prepare a biennial budget that would provide the appropriate technology and requirements for certification to enable the state to meet the minimum federal standards. She had found the discussion frightening and sobering.

Senator Settlemeyer asked how many states had National Animal Health Laboratory Network certification.

Dr. Rink replied 44 states were certified. She added that Nevada had been the smallest laboratory to ever be certified, and some states, such as Idaho, had never attempted to obtain certification, even though its industry was twice the size of Nevada's.

Senator Settelmeyer said in the past, testing was sent out to other locations, and he speculated that if Nevada became certified, there may be an opportunity to conduct testing for other states such as Idaho.

SENATOR SETTELMEYER MOVED FOR APPROVAL OF
ITEM E-9.

ASSEMBLYMAN GOICOECHEA SECONDED THE MOTION.

Chairwoman Smith asked for public comment; there was none.

THE MOTION CARRIED UNANIMOUSLY.

She thanked Mr. McCuin and Dr. Rink for their presentation; it was a valuable discussion that she thought would lead to a larger discussion in the 2013 Legislative Session.

- 10. Department of Agriculture - Weights and Measures - FY 2012** - Transfer of \$45,530 from the Reserve category to the Equipment category to purchase equipment for the inspection of livestock scales. Requires Interim Finance approval since the amount added to the Equipment category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22765**

Refer to motion for approval under Agenda Item E.

- 11. Commission on Mineral Resources - FY 2012** - Transfer of \$56,071 from the Reserve category to the Special Projects category to provide funds to support the reorganization and transfer of well cuttings from storage containers to the Great Basin 2Science Sample and Records Library and provide additional support to the 4th Ward School. Requires Interim Finance approval since the cumulative amount added to the Special Projects category exceeds \$75,000. **Work Program #C22907**

Refer to motion for approval under Agenda Item E.

- 12. Commission on Mineral Resources - FY 2012** - Transfer of \$83,816 from the Reserve category to the Abandoned Mine Support category to provide an increase in support to the Abandoned Mine Land Program. Requires Interim Finance approval since the amount added to the Abandoned Mine Support category exceeds \$75,000. **Work Program #C22935**

Refer to motion for approval under Agenda Item E.

Chairwoman Smith announced that Agenda Items E-13 and E-14 would be heard together.

- 13. Department of Business and Industry - Administration - FY 2012** - Addition of \$52,912 in Transfer from Attorney General's Office funds to establish a pilot program including one Administrative Law Judge and a Legal Secretary on a contract basis to improve response times to regulatory actions critical to protecting the public. The funding comes from settlement funds provided to address mortgage fraud, foreclosure prevention and similar purposes. Requires Interim Finance approval since the amount added to the Administrative Law Judge and Costs category exceeds 10 percent of the legislatively approved amount for that category. **RELATES TO ITEM 14. Work Program #C23027**

Refer to discussion and motion for approval under Agenda Item E-14.

- 14. Department of Business and Industry - Administration - FY 2013** - Addition of \$201,107 in Transfer from Attorney General's Office to establish a pilot program including one Administrative Law Judge and a Legal Secretary on a contract basis to improve response times to regulatory actions critical to protecting the public. The funding comes from settlement funds provided to address mortgage fraud, foreclosure prevention and similar purposes. Requires Interim Finance approval since the amount added to the Administrative Law Judge and Costs category exceeds \$75,000. **RELATES TO ITEM 13. Work Program #C23033**

Bill Maier, Administrative Services Officer, Director's Office, Department of Business and Industry, testified that he was present in Carson City to support the Department Director, Terry Johnson, who was present in Las Vegas.

Terry Johnson, Director, Department of Business and Industry (B&I), explained a request was being made to implement a pilot program that did not involve any General Fund or fee revenue. The program would give the Department an opportunity to test more effective ways to resolve problems related to housing in a timelier manner. The program would include employment of an Administrative Law Judge and a Legal Secretary on a contract basis.

Mr. Johnson said the Office of the Attorney General had advised the Department of settlements that had been entered into related to housing issues, the proceeds of which were dedicated to the prevention of mortgage fraud, foreclosure, and other similar purposes. The B&I staff subsequently looked at ways to become more responsive, timely, and proactive in this critical area, and the pilot program was a proposal that would allow B&I to adjudicate matters related to mortgage fraud and foreclosure in a more timely fashion. Mr. Johnson was concerned about the amount of time it took to process cases, particularly in the Mortgage Lending Division and the Real Estate Division, as well as the Financial Institutions Division.

Mr. Johnson said the proposal would be tried on a pilot basis with limited to no exposure to the General Fund or any new fees to see what results could be generated to present to the 2013 Legislature relative to the multitude of housing issues.

Chairwoman Smith asked why contract positions rather than regular state positions were being requested.

Mr. Johnson replied it was more expeditious to implement the program with contract employees, particularly the Administrative Law Judge, which would be an unclassified position. He said there were challenges in creating an unclassified position during the interim, and he noted there were unclassified Administrative Law Judge positions in the Department of Motor Vehicles and the Department of Taxation.

Chairwoman Smith asked what the plan would be going forward in the future budget cycle.

Mr. Johnson replied hopefully the program would be successful over the balance of the biennium and the Department could report the findings to the 2013 Legislature and recommend permanent positions. He was aware of the sensitive nature of requesting positions in state service during the interim, and it had been a consideration when planning the pilot program.

Assemblyman Conklin asked what divisions would have access to the Administrative Law Judge.

Mr. Johnson replied the position would be under contract through the B&I Director's Office, and it would serve the Mortgage Lending Division, the Real Estate Division, and the Financial Institutions Division on matters that required adjudication.

Assemblyman Conklin asked whether other agencies would have access to the judge's services. Mr. Johnson replied the common thread was agencies that were involved directly in housing. Given the parameters of the agreement that the program be relative to mortgage fraud, foreclosure, or similar purposes, only those agencies involved in housing would participate in the pilot program.

Assemblyman Conklin asked how the Department would monitor that the issues referred to the judge were allowable under the assurance agreement.

Mr. Johnson replied written confirmation had been received from Keith Munro, Assistant Attorney General, that the policies were consistent with the agreement.

Eric Witkoski, Chief, Bureau of Consumer Protection, Office of the Attorney General (AG), said in discussions with Assistant Attorney General Keith Munro, it was their understanding that the work program had been amended to limit the program to the named divisions; those agencies would be within the spirit of the assurance agreement.

Assemblyman Kirner noted the Administrative Law Judge was a new position that would be continued into the next biennium if the pilot program went well. He asked whether success measurements had been established to justify the position.

Mr. Johnson replied the measure of success would be through the ability to render decisions within a reasonable time period – 30 to 60 days for example. Some *Nevada Revised Statutes* (NRS) chapters required certain matters to be adjudicated within that time period, but he expected the pilot would demonstrate that matters could be adjudicated in a reasonable time period. He said the challenge over the last several years was there had not been a fear of timely justice by the regulatory agencies, and he hoped the program would make individuals recognize that issues would be resolved more swiftly.

Chairwoman Smith asked Mr. Witkoski to clarify that the Attorney General's office was supportive of the plan to use the settlement funding as proposed.

Mr. Witkoski replied the AG's office was supportive of use of the funds for the three divisions specified. He noted a previous Deputy Attorney General who had worked on the housing issues had indicated the problems had been a long-time concern. It was determined that the pilot program would be worthwhile.

Assemblyman Grady said he realized there was a housing crisis, but he recalled that at the December Interim Finance Committee meeting there was a request for a special Deputy Attorney General for common-interest communities. He asked whether there would be more programs in the future that would require additional attorneys.

Mr. Johnson replied housing in the country and in Nevada had taken a direction that no one could have anticipated. Individuals had been struggling at the national and state levels for the past three or four years. The pilot program was another of several strategies that B&I had undertaken to provide a positive effect on housing. He noted that neither request would incur additional General Fund or fee support. Mr. Johnson said there would be continued efforts to address housing in the state; the Department's highest priority was to improve the housing economy in Nevada.

ASSEMBLYMAN CONKLIN MOVED FOR APPROVAL OF
AGENDA ITEMS E-13 AND E-14.

SENATOR HARDY SECONDED THE MOTION.

Chairwoman Smith asked for further questions from the Committee.

Senator Horsford asked whether the contract position would have full authority to obtain confidential information and issue subpoenas that might be necessary because of the sensitive nature of the matters that may come before him.

Mr. Johnson replied that different statutory provisions gave agency heads the ability to delegate authority or assign an individual to either conduct a hearing from beginning to end, render a decision, and impose and levy fines or, in the alternative, to conduct findings of fact and conclusions of law and then refer the case back to the agency head for a determination of the penalties to be assessed. Mr. Johnson said it was in the

agency's best interest to ensure that any decision-making regimen implemented could withstand subsequent judicial scrutiny.

Senator Horsford asked exactly what areas the pilot program would oversee and where public concerns should be directed.

Mr. Johnson responded that the Administrative Law Judge would be contracted with the Department of Business and Industry, and as Director he would continue to maintain accountability for everything that occurred in the Department. He said he would accept responsibility for the implementation and administration of the program and report back to the Legislature the successes and failures and whether or not the program should go forward. He said the position would be an independent counsel accountable to the B&I Director.

Senator Horsford asked how he should direct constituents who had concerns or issues. Mr. Johnson replied constituents should first go directly to the agency; the agency would conduct an investigation and make a determination as to whether the facts needed to be tried by the Administrative Law Judge. The initial intake process would not change.

Senator Horsford asked whether Mr. Johnson saw a problem with the fact that the agencies were fee-supported. He questioned whether the process would provide a fair and impartial review.

Mr. Johnson replied he thought it would be a better process because currently the agency head had to maintain a balance between serving as an Administrative Law Judge and not being allowed to give staff direction and guidance on cases. If the agency head were free to work directly with staff to provide the guidance they needed to conduct investigations, the findings of fact would then be the responsibility of the Administrative Law Judge. Mr. Johnson said it was awkward for an agency head to have to serve as the Administrative Law Judge.

Mr. Johnson went on to explain that the divisions would still be required to conduct investigations. If there was a need for a recusal by the Administrative Law Judge because of a conflict of interest or other reason, which occurred often throughout B&I, the division would contact him, and he would hear the case or assign it to another staff member. He said that process would remain unchanged.

Senator Horsford suggested that Mr. Johnson consider a process whereby someone who wanted to file a complaint could do so independent of the division that may have close ties with the industry it was also trying to regulate. He wanted a fair process that could not be misconstrued as being inappropriate.

Chairwoman Smith thanked Mr. Johnson and Mr. Witkoski for their presentation. She said the Committee would look forward to hearing more about the program.

Chairwoman Smith asked for public testimony; there being none, she called for the vote.

THE MOTION TO APPROVE ITEMS E-13 AND E-14 CARRIED UNANIMOUSLY.

- 15. Department of Business and Industry - Insurance Regulation - FY 2012 -** Addition of \$989,993 in Health Insurance Rate Review grant program funds to fund two new full-time positions and enhance the rate review capabilities for health benefit plans in the State of Nevada. Requires Interim Finance approval since the amount added to the Personnel Services category exceeds \$75,000. **Work Program #C22868. WITHDRAWN.**

- 16. Department of Business and Industry - Industrial Relations - Occupational Safety and Health Enforcement - FY 2012 -** Addition of \$55,123 in Worker's Compensation and Safety Funds to cover projected shortfalls for postage, data processing supplies and vehicle fuel and maintenance costs. Requires Interim Finance approval since the cumulative amount added to the Operating category exceeds \$75,000. **Work Program #C22906**

Refer to motion for approval under Agenda Item E.

- 17. Department of Health and Human Services - Director's Office - Administration - FY 2012 -** Addition of \$137,937 in Early Childhood Comprehensive Systems (ECCS) grant funds and transfer of \$660 from the Operating Expenses category to the ECCS Grant category, \$91 from the Information Services category to the ECCS Grant category, and \$41 from the Training category to the ECCS Grant category to support states and communities in their efforts to build and integrate early childhood service systems that address the critical components of access to comprehensive health services and medical homes; social-emotional development and mental health of young children; early care and education of children; and education of parents and support of families. Requires Interim Finance approval since the amount added to the ECCS Grant category exceeds \$75,000. **Work Program #C22879**

Refer to motion for approval under Agenda Item E.

- 18. Department of Health and Human Services - Director's Office - Administration - FY 2012 -** Addition of \$319,211 in Early Childhood Advisory Council (ECAC) grant funds and transfer of \$693 from the Operating Expenses category to the ECAC Grant category, \$90 from the Information Services category to the ECAC Grant category, and \$41 from the Training category to the ECAC Grant category to bring together top decision makers for collective discussions about how to better coordinate services so that young children have the supports in place they need to grow into strong, healthy, productive adults. Requires Interim Finance approval since the amount added to the ECAC Grant category exceeds \$75,000. **Work Program #C22962**

Refer to motion for approval under Agenda Item E.

19. Department of Health and Human Services - Director's Office - Grants Management Unit - FY 2012 - Addition of \$80,000 in Casey Family Program funds to assist the Division of Child and Family Services with its activities and fund Differential Response in FY 2013. Requires Interim Finance approval since the amount added to the Casey Foundation Programs exceeds 10 percent of the legislatively approved level for that category. **Work Program #C22921**

Bonnie Callahan, Administrative Services Officer, Director's Office, Department of Health and Human Services, explained the work program in item 19 was a request for approval of receipt of a Casey Family Programs grant of \$160,000, of which \$120,000 would be used for Differential Response and \$40,000 would be transferred to the Division of Child and Family Services. She said the grant agreement provided for payments of \$40,000 each quarter. A total of \$80,000 would be received in fiscal year (FY) 2012; \$40,000 would be transferred to the Division of Child and Family Services and \$40,000 would be placed in reserve and balanced forward to fund Differential Response in FY 2013. The remaining grant amount of \$80,000 would be received in FY 2013, all of which would be allocated for Differential Response.

Assemblywoman Mastroluca remarked that the dollar amounts were different than those she had received from the Fiscal Division. She was very glad the grant was received, but she was unclear how it was being distributed.

Amber Howell, Acting Administrator, Division of Child and Family Services, Department of Health and Human Services, explained that Casey Family Programs awarded grants on a calendar year (CY) basis. In CY 2011, the state received \$200,000, and in CY 2012, the total grant was \$160,000. She said the only program that did not take a cut based on the 2011 grant was Differential Response, which was funded at \$120,000 and would again be funded at \$120,000 for CY 2012. Ms. Howell said that the difference in the amounts was because the Casey Family Programs grants were awarded on a calendar year rather than fiscal year basis. Because grants were funded on a calendar year basis, the Division needed to budget enough funding to last through the state fiscal year; after the close of the state fiscal year, additional monies would be drawn down from the funds in reserve for the remainder of the calendar year.

Assemblywoman Mastroluca asked whether \$120,000 would be transferred to Differential Response in CY 2012. Ms. Howell replied that was correct.

Assemblywoman Mastroluca asked how the amount would be divided throughout the state and for what purposes. Ms. Howell replied the \$120,000 in Differential Response would be allocated statewide and used to provide the staff required to conduct assessments and intake. Funding was provided to the Family Resource Centers, which were responsible for providing the services.

Assemblywoman Mastroluca asked whether there was funding for other programs besides Differential Response.

Ms. Howell said in FY 2011 the Division was able to fund a 2-1-1 program, which was an information system that families could call and obtain information on resources and providers. Funding for the 2-1-1 program was cut in FY 2012 because of the \$20,000 reduction in the Casey Family Programs grant. Ms. Howell said Chapin Hall would also be funded in CY 2012 for the data warehouse that was needed for oversight. A dollar amount would not be provided, but Casey Family Programs would provide the service. In addition, Casey Family Programs awarded grants of \$15,000 for Inter-Tribal activities and \$25,000 to the Governor's Youth Council for CY 2012.

Chairwoman Smith called for public testimony; there was none.

ASSEMBLYWOMAN MASTROLUCA MOVED FOR APPROVAL OF ITEM E-19.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- 20. Department of Health and Human Services - Aging Services - Federal Programs and Administration - FY 2012** - Addition of \$171,016 in Senior Medicare Patrol (SMP) grant funds to educate Nevadans on how to detect and report health care fraud in Medicare billing in order to protect vital health care programs for the future. Requires Interim Finance approval since the amount added to the SMP Grant category exceeds \$75,000. **Work Program #C22887**

Refer to motion for approval under Agenda Item E.

- 21. Department of Health and Human Services - Health Care Financing and Policy - Intergovernmental Transfer Program - FY 2012** - Addition of \$25,740,164 in Receipts from County Inpatient Upper Payment Limit funds, \$9,505,058 in Receipts from County Graduate Medical Education funds and \$4,835,449 in Receipts from County Outpatient Upper Payment Limit funds to receive additional revenues, and transfer \$28,733,426 to the Medicaid budget account to cover retroactive Medicaid payments for the Upper Payment Limit and Graduate Medical Education programs resulting from two recently approved State Plan Amendments. The balance will be held in the Reserve category. Requires Interim Finance approval since the amount added to the Offline category exceeds \$75,000. **RELATES TO ITEM 23. Work Program #C22802**

Refer to motion for approval under Agenda Item E.

- 22. Department of Health and Human Services - Health Care Financing and Policy - Administration - FY 2012** - Addition of \$375,085 in Health Insurance for Work Advancement (HIWA) grant funds to allow subgrantees an extension of time to complete project activities that will benefit HIWA grant recipients, including additional job training to create opportunities to employ people with disabilities and additional

parent/guardian training through parent coalitions and advocacy groups. Requires Interim Finance approval since the amount added to the HIWA category exceeds \$75,000. **Work Program #C22877**

Refer to motion for approval under Agenda Item E.

- 23. Department of Health and Human Services - Health Care Financing and Policy - Nevada Medicaid, Title XIX - FY 2012** - Addition of \$37,868,425 in federal Title XIX funds and \$28,733,426 in Transfer from the Inter-Governmental Transfer Account funds to cover retroactive Medicaid payments for the Upper Payment Limit and Graduate Medical Education programs resulting from two recently approved State Plan Amendments. Requires Interim Finance approval since the amount added to the Offline category exceeds \$75,000. **RELATES TO ITEM 21. Work Program #C22810**

Refer to motion for approval under Agenda Item E.

- 24. Department of Health and Human Services – Health Division - WIC Food Supplement - FY 2013** - Addition of \$81,697 in federal Women, Infants, and Children (WIC) Summer Electronic Benefits Transfer for Children (SEBTC) Grant funds to support a pilot project to provide a household-based method of delivering nutrition assistance to low-income children during the summer, using a WIC electronic benefit transfer technology as the delivery mechanism. This program will provide nutrition assistance to 5,000 low-income children during the summer months when low or no-cost meals are not available through their schools. Requires Interim Finance approval since the amount added to the Summer EBT for Children category exceeds 10 percent of the legislatively approved amount for this category. **RELATES TO ITEM D.1. Work Program #C23011**

Refer to motion for approval under Agenda Item E.

- 25. Department of Health and Human Services – Health Division - Public Health Preparedness Program - FY 2012** - Addition of \$39,436 in federal Primary Care Office Grant funds to support the improvement of the health care infrastructure of Nevada. Requires Interim Finance approval since the cumulative amount added to the Division Cost Allocation category exceeds 10 percent of the legislatively approved amount for this category. **Work Program #C22838. WITHDRAWN.**

- 26. Department of Health and Human Services – Health Division - Chronic Disease - FY 2012** - Addition of \$139,914 in federal Tobacco Grant funds from the Centers for Disease Control and Prevention to support advertising, community groups and quitlines to reduce tobacco usage. Transfer of \$45,476 from the Personnel Services category to the Tobacco Grant category to repurpose vacancy and salary savings for the program. Transfer of \$19,514 from the Division Cost Allocation category to the Tobacco Grant category to repurpose savings from a reduced indirect charge rate for the program. Requires Interim Finance approval

since the amount added to the Tobacco Grant category exceeds \$75,000.
Work Program #C22682

Refer to motion for approval under Agenda Item E.

- 27. Department of Health and Human Services - Health - Chronic Disease - FY 2012** - Addition of \$47,000 in Gifts and Donations for the United Health Award received from the NV Attorney General's Office to implement a specialized public relations campaign that would help inform the Latino community about the risks associated with unlicensed medical staff and to better regulate these unlicensed procedures. This funding will provide resources for reporting and establish ways to identify if a health provider is licensed. Requires Interim Finance approval since the amount added to the AG - United Health Fund category exceeds 10 percent of the legislatively approved amount for this category. **Work Program #C22919**

Phil Weyrick, Administrative Services Officer, State Health Division, Department of Health and Human Services, introduced Marla McDade Williams, Deputy Administrator, State Health Division. Mr. Weyrick explained that there had been several reported cases of unlicensed medical activities across the state over the past two years. Some of the activities involved cosmetic surgeries, injections, various skin procedures, and illegal prescriptions of medications. The activities seemed to be taking place among the Latino residents, primarily the monolingual Spanish-speaking community.

Mr. Weyrick said in an effort to try to prevent injuries and deaths from the non-licensed activities, the Health Division had applied for a grant from the Office of the Attorney General (AG) to implement a health literacy campaign targeting the Latino community in the state. The goal was to reduce the number of individuals engaging in the activities through an education campaign warning about the dangers of having medical procedures performed by unlicensed persons.

Assemblywoman Carlton remarked it seemed to her that the State Medical Board should be responsible for monitoring who should be practicing medicine and who should not. She said \$47,000 was not a lot of money, but that amount could be used for other problem areas such as chronic disease control and epidemic diabetes. She asked how the Division planned on partnering with the Medical Board to deal with the practitioners. She also questioned whether the Division had the authority to share information with and notify the Medical Board of any findings.

Marla McDade Williams, Deputy Administrator, State Health Division, Department of Health and Human Services, said one of the goals of the funding was to bring together all of the entities that were involved in these types of investigations: the Board of Medical Examiners, the Osteopathic Physicians Board, the State Board of Nursing, and law enforcement. She said each time a situation arose it seemed to be handled differently, and the goal was to bring everyone together in a task force to discuss how to collectively approach the situation. It needed to be determined how each entity could

exercise its authority without infringing on another's authority while doing everything possible to protect the public.

Assemblywoman Carlton again asked whether the entities could legally share the information with each other. She recalled problems in the past when entities were not allowed to share information.

Ms. McDade Williams replied the 2009 Legislature granted the Health Division and the other entities full authority to share information with all of the licensing entities as well as law enforcement. The current challenge was to determine which entity would actually take action in various situations. She added that the 2009 legislation also granted authority for the entities to conduct joint investigations.

Assemblywoman Carlton said she wanted to be assured that the Medical Board did its job.

Senator Leslie remarked the issue was very interesting. She had attended a town hall meeting and met a constituent whose wife had been involved in a similar incident in Sparks. He had gone to the Medical Board and the police; the police finally took action, but the Medical Board would not investigate the complaint. Senator Leslie called the Medical Board and was told the Board did not believe it had the authority to investigate those types of incidents. She had a bill draft in for the 2013 Legislative Session to clarify that the Medical Board did have the authority to take action on illegal medical activities such as individuals impersonating doctors. She said she would be happy to work with Assemblywoman Carlton on the bill; she believed it was a very important problem that was becoming more prevalent in Washoe County as well.

Senator Denis agreed the problem was increasing within the Latino community. He encouraged Ms. McDade Williams to include the Latino community in the task force activities. It would be important to have the community's cooperation in locating and identifying the unlicensed practitioners.

Ms. McDade Williams replied the other part of the funding was to specifically target the populations and educate them to the fact that any medical procedures must be done by a licensed practitioner in the State of Nevada. She said contact had been made with the Latino Center at the University of Nevada, Reno (UNR) to develop an educational campaign to inform the Latino community of the expectations when individuals received services in the state.

Senator Denis said the UNR Latino Center may not have connections in the south where the majority of the Latinos resided; he recommended a connection be made with a southern organization. Ms. McDade Williams replied the plan was definitely to develop a statewide educational campaign.

Assemblyman Hambrick remarked he would also like to see public/private partnerships. He suggested the Latin Chamber of Commerce could reach out to the Latino community; it may also have funding available to disseminate educational information.

Chairwoman Smith called for public testimony; there was none.

SENATOR LESLIE MOVED FOR APPROVAL OF ITEM E-27.

ASSEMBLYMAN HOGAN SECONDED THE MOTION

THE MOTION CARRIED UNANIMOUSLY.

- 28. Department of Health and Human Services – Health Division - Office of Health Administration - FY 2012** - Transfer of \$231,851 From the Reserve category to the Operating Expense category and transfer of \$10,668 from the Reserve category to the Information Services category to support contracted temporary employees for fiscal support of the division. Transfer of \$7,282 from the Reserve category to the Equipment category to support the expansion of the phone system at the West Charleston facility in Las Vegas to accommodate the agency consolidation. Requires Interim Finance approval since the amount added to the Operating Expenses category exceeds \$75,000. **Work Program #C22816**

Phil Weyrick, Administrative Services Officer, State Health Division, Department of Health and Human Services, explained item 28 was a request for authority to use Health Division indirect funds from the Reserve category to fund seven contract employees and related support equipment to perform grant reconciliations for the 62 federal grants that the Health Division had received. He recalled that in 2009, the Health Division eliminated 42 positions from its various budget accounts. Eighteen of the positions were accounting and fiscal positions, and a number of additional positions were Grants and Projects Analysts that were previously funded by federal grants to perform grant reconciliations and federal grant tracking. Mr. Weyrick said at the time of the budget reductions, it was expected that the remaining program staff would assume the additional duties of the Grants and Projects Analysts, but due to the increased workload and the lack of fiscal acuity of some of the program staff, the additional duties had not been absorbed. He said the Health Division had attempted to function with its existing resources, even though the Division revenues had increased from 2 percent to 10 percent every year since 2008.

Mr. Weyrick noted that three new fiscal positions were requested and approved in the 2011 Legislative Session, but those positions did not address the current inability to adequately track and reconcile the numerous grants within the Division. The Grants and Projects Analyst positions being requested in this item were critical to maintain the accountability and integrity of the federal funding for the various federal grant years, as well as the alignment of the federal dollars in overlapping state fiscal years. He said the Health Division had incurred a number of significant audit findings over the last three years related to fiscal accountability and federal financial reporting, and the Division did

not want to jeopardize its ability to receive federal funds, which accounted for 70 percent of its total funding.

Senator Leslie asked how the number of contractual positions was determined.

Mr. Weyrick replied since the agency budget request was submitted for the 2011-2013 biennium, the Division had been attempting to become fully staffed and to determine an accurate number of needed positions. A point system was developed which basically accounted for the number of funding sources within a budget account. He noted the Division had over 130 funding sources in its 19 budget accounts. Many of the budget accounts had a significant number of funding sources, as well as federal grants requiring additional work, which were factored into the point system. The number of transactions processed through each budget account was also a factor, and there was a complexity factor, which took in other considerations.

Senator Leslie observed that the Division had created a formula to develop the contractual amount. She asked whether Mr. Weyrick was concerned about being able to hire employees on a contractual basis.

Mr. Weyrick replied yes; for the past several months, the Division had been trying to find individuals to perform either Administrative Services Officer functions or Grants and Projects Analyst functions and had experienced limited success. Only two positions had been filled, and he was currently conducting a search through all of the temporary employment agencies to locate individuals with the required skills. Mr. Weyrick said one of the complicating factors was the new law that prohibited hiring of former state employees on a contract basis without going through a lengthy process. Because of the number of funding sources and complexity in the Health Division budget accounts, it would be helpful to have previous state employees who were familiar with the state accounting system and who may have worked with federal grants.

Senator Leslie remarked the decision had been made to not allow contracts with former state employees, but it appeared that might have been a mistake. She asked what the Health Division's plan was going forward into the next biennium.

Mr. Weyrick replied the Division had met with staff from the Budget Division and the Fiscal Analysis Division, and it was agreed to test whether six employees was the right number and whether Grants and Projects Analyst positions or perhaps another classification series were needed. Based on the results of the test, the Division intended to submit a work program, possibly at the June meeting of the Interim Finance Committee, for contractual positions in fiscal year 2013. For the 2013-2015 biennium, the agency may submit a budget request for permanent state positions, which could assist in establishing a stable workforce.

Senator Leslie remarked that would be the best option at this point. She asked whether the positions were being funded from reserves, and Mr. Weyrick replied they were.

Chairwoman Smith asked for further questions from the Committee; there were none. She said she felt frustrated about the ongoing situation; it seemed cuts were made, agencies were short staffed, then positions were hired back, and contracts with former state employees were necessary. She looked forward to a time when agencies were adequately funded and staffed.

Chairwoman Smith asked for public comment; seeing none, she called for a motion.

SENATOR LESLIE MOVED FOR APPROVAL OF ITEM E-28.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- 29. Department of Health and Human Services – Health Division - Community Health Services - FY 2012** - Addition of \$112,615 in County Participation Funds to support the transfer of liability and oversight for administrative support, provide replacement equipment, and improve data communication lines to enable the Lytec software to run correctly. Requires Interim Finance approval since the amount added to the County Participation category exceeds \$75,000. **Work Program #C22867**

Refer to motion for approval under Agenda Item E.

- 30. Department of Health and Human Services – Health Division - Community Health Services - FY 2012** - Addition of \$86,249 in gifts and donations to reduce the vaccine preventable diseases by providing vaccinations in licensed child care facilities in rural and frontier Nevada. Requires Interim Finance approval since the amount added to the United Health Settlement category exceeds \$75,000. **Work Program #C22871**

Refer to motion for approval under Agenda Item E.

- 31. Department of Health and Human Services – Health Division - Community Health Services - FY 2012** - Addition of \$133,000 in federal Family Planning Program Grant funds to support outreach, education, and clinical services to homeless and at-risk youth, domestic violence and prevention services, limited English proficiency, and clients recently released from incarceration. The funds will also support general contractual support, travel, supplies, and other general expenses to provide community health services in frontier and rural Nevada. Requires Interim Finance approval since the amount added to the Family Planning category exceeds \$75,000. **Work Program #C22885**

Refer to motion for approval under Agenda Item E.

- 32. Department of Health and Human Services – Health Division - Emergency Medical Services - FY 2012** - Addition of \$32,107 in federal Emergency Medical Services for Children (EMSC) Grant funds and transfer of \$2,407 from the Division Cost Allocation category to the EMSC category to support Nevada's pediatric population through quality training of pre-hospital providers and rural hospital emergency staff and assuring access to essential pediatric equipment. Requires Interim Finance approval since the amount added to the EMSC category exceeds 10 percent of the legislatively approved level for the category.
Work Program #C22613

Refer to motion for approval under Agenda Item E.

Chairwoman Smith announced that items 33 and 46 would be heard together. She noted that Mr. Combs had indicated the work programs had been withdrawn, but they remained on the agenda for discussion and possible action.

- 33. Department of Health and Human Services - Welfare and Supportive Services - Child Assistance and Development - FY 2012** - Transfer of \$1,000,000 in Department of Employment, Training, and Rehabilitation (DETR) Unemployment Insurance Penalties and Interest funds to provide child care subsidies for approximately 243 children under the At-Risk subsidy program. Requires Interim Finance approval since the amount transferred to the Child Care Mandatory Matching category exceeds \$75,000. **RELATES TO ITEM 46.**
Work Program #C22996

- 46. Department of Employment, Training and Rehabilitation - Employment Security - Special Fund - FY 2012** - Transfer of \$1,000,000 from the Reserve category to the Division of Welfare and Supportive Services (DWSS) Child Care and Development Program (CCDP) Support category to provide child care subsidies for approximately 243 children under the At-Risk subsidy program. Requires Interim Finance approval since the amount transferred to the DWSS CCDP Support category exceeds \$75,000. **RELATES TO ITEM 33.**
Work Program #C23008

Jeff Mohlenkamp, Director, Department of Administration, explained the work programs in items 33 and 46 were for the purpose of transferring funds from the Department of Employment, Training and Rehabilitation (DETR) to the Division of Welfare and Supportive Services (DWSS). He said DWSS had a problem with increased childcare caseloads and insufficient funding to address them. Mr. Mohlenkamp said there had been questions over the last several days concerning the work programs and whether there was legal authority to make the transfer. He understood that the Legislative Counsel Bureau Legal Counsel had opined that the transfer from DETR to DWSS was not allowable under *Nevada Revised Statutes* (NRS). An alternative had been suggested, but he saw potential challenges with the alternative solution. It would be his preference to withdraw the two items, prepare a 15-day work program, and seek legal guidance as to whether DETR had the legal authority to use the funds to provide

childcare support services. If it was determined that authority existed, the 15-day work program could be moved forward expeditiously.

Chairwoman Smith requested an update on the childcare subsidy issue from the Division of Welfare and Support Services. She had heard the problem was caused by increased caseloads, but she speculated the reason was because of the cuts to the DWSS budget.

Diane Comeaux, Administrator, Division of Welfare and Supportive Services, replied there were a number of budget reductions in the 2011 Legislative Session, and as a part of those reductions, the Division had proposed to reduce the discretionary caseload. She explained the discretionary caseload consisted of those persons or families who were no longer at risk of needing assistance and whose income was above 130 percent of the federal poverty level but below 75 percent of the state median income. Ms. Comeaux said the reductions had been made, and as of July 1, 2011, new subsidy certificates were no longer issued. Certificates were valid for a six-month period, and by not issuing new certificates over the first six months of the fiscal year, the number of persons in the program would automatically decrease. She said Chairwoman Smith was correct; there were reductions in the budget that caused a need for reduced caseloads, and those had been implemented.

Ms. Comeaux further explained the reductions currently being implemented were based on higher-than-projected caseloads. There had been a 40 percent increase in caseloads over the last year and a half, which caused the need for additional reductions.

Chairwoman Smith asked for an explanation of the original request to transfer \$1 million from one budget to another.

Ms. Comeaux replied the original request was to transfer \$1 million to the Division of Welfare and Supportive Services. As a part of the reductions being made for the overall shortfall in the program, the Division would cap the at-risk category for those families who were at risk of needing cash assistance and were below 130 percent of poverty level. The decrease in the number served based on this action would result in approximately 600 children or 340 families being placed on a waitlist.

Ms. Comeaux said in initial discussions with the Governor's office concerning the reductions, the Governor's staff asked whether DETR could help relieve some of the reductions, and that was how the current work program came forward. She said the \$1 million would specifically provide help to 240 children or 141 families who would not have to be placed on the waiting list.

Chairwoman Smith stated she and other Committee members would like to approve funding to increase the subsidies, but it must be done within legal boundaries. She asked why the transfer would be made from DETR.

Ms. Comeaux replied all options were considered, and it was decided that a transfer from DETR was the most viable.

Renee Olson, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation, said DETR was willing to participate because if the funds could be used to help individuals receiving the subsidy to retain their employment or to provide a job search opportunity, it would be a good use of the funding.

Chairwoman Smith asked the Legislative Counsel Bureau Legal Counsel to discuss the legalities of the request.

Eileen O'Grady, Chief Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau (LCB), said it was the opinion of the Legal Division that *Nevada Revised Statutes* (NRS) 353.220, which governed work programs, only authorized revisions of work programs within a department and not between departments. The request was for a transfer between two departments.

Senator Horsford thanked the agencies for working toward identifying potential solutions. He said, as Ms. Olson indicated, the subsidy was a childcare assistance benefit to low-income families who were working or who were seeking work. At a time when the state's unemployment rate was beginning to improve, he said the state should not be taking away a work support, particularly one for childcare that disproportionately affected women. It was his understanding one of the reasons for the increase in caseload was because American Recovery and Reinvestment Act (ARRA) funding was no longer available and sufficient state funding was not provided. Senator Horsford said the federal funds were gone and the needs were still there; there were gains in employment, but a work support such as childcare assistance was critical to low-income individuals going back to work. He said some individuals would decide whether they could go back to work based on their ability to obtain childcare. He believed that everything possible should be done to move the request forward, recognizing that it would not solve the whole problem; there would still be more than half of the families no longer receiving the benefit. He remarked it was a tragic situation.

In addition, Senator Horsford continued, childcare centers were small businesses in the state, and to have 340 families no longer utilizing those services would have an impact on those businesses as well.

Senator Horsford understood the reason the money could not be transferred from DETR to DWSS, but the request to expend the \$1 million should be approved and authority given to DETR to make the payments directly to the subsidy program because of the direct correlation to continued employment.

Chairwoman Smith said she agreed there was an obvious need and she wanted to find a way to resolve the problem within the Committee's legal boundaries. She asked whether there was a plan to address the rest of the waitlist.

Ms. Comeaux said capping the at-risk population was one method of addressing the shortfall, and other reductions involved:

- Reduced Childcare Resource and Referral budget. The budget was managed by the Children's Cabinet, which would have discretion as to what reductions to make.
- Reduced case management expenditures by establishing a 1:25 staffing ratio for the caseworkers.
- Reduced contracted and wraparound slots by an additional 10 percent, which when added to the budget cuts that were necessary in July 2011, resulted in a 20 percent cut in both areas.

Chairwoman Smith said she appreciated the Division's approach to addressing the shortfall, but she wanted to hear the plan to serve the families on the waitlist going forward.

Ms. Comeaux said the Division would manage the waitlist over the biennium, and as the caseload stabilized, individuals on the waitlist would be added back to the program. The Division would have to work carefully with its providers to balance the number of people added back in the northern and southern parts of the state.

Assemblyman Hambrick asked Mr. Mohlenkamp to further discuss the legality of the request.

Mr. Mohlenkamp replied the Executive Branch was clearly trying to solve the budget shortage problem. When the problem first came forward, DETR had identified language in NRS Chapter 353 that said, "for any other purpose authorized by the Legislature," and DETR interpreted that to mean it had the ability to transfer the funds to DWSS. He understood from the LCB Legal Counsel that the language authorized the Legislature, but not the Interim Finance Committee, to take that action. Therefore, the language that DETR was reliant upon was not applicable.

Mr. Mohlenkamp said he was not an attorney, and DETR had not yet consulted with an attorney as to the whether the language in the statute was permissive enough to allow the Administrator to take that action. He would recommend that legal advice be sought before using the DETR funds to rectify the problem.

Mr. Mohlenkamp remarked the problem identified a structural issue in the state, which was the limited flexibility to address issues in the interim period between legislative sessions. If the Director of the Department of Health and Human Resources had the ability to move funds between accounts, budgets, and divisions, there would be a possibility the problem could be resolved. He said it was important to realize that the lack of flexibility to deal with certain situations manifested itself in this particular case.

Mr. Mohlenkamp said he would be glad to continue efforts to solve the situation. He reiterated that he did not believe it was prudent to go forward and spend DETR funds until legal authority was granted to do so. He again recommended that rather than take action on the two work programs, which he did not believe would accomplish what was needed, legal guidance be sought quickly to determine whether it would be appropriate to expend the funding from DETR.

Chairwoman Smith responded that she understood Mr. Mohlenkamp's point that flexibility might help to avoid these types of problems, but the Legislature had a role and the Executive Branch had a role, and the Committee members appreciated their role, both in and out of legislative session. She asked Mr. Combs to review the current options.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, explained that the Budget Division had officially withdrawn the work programs in items 33 and 46. Item 33 was the work program for the Division of Welfare and Supportive Services to accept the \$1 million from DETR. Based on Legislative Counsel's legal opinion, withdrawal of that work program was necessary to comply with the opinion.

Mr. Combs said from a mechanical standpoint, Fiscal staff thought it would be possible for the funding to be expended from DETR's Special Fund, which contained penalty and interest money, as requested in item 46. He explained item 46 created a new expenditure category in the Special Fund account; it was created as a transfer category, but it should be changed to an expenditure category. The providers of the childcare services would be paid directly from that account and category.

Mr. Combs explained the unresolved issue Mr. Mohlenkamp had mentioned was that in order for the proposed action to take place, NRS 612.615 required the Administrator of the Employment Security Division to deem that the expenditures from the Special Fund were necessary to ensure the proper payment of benefits and collections of contributions and reimbursements pursuant to NRS Chapter 612. Mr. Combs understood Mr. Mohlenkamp to say that was a determination the Budget Division was not prepared to make, and he had requested that the two work programs be considered withdrawn until legal guidance could be received from the Attorney General's office to determine whether the DETR Administrator could authorize the transfer under law. He said if that determination was made, the Budget Division would then submit a 15-day expeditious action work program that would put provisions similar to those in item 46 in place to allow \$1 million to be expended for childcare subsidies. The expeditious action item would appear on the next IFC agenda as an information item.

Senator Horsford said he would feel more comfortable approving item 46 and allowing the Budget Division to confer with the Attorney General's office to determine the legality of allocating funds from DETR. He appreciated Mr. Mohlenkamp's position, but a determination of the legality should have been made prior to the meeting. Senator Horsford said he believed the Committee should take action rather than delay going

forward with a solution to the shortfall. He emphasized how important childcare assistance was for low-income families, and some may have to quit their jobs to stay home with their children. He urged the Committee to move forward and approve item 46.

Senator Leslie said she agreed with Senator Horsford; she would rather take a proactive stand and approve item 46. She noted that another alternative some parents would choose would be to leave their children home alone or with an inappropriate babysitter. She asked whether the consequences of the loss of childcare would be tracked, such as if parents lost their jobs, there was more child neglect and abuse, and childcare centers were shut down.

Ms. Comeaux replied the Division had not found a way to track that information, but efforts were still being made to do so. She noted the DWSS data system was limited, and services were contracted out. It would be a challenge, but she said everything possible would be done to track the consequences.

Senator Leslie asked what the cost would be to fund everyone on the current waiting list. Ms. Comeaux replied she would estimate a cost of approximately \$2.6 million per year.

Senator Leslie remarked that was a large amount of money and a lot of children who were going to be put at great risk. She asked whether the data system could track the children on the waiting list.

Jack Zenteno, Chief, Child Care Development Program, Child Protective Services, Division of Welfare and Supportive Services, replied the data system allowed the Division to maintain individuals on the waiting list and move them in and out as funding became available, but it did not otherwise allow tracking. He said the Division had begun working with the contractors to develop a data collection system.

Senator Leslie said the Childcare Resource Councils were experiencing budget cuts, which would result in less access to information concerning quality childcare in rural Nevada. She pointed out the reductions were going to cause a ripple effect. It was not the time for jobs to be lost, but she was more concerned as a child advocate about the consequences on the children and families and potential for harm. All national and state experience indicated that harm would result from the loss of services. She suggested the work program be approved with the hope that as many children as possible could be protected.

Senator Hardy noted there were discretionary funds in the IFC Contingency Account, and he wondered whether they could be used to supplement the childcare subsidy program. If DETR did not spend the \$1 million, it could revert to the General Fund, and the 2013 Legislature could authorize the transfer of reverted funds to where they would be needed. He believed other options should be considered.

Chairwoman Smith reminded the Committee that IFC served in an interim capacity; it did not have authority to create procedures, and it had limited authority to expend money. She said the Committee responded to the work programs brought forward by the agencies rather than creating its own ideas.

Assemblyman Hickey observed that part of the problem was the result of the end of ARRA federal funding. He had just participated in a conference call with the National Conference of State Legislatures (NCSL) concerning federal funding, and NCSL projected that states should expect an overall reduction of nearly 3 percent in federal funding in 2012 and up to 8 or 9 percent in overall federal spending in the states in 2013. Assemblyman Hickey said the state would have problems because the elements it had depended on for federal funding were going to be reduced going forward.

Assemblyman Goicoechea said he understood Senator Horsford's reasons for moving the item forward, but as far as he was concerned, the work program had been withdrawn and IFC did not have authority to bring it back.

Assemblywoman Smith believed the decision was up to the Department of Administration because it had withdrawn the work program.

Mr. Mohlenkamp said given the legal uncertainties, it was still the Department's preference to withdraw the work program and expeditiously seek legal guidance as to whether DETR had authority to use the funds for the purposes being discussed. Once the legality was established, he said a work program would be moved forward through the expeditious 15-day work program process.

Eileen O'Grady, Chief Deputy Legislative Counsel, advised item 46 was still on the Committee's agenda; it had not been officially withdrawn.

Mr. Combs explained the Fiscal Analysis Division had received a written request from the Department of Administration to withdraw the two work programs from the agenda. The request had been received by Fiscal staff that morning; to his knowledge, there had not been any public notice of the withdrawal. In his discussion with Legal Counsel, she maintained the items were properly noticed and if the Committee wanted to take action, it could legally do so. Mr. Combs added it would be unusual for the Committee to take action on an item which the Department of Administration had requested no action be taken.

Senator Horsford recalled there was a discussion prior to the meeting with Mr. Mohlenkamp, and it was understood that the Committee would approve item 46 and allow the Department of Administration to obtain a legal determination from the Attorney General's office concerning DETR's authority. His prime interest was to do what would be best for the families and children. He wanted to act within legal parameters, and he believed, based on the direction from the LCB Legal Counsel, that the Committee had the ability to take action on the work program and allow the Department of Administration to obtain a legal determination as to DETR's authority to expend the

funds. Senator Horsford said he did not understand why Mr. Mohlenkamp did not want the Committee to proceed with the work program instead of delaying the process.

Mr. Mohlenkamp replied he had indicated his preferred course of action; he was not opposed to moving the item forward. If the Committee decided to approve the work program, the Department of Administration would proceed to solve the problem the best way possible.

Heidi Gansert, Chief of Staff, Office of the Governor, testified that everyone wanted to move the funding forward, and the discussion was technical in nature. The Executive Branch fiscal staff had discussions with the Committee's fiscal staff, and it was her understanding that since the item had been officially withdrawn, it could not be heard by the Committee. The Committee's Legal Counsel had voiced a different opinion, but Ms. Gansert said that was not her understanding. She explained the reason the item was not withdrawn earlier was because the Administration had been working for two weeks to determine how to be able to use the \$1 million for childcare to support the working families. She reiterated it was a technical problem that she thought had been resolved prior to the meeting. It was not an attempt to not provide the funding; it was an attempt to follow IFC procedures.

Senator Hardy remarked IFC would periodically grant permission to spend money, which was different than allocating funds. He questioned whether the item was appropriately agendaized under the open meeting law; he was not sure any of the members were comfortable with the discussion.

Chairwoman Smith said the Committee had received a legal opinion that the item was on the agenda and the public was never informed that the item had been withdrawn from the agenda. She believed the Committee needed to decide whether it had the legal authority to approve the work program; it was highly unusual for the Committee to allocate \$1 million to anyone without a work program, which was basically what was being requested. Chairwoman Smith said the item was on the agenda if the Committee wished to act upon it.

Chairwoman Smith asked Mr. Mohlenkamp what the timeframe would be, worst-case scenario, if the Department of Administration proceeded under the expeditious action provision and when the money would be available to the recipients.

Mr. Mohlenkamp replied the Department would move expeditiously to process the work program, but he could not anticipate how long it would take to obtain a legal opinion.

Chairwoman Smith noted that in either case, the Department of Administration would need to seek a legal opinion.

Mr. Mohlenkamp responded that he believed a legal opinion would be needed to ensure that DETR was within its legal bounds to expend the funds for the intended purpose. He agreed the legal opinion would be required in either scenario being considered.

Chairwoman Smith said the Committee could choose to take no action on the work program and allow the Department of Administration to process an expeditious 15-day work program, or the Committee could approve the funding at this meeting to grant DETR the authority to expend \$1 million with no additional need to process a work program. She again noted that the Department would need to seek a legal opinion in either case.

Mr. Mohlenkamp remarked the only functional difference he saw was if the Committee approved the transfer of funds from one department to another and the Attorney General opined that the action was not legal, the Department of Administration would have to move the funding back to the DETR Special Fund. He reiterated he was not opposed to the Committee moving forward with an amended work program.

Mr. Combs suggested the Department of Administration submit a request to the Committee to officially cancel the request to withdraw work program 46. If the Committee moved to approve work program 46 subject to legal advice from the Attorney General's office that DETR had the authority under the statute to expend the funds, the Department of Administration could hold the work program and not process it, even though it was approved, until the legal opinion was received. If the AG's office ruled DETR did not have the authority, the Department of Administration could report back to the IFC why the work program was not processed. If the AG's office ruled that DETR did have authority under the statute, the Department of Administration could process the work program immediately and not have to wait 15 days.

Chairwoman Smith remarked the suggestion sounded like a good compromise.

Ms. Gansert said she was not sure it was legal to withdraw a work program and then resubmit it. She said the 15-day expeditious work program would alleviate any technical problems or alteration of IFC guidelines, and the money could be expended upon receipt of the AG's legal opinion.

Chairwoman Smith replied a good compromise had been offered by Mr. Combs. She understood Mr. Mohlenkamp to say that he was not opposed to the Committee taking action to approve the work program. She said everyone had the same goal; she wanted assurance from Mr. Mohlenkamp that he had no objections to the proposed Committee action.

Mr. Mohlenkamp replied if it was legally permissible to move forward with approval of the work program on an amended basis, given the parameters identified by Mr. Combs, he did not have an objection.

Senator Settlemeyer said he was not opposed to expenditure of the funds, but he was concerned with the process. He asked whether the letter from the Department of Administration requesting withdrawal of the two work programs was a public document available to the general public.

Mr. Combs replied the letter was provided by the Budget Division to the Fiscal Division the evening before the meeting, but he did not receive it until the next morning. He thought he was probably the only other person to see the document.

Senator Settlemeyer asked Mr. Mohlenkamp whether the letter was a private or public document.

Mr. Mohlenkamp said the letter had not been publicly posted, but it had been electronically distributed to the Budget Division's mailing list the night before. He did not know whether that constituted a public disclosure.

Chairwoman Smith asked Ms. O'Grady to opine on whether distribution of the letter affected the agenda.

Ms. O'Grady stated the work program was un-withdrawn during the meeting, which was a public meeting.

Chairwoman Smith remarked the Department of Administration had stated on the record that it was comfortable having the work program on the agenda and the Committee taking action. The question was whether the withdrawal had been properly agendized.

Ms. O'Grady stated she believed the Committee had complied with the open meeting law. The item was on the original agenda, and the question was the status of the request and whether it was being withdrawn.

Chairwoman Smith said she shared Senator Settlemeyer's concern. The Committee wanted to approve expenditure of the funds, but it needed be done correctly. As Chairwoman of the Committee, she was committed to ensuring that the Committee's interest was protected, which protected the state's citizens at the same time. She said Mr. Combs had offered, and Mr. Mohlenkamp had accepted, a reasonable compromise to the situation, which was for the Committee to approve the work program with the contingency that an AG's legal opinion be rendered. If the AG ruled affirmatively, the work program would be processed. If the ruling was that authority did not exist, the work program would not be processed, and the Committee would be notified at the next meeting.

Mr. Combs added that, for open meeting law purposes, the Department of Administration should state for the public record that the work program was not being withdrawn. Mr. Mohlenkamp stated for the record that work program 46 was not being withdrawn.

Senator Settlemeyer asked why the 15-day expeditious process was not feasible. Chairwoman Smith replied the compromise addressed members' concerns that the funds be allocated as quickly as possible, which could be accomplished without waiting 15 days once the legal opinion was received. She added the compromise complied with the Committee's rules and ability to move funds.

Senator Settlemeyer asked whether the 15-day procedure would cause loss of funds to recipients. Chairwoman Smith replied it could, but some clients were already losing access to funds.

Assemblyman Goicoechea observed that even with Committee approval of the work program, nothing could be done until a legal opinion was received.

Chairwoman Smith agreed with Assemblyman Goicoechea; no action would be taken in any scenario until an AG's legal opinion was rendered. Upon receipt of an affirmative opinion, the work program could be processed without waiting 15 days.

Ms. Gansert remarked her understanding was the same as Chairwoman Smith's.

Mr. Mohlenkamp said he had been informed another option would be to process an emergency work program, which would not take 15 days. However, he was satisfied with the process outlined by Mr. Combs.

Chairwoman Smith clarified that if the Committee took action on the work program, regardless of whether it was an emergency or a 15-day work program, it would be the same work program; it was a matter of timing.

Mr. Mohlenkamp replied in any scenario, the funds would not be accessed until legal authority was received.

Senator Hardy asked who was responsible for processing the work program and notifying the Committee of the final disposition.

Mr. Mohlenkamp replied the Budget Division would provide that information.

SENATOR HORSFORD MOVED TO AMEND AND APPROVE
ITEM E-46 TO ALLOW DETER TO EXPEND \$1 MILLION FOR
CHILDCARE SUBSIDIES ONCE A LEGAL DETERMINATION
WAS MADE THAT THE ADMINISTRATOR COULD EXPEND THE
FUNDS FOR THAT PURPOSE.

ASSEMBLYMAN BOBZIEN SECONDED THE MOTION.

Chairwoman Smith asked for further questions or discussion from the Committee.

Assemblyman Goicoechea said he could support the motion in the spirit of compromise, but the real issue was whether an item could be legally withdrawn from the agenda. He believed it was possible and the Committee had done so in other cases. He was concerned with compliance with the open meeting law, and for that reason he would oppose the motion.

Chairwoman Smith pointed out the agenda was never changed to reflect the withdrawal of item 46. The Committee had received confirmation from Legislative Legal Counsel and the Budget Division that the item could move forward. She believed every effort had been made to ensure the Committee was in compliance with the open meeting law.

Assemblyman Grady asked whether item 33 was being withdrawn. Chairwoman Smith replied the Committee was taking no action on item 33.

Assemblyman Grady asked whether a motion was required to take no action on item 33. Chairwoman Smith replied she was advised a motion was not necessary.

Assemblyman Conklin wanted confirmation that the motion included the stipulation that the funds would be distributed in accordance with the amended compromise work program once a legal opinion was rendered. Chairwoman Smith confirmed he was correct.

Assemblywoman Carlton remarked the real reason for the extensive Committee discussion was that a very important portion of the budget was underfunded, and now it was becoming evident how much harm was being caused to Nevada families because the account was not adequately funded. The work program represented a temporary solution, and she anticipated more harm would be revealed in the future. She said sooner or later, these types of programs would need to be funded appropriately. Assemblywoman Carlton said she was willing to go as far as possible to protect families, and she supported the motion.

Senator Settlemeyer remarked he wanted to get the money to the families as well. He asked whether a friendly amendment could be made to the motion to obtain additional clarification from the Attorney General to avoid future problems concerning withdrawals from the agenda and violation of the open meeting law.

Chairwoman Smith replied the Legislature relied on its own legal counsel, and her opinion had been obtained.

Chairwoman Smith called for public comment.

Jan Gilbert, representing the Progressive Leadership Alliance in Nevada, provided the following verbatim testimony:

As someone who has watched this program for over 25 years, this last session you cut the budget from \$9 million to \$2.6 million. That is why we have this problem. The waiting list currently is 1,200 families; that does not reflect the number of people who need childcare. We know that people look at the waiting list and say, "Why bother. By the time they get down to me, my children will not be needing the service."

I think you have to realize we need to look at this in a bigger picture and look to the future for truly funding this important service. You have to know that 130 percent of poverty is pitifully low. It does not mean that if you are 130 percent of poverty, you can afford childcare. In fact, many people are leaving children in uncertified care, with family members, with boyfriends, with their siblings...we are creating a very dangerous situation by not helping working, single-parent families. We are putting children in jeopardy.

As a member of the public, I did not know this item was pulled. You did not give me four-day notice that it was pulled, so legally I do not think this is a problem at all. Because the public, believe me, did not know until I got an email this morning. Because we asked...we kept asking...is it going to be up? Will they allow public testimony? There are other people who would have liked to be here, but they could not sit here all morning because they had a lot of work to do. And, believe me, childcare providers have a very difficult time getting here. They can barely make a living, and they are reducing their rates on a daily basis to try to keep those children in certified care.

I want to note one other thing. You are reducing a lot of other things that were not mentioned. We got a very interesting report from the Division of Welfare. You are also reducing the quality improvement expenditures. That is something we worked for so long to make sure that childcare providers have quality assurances, and it is very frightening that that has been taken off the expenditure. It is all because of those huge cuts that you made last funding period and the ARRA funding, but it leaves people with a tough decision: whether to give up their job that they have worked so hard to get, or to go to work and leave their children alone.

I urge you to not only pass this item, but to look to the future and the next session and to make sure we restore those funds for childcare. I appreciate the opportunity to speak. Thank you.

Chairwoman Smith called for further public comment or Committee discussion. Seeing none, she called for the vote.

THE MOTION TO AMEND AND APPROVE ITEM E-46 CARRIED.

(Assemblymen Goicoechea and Grady voted no.)

Chairwoman Smith thanked Budget Division and Fiscal Analysis Division staff for working together to resolve the issue. She added it was important to protect the Committee's processes as well as to ensure funding was allocated in a timely manner.

- 34. Department of Health and Human Services - Mental Health and Developmental Services - Sierra Regional Center - FY 2012** - Transfer of \$450,000 from the Residential Supports category to the Jobs and Day Training category to continue to assist developmentally disabled persons in obtaining employment and daily living skills. Requires Interim Finance approval since the amount transferred to the Jobs and Day Training category exceeds \$75,000. **Work Program #C22884**

Refer to motion for approval under Agenda Item E.

- 35. Department of Health and Human Services - Mental Health and Developmental Services - Rural Clinics - FY 2012** - Addition of \$36,207 in federal Shelter Plus Care grant funds to provide rental assistance to hard-to-serve homeless persons with disabilities, including those who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome (AIDS). Requires Interim Finance approval since the amount added to the Federal Transitional Home Care category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C21658**

Refer to motion for approval under Agenda Item E.

- 36. Department of Health and Human Services - Child and Family Services - Children, Youth and Family Administration - FY 2012** - Addition of \$694,199 in federal IV-E Independent Living Grant funds to assist foster youth in their transition from foster care to self-sufficiency. Requires Interim Finance approval since the amount added to the Independent Living category exceeds \$75,000. **Work Program #C22645**

Refer to motion for approval under Agenda Item E.

- 37. Department of Health and Human Services - Child and Family Services - Children, Youth and Family Administration - FY 2012** - Addition of \$150,514 in federal Educational and Training Voucher Grant funds to provide vouchers for postsecondary training and education to youth who have aged out of foster care or who have been adopted from the public foster care system after age 16. Requires Interim Finance approval since the amount transferred to the Education and Training Voucher category exceeds \$75,000. **Work Program #C22647**

Refer to motion for approval under Agenda Item E.

- 38. Department of Health and Human Services - Child and Family Services - Children, Youth and Family Administration - FY 2012** - Addition of \$985,547 in federal Title IV-B, Subpart II Promoting Safe and Stable Families Program funds to support family preservation services for families at risk or in crisis. Requires Interim Finance approval since the amount added to the Title IV-B, Subpart II category exceeds \$75,000. **Work Program #C22652**

Refer to motion for approval under Agenda Item E.

- 39. Department of Health and Human Services - Child and Family Services - Children, Youth and Family Administration - FY 2012** - Addition of \$258,889 in federal Children's Justice Act grant funds to support improvements in the handling of child abuse and neglect cases, the handling of cases of suspected child abuse or neglect-related fatalities, the investigation and prosecution of cases of child abuse and neglect, and the handling of cases involving children with disabilities or serious health-related problems who are victims of abuse or neglect. Requires Interim Finance approval since the amount added to the Children's Justice Act Grant category exceeds \$75,000. **Work Program #C22655**

Refer to motion for approval under Agenda Item E.

- 40. Department of Health and Human Services - Child and Family Services - Children, Youth and Family Administration - FY 2012** - Addition of \$240,299 in federal Family Violence Grant funds to assist in the prevention of family violence and the provision of immediate shelter and related assistance for victims of family violence and for their dependents. Requires Interim Finance approval since the amount added to the Family Violence category exceeds \$75,000. **Work Program #C22665**

Refer to motion for approval under Agenda Item E.

- 41. Department of Health and Human Services - Child and Family Services - Northern Nevada Child and Adolescent Services - FY 2012** - Transfer of \$60,000 from the Personnel Services category to the Professional Contract Services category to ensure the health and safety of clients and staff without incurring significant overtime costs. Requires Interim Finance approval since the amount transferred to the Professional Contract Services category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22616**

Refer to motion for approval under Agenda Item E.

- 42. Department of Health and Human Services - Child and Family Services - Northern Nevada Child and Adolescent Services - FY 2012** - Addition of \$100,000 in General Fund Appropriation transferred from FY 2013 to FY 2012 to complete two State Public Works Division erosion projects for the Northern Nevada Child and Adolescent Services campus to prevent further erosion damage and protect state property and buildings from possible damage. Requires Interim Finance approval pursuant to Section 36 of A.B. 580 from the 2011 Legislative Session. **RELATES TO ITEM 43. Work Program #C22882**

Refer to motion for approval under Agenda Item E.

- 43. Department of Health and Human Services - Child and Family Services - Northern Nevada Child and Adolescent Services - FY 2013** - Deletion of \$100,000 in General Fund Appropriation transferred from FY 2013 to FY 2012 to

complete two State Public Works Division erosion projects for the Northern Nevada Child and Adolescent Services campus to prevent further erosion damage and protect state property and buildings from possible damage. Requires Interim Finance approval pursuant to Section 36 of A.B. 580 from the 2011 Legislative Session. **RELATES TO ITEM 42. Work Program #C22883**

Refer to motion for approval under Agenda Item E.

Chairwoman Smith announced at 12:35 p.m. the Committee would take a short recess.

Chairwoman Smith called the meeting back to order at 12:51 p.m. She announced that items E-44 and E-45 would be heard together.

- 44. Department of Employment, Training and Rehabilitation - Vocational Rehabilitation - FY 2012** - Addition of \$3,916,000 in federal Section 110 grant funds to cover anticipated operating, client services, and strategic planning expenditures through the remainder of the fiscal year. Requires Interim Finance approval since the amount added to the Client Services category exceeds \$75,000. **RELATES TO ITEM 45. Work Program #C22644**

Refer to discussion and motion for approval under Agenda Item E-45.

- 45. Department of Employment, Training and Rehabilitation - Services to the Blind and Visually Impaired - FY 2012** - Addition of \$610,000 in federal Section 110 grant funds to cover anticipated operating and client services expenditures through the remainder of the fiscal year and to add operating and information services authority to provide for an Assistive Technology/Low Vision Room for the Bureau of Services to the Blind and Visually Impaired northern office. Requires Interim Finance approval since the amount added to the Client Services category exceeds \$75,000. **RELATES TO ITEM 44. Work Program #C22643**

Todd Myler, Deputy Chief Financial Officer, Department of Employment, Training and Rehabilitation (DETR), explained items 44 and 45 constituted a request to book additional federal authority into the Section 110 grant program, which had materialized as a result of matched funds. He said the grant was awarded on an annual basis, but the Department had the opportunity to draw funds that had been matched into a second year, which was what was being requested in the two work programs.

Mr. Myler introduced Maureen Cole, Administrator, Rehabilitation Division, and Frank Woodbeck, Director, Department of Employment, Training and Rehabilitation, who was in Las Vegas. Mr. Myler offered to answer questions from the Committee.

Chairwoman Smith remarked the Committee had a similar situation in a recent meeting, and she was frustrated that General Fund appropriations were spent prior to the federal dollars. She asked for clarification of the process.

Mr. Myler replied the Department believed it was in full compliance with federal regulations and the intent for which the funding was provided. The Department was managing and monitoring the match and taking care of it as judiciously as possible in order to maximize DETR's funding. He said in working with the Budget Division and Legislative Counsel Bureau (LCB) Fiscal Analysis Division staff, the Department had determined it could improve the timing of managing the match. Going forward, because there was a soft-match component that allowed the Department to maximize federal funds, the match funds would be realized at the time the expenditures occurred in the soft-match sources. Mr. Myler said previously the Department was expending all of the General Fund and supplementing with soft match after the fact. He said the Department was committed to expending the soft match as it came in.

Chairwoman Smith asked Mr. Myler to explain the logic of DETR spending General Fund the way it did in the past. She appreciated the fact the Department was willing to change its procedures going forward, and she assumed that would include working with Budget Division and Fiscal Division staff to give everyone a thorough understanding of the process to expend federal dollars and matching funds. She was unclear why the previous funding method was used.

Maureen Cole, Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation, explained the two work programs were similar to work programs that had been approved by IFC in years past to allow the carryover of federal funds into the next state fiscal year. She said the reason for carryover funds was that federal law allowed states to carry forward any funds the state had matched but not expended in the first year of the grant and expend those funds in the second year of the grant.

Chairwoman Smith asked why the information was not brought forward during the 2011 Legislative Session budget hearings. She recalled there had been some difficult hearings and discussion concerning DETR's budget and she wondered why the availability of the funds was being discussed at this point.

Ms. Cole replied she could not answer the question. She said the Department's budget had been approved in the same manner as in years past. Closing documents included fund maps that indicated carryover funds, and similar work programs had previously been approved by IFC. She believed it was an evolutionary process; there was discussion as to whether it was appropriate to match federal funds but not spend them in the state fiscal year in which they were earned and carry them forward instead.

Ms. Cole said the LCB Fiscal Analysis Division had indicated the process was not appropriate and, as Mr. Myler indicated, the process and procedures would be modified to comply with the directive from Fiscal.

Chairwoman Smith asked when the Department became aware that additional federal funds would be available.

Ms. Cole replied the Department had carry-forward funds for a number of years. This year's amount was very large, which to some degree was because of the American Recovery and Reinvestment Act (ARRA) funding, which created a bulge in the Department's ability to expend funds on a sustainable basis. She said the Department had always been concerned about implementing something that it could not sustain in the long term. Unfortunately, the Department had difficulty expending all of the ARRA funds.

Ms. Cole said the Department had a plan to expend all of the funds legitimately to bolster some of the program's infrastructure. However, the problem being faced at this point was if the Department was not allowed to carry forward funds, even though federal regulations allowed it, the Department would be unable to spend as much money as it needed to spend in fiscal year 2012. Ms. Cole said with 4 1/2 months left in the state fiscal year to expend a large amount of money, and given the constraints on contracting and obtaining services, the Department was anticipating a reversion of a fair amount of state funds, but even a larger grant amount to the federal government that would not be spent.

Chairwoman Smith asked whether the Department would be able to expend all of the federal dollars in fiscal year 2012.

Ms. Cole replied it would not. She said in the best-case scenario, if the Department was able to implement some of the projects being considered, such as a paperless case management system, vendor evaluation software, and automated orientation programs, by June 30, 2012, which was highly unlikely, approximately \$7 million would still be reverted. Of that, \$1.5 million would be state General Fund and \$5.5 million would be federal funds. Ms. Cole said if it was not possible to implement some of the projects, the reversion would be approximately \$9.4 million, of which \$2 million would be General Fund and \$7.4 million would be federal funds.

Renee Olson, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation, noted she had formerly served as the Chief Financial Officer for the Department, and she wanted to address the question of whether the funds were considered in the budget when it was presented.

Ms. Olson said at the time the budget was presented, the amount of carryover funds was not identified. She said the amount was somewhat dependent on how well and how quickly the money was expended during the state fiscal year leading up to the last quarter. She concurred with Ms. Cole's comments that the impact of the ARRA funding and the inability to expend those funds in addition to the Department's regular federal funding was the reason for the large amount of unanticipated carryover funds.

Chairwoman Smith questioned the need for the work program if the Department had to revert such a large amount.

Mr. Myler replied the work program did not actually book all of the federal authority available to the Department in the awards and the carryover. The Department had initially submitted work programs to the Fiscal Analysis Division in December 2011, and Fiscal staff advised that the amounts needed to be amended downward. Items 44 and 45 had been amended to reflect the amount the Department expected it could spend on client services through the end of state fiscal year 2012.

Chairwoman Smith asked whether the Department would be able to spend the amount in the work programs.

Mr. Myler replied the Department believed the amounts in the work programs were fairly accurate estimates of what could be spent through the end of fiscal year 2012 without any other augmentation to the programs.

Senator Horsford asked what specific types of services would be provided with the carryover funds.

Ms. Cole replied the Bureau of Vocational Rehabilitation and the Bureau of Services to the Blind and Visually Impaired provided services to qualified individuals who were seeking employment but who had barriers to employment because of their disability. She said such things as assistive technology, diagnosis and medical treatment, prosthetic devices, job training, and other support to prepare clients to enter the job market were provided.

Senator Horsford recalled Ms. Cole had indicated earlier that there was risk of reverting approximately \$9 million in the upcoming biennium, of which \$2 million would be General Fund and \$7 million federal funds.

Ms. Cole replied that amount would probably be reverted just for state fiscal year 2012, although it would be possible to expend some amount outside of the Department's normal budget.

Senator Horsford asked when the amount of reversion would be determined.

Ms. Cole replied the exact amount would not be known until June 30, 2012, but the Department would anticipate returning to IFC in April to request authority to spend some of the funds on the projects she had previously outlined if it was realistically possible to complete them by June 30, 2012.

Senator Horsford recalled discussion during the 2011 Legislative Session about using some of the funds to support the One-Stop operations and vocational rehabilitation services to veterans. He asked why the excess funds could not be used to provide services to qualified veterans.

Ms. Cole replied the Department served a number of veterans and worked in concert with the Veterans' Administration to identify individuals and coordinate services.

Senator Horsford noted there was an increase in the number of veterans returning since the end of the Iraq war. He asked why funds were being reverted when many injured veterans were returning and would be eligible for vocational rehabilitation. He could not understand why the resources could not be used to help those individuals, particularly returning veterans who would need employment.

Renee Olson, Administrator, Employment Security Division, explained that in May of each year, the Department went through a federal relinquishment process and calculated the amount of federal funding that would be reverted, based on not only what would be expended but also on what the Department would be able to match for that period.

Senator Horsford asked whether the state was at risk of losing federal dollars because of an insufficient amount of state match.

Ms. Cole replied that was correct; the state match was between \$1.5 million and \$2 million.

Senator Horsford noted that a request was made during the 2011 Legislative Session for state match. He recalled that the DETR Director had requested to add the state match because there was a possibility of not receiving \$7 million in federal funding for vocational rehabilitation services. He asked whether the match was available but was not drawn down properly and could not be carried forward.

Ms. Cole replied the issue was whether it was permissible under the state's cash management policies and procedures to carry those funds forward, and the Department was advised that it was not permissible. She said the inability to spend those funds on a timely basis would result in reversion of state General Funds and the loss of the ability to draw down the federal match. Ms. Cole said the Department did not understand that the cash management policies of the state did not allow the practice because it had been acceptable in the past. When the work program was put forward in November 2011, the Fiscal Division advised the process was not correct.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, wanted to clarify that the Fiscal Division was not recommending that the work program be denied. He said the Budget Division and Fiscal Division were in agreement that the process might have been used in the past, but it was not as apparent as it was now because of the large amount being reverted. He said there may be ways in the future to maximize the available federal funds and also comply with the state accounting processes. The state operated on a fiscal year, and General Funds were appropriated on a fiscal year basis. He said the agency appeared to be willing to work with the Fiscal and Budget Divisions and adhere to the correct procedures. Mr. Combs said it was important that the federal funding not be jeopardized going forward.

Jeff Mohlenkamp, Director, Department of Administration, said he agreed with Mr. Combs' remarks. The Budget and Fiscal Divisions had worked together on the problem, and neither wanted to lose available federal funding. He said the Budget and Fiscal Divisions were in agreement that funds should not be reverted at this time given the fact there was a plan to spend the funding that was being carried forward. Mr. Mohlenkamp said he and DETR Director Woodbeck had a lengthy discussion concerning plans to have a much more robust engagement in expenditure of the funds; he thought Director Woodbeck might wish to comment.

Frank Woodbeck, Director, Department of Employment, Training and Rehabilitation, testified from Las Vegas that one of the challenges the agency had been facing was the judicious use of the funds, which was why funds had been carried forward. The Rehabilitation Division had been asked to build programs to serve the state's citizens, and the Department wanted to ensure that the programs were sustainable and not going to be cut if funding was depleted. Mr. Woodbeck said Rehabilitation Division staff was able to find soft match, which resulted in adding to the General Fund dollars allocated, and the Division was able to utilize additional federal match because of the soft match. In addition, he said ARRA funds that had been allocated two years before had to be used in an expeditious manner and could only be used for Section 110 program clientele. Therefore, there was a current bulge in federal funds, which were carried forward because they could not be used judiciously. As the programs were rolled out, the funds would be expended. Mr. Woodbeck said the Rehabilitation Division staff was trying to ensure that the funds were used expeditiously and judiciously and, if possible, to carry funding forward as had historically been done.

Mr. Woodbeck remarked several discussions had been held with the Budget Division and the Fiscal Division concerning the method of expenditure and budgeting, and it was agreed the agency needed to improve its processes, but it hoped to be able to use the funding available to the best of its ability to enhance programs.

Senator Horsford asked whether the Committee would receive a work program at the April meeting that would outline how the funds would be spent by June 30, 2012, so that they would not be lost. He questioned why the work program had to be delayed until April.

Ms. Cole replied that was the Division's plan. She said expenditure of the funds was dependent upon whether vendors could be found to fulfill the requirements within the required timeframe. She said if the funds were able to be carried forward to the next fiscal year, the problem would be eased somewhat; the Division would be able to contract with vendors to spend down the excess funds and get back on track.

Senator Horsford speculated there were vendors and resources that specialized in the area. He noted the U.S. Vets organization focused on housing, employment, and services in southern Nevada and was closely aligned with the veterans' hospital that would be opening in April 2012. He had visited the U.S. Vets facility, and it did not even have a computer lab. He believed veterans' resources were underfunded and under

utilized, and he hoped that services would be provided to those individuals in need and the agencies that were directly connected to them. Senator Horsford said he could provide a list of vendors that might be a potential resource for the Division.

Ms. Cole replied the Division's mission was to do the best it could to serve individuals with disabilities and help them become self-employed, more self-sufficient, and more self-reliant. She said the problem was time; there were only 4 1/2 months remaining in the fiscal year, and the request for proposals and contract procedures were time consuming. She said if a portion of the funds could be carried forward to the next fiscal year, the Division's ability to spend the funds appropriately would be greatly enhanced.

Chairwoman Smith asked whether the Division would report the final status of fiscal year 2012 grant funding at the June IFC meeting. Ms. Cole replied that would be done.

Chairwoman Smith called for public comment; there was none. She noted that assurances had been received from the agency and the Budget Division that they would work with Fiscal staff to develop the necessary processes. She called for a motion.

SENATOR PARKS MOVED FOR APPROVAL OF ITEMS
E-44 AND E-45.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- 46. Department of Employment, Training and Rehabilitation - Employment Security - Special Fund - FY 2012** - Transfer of \$1,000,000 from the Reserve category to the Division of Welfare and Supportive Services (DWSS) Child Care and Development Program (CCDP) Support category to provide child care subsidies for approximately 243 children under the At-Risk subsidy program. Requires Interim Finance approval since the amount transferred to the DWSS CCDP Support category exceeds \$75,000. **RELATES TO ITEM 33. Work Program #C23008**

Refer to testimony and motion for approval under Agenda Item E-33.

Chairwoman Smith announced that testimony would be heard on items 47 through 68, as well as Informational Item 7.b. (Refer to discussion and motion for approval under Agenda Item E-68.)

- 47. Department of Corrections - Director's Office - FY 2012** - Deletion of \$31,718 in Budgetary Transfers and transfer of \$182 from the Out-of-State Travel category to the Operating category, \$10,000 from the Equipment category to the Operating category, \$13,243 from the Drug Testing/Inmates category to the Operating category, \$11,027 from the Bed/Mattress Replacement category to the Inmate Transportation category, and \$15,383 from the Energy Division category to the Employee Drug Testing category to cover projected shortfalls within the department

for the remainder of the fiscal year. Requires Interim Finance approval since the amount added to the Inmate Transportation category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22989**

Refer to discussion and motion for approval under Agenda Item E-68.

- 48. Department of Corrections - Prison Medical Care - FY 2012** - Deletion of \$94,594 in Budgetary Transfers and transfer of \$1,278 from the Inmate Drivens category to the In-State Travel category, \$1,139 from the Information Services category to the Operating category, \$4,472 from the Training category to the Operating category, \$7 from the TB/HEPA Masks and Materials category to the Operating category, \$118,883 from the Inmate Drivens category to the Operating category, and \$3,668 from the Inmate Drivens category to the Utilities category to cover projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount deducted from the Inmate Drivens category exceeds \$75,000. **Work Program #C22970**

Refer to discussion and motion for approval under Agenda Item E-68.

- 49. Department of Corrections - Ely State Prison - FY 2012** - Addition of \$580,087 in Budgetary Transfers to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount added to the Inmate Drivens category exceeds \$75,000. **Work Program #C22978**

Refer to discussion and motion for approval under Agenda Item E-68.

- 50. Department of Corrections - High Desert State Prison - FY 2012** - Deletion of \$854,567 in Budgetary Transfers to fund a projected shortfall within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount deducted from the Inmate Drivens category exceeds \$75,000. **Work Program #C22995**

Refer to discussion and motion for approval under Agenda Item E-68.

- 51. Department of Corrections - Northern Nevada Correctional Center - FY 2012** - Deletion of \$51,555 in Budgetary Transfers and transfer of \$134,818 from the Utilities category to the Inmate Drivens category to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount deducted from the Utilities category exceeds \$75,000. **Work Program #C22985**

Refer to discussion and motion for approval under Agenda Item E-68.

- 52. Department of Corrections - Nevada State Prison - FY 2012** - Deletion of \$159,546 in Budgetary Transfers to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the

amount deducted from the Maintenance for Closed Facilities category exceeds \$75,000. **Work Program #C22982**

Refer to discussion and motion for approval under Agenda Item E-68.

- 53. Department of Corrections - Southern Desert Correctional Center - FY 2012 -** Addition of \$306,693 in Budgetary Transfers and transfer of \$10,217 from the Agency Issue Uniform category to the Operating category to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount added to the Inmate Drivens category exceeds \$75,000. **Work Program #C22984**

Refer to discussion and motion for approval under Agenda Item E-68.

- 54. Department of Corrections - Lovelock Correctional Center - FY 2012 -** Addition of \$44,409 in Budgetary Transfers and transfer of \$650 from the Maintenance Contracts category to the Inmate Drivens category and \$122,424 from the Utilities category to the Inmate Drivens category to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount added to the Inmate Drivens category exceeds \$75,000. **Work Program #C22980**

Refer to discussion and motion for approval under Agenda Item E-68.

- 55. Department of Corrections - Warm Springs Correctional Center - FY 2012 -** Deletion of \$50,000 in Budgetary Transfers and transfer of \$6,495 from the Utilities category to the Inmate Drivens category to cover projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount deducted from the Utilities category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22975**

Refer to discussion and motion for approval under Agenda Item E-68.

- 56. Department of Corrections - Florence McClure Women's Correctional Center - FY 2012 -** Deletion of \$74,973 in Budgetary Transfers and transfer of \$8,651 from the Agency Issued Uniforms category to the Operating category to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22991**

Refer to discussion and motion for approval under Agenda Item E-68.

- 57. Department of Corrections - Casa Grande Transitional Housing - FY 2012 -** Addition of \$155,001 in Budgetary Transfers and transfer of \$180 from the Maintenance Contracts category to the Operating category and \$21,119 from the Opportunity for Probation Enforcement in Nevada (OPEN) Program category to the

Operating category to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount added to the Inmate Drivens category exceeds \$75,000. **Work Program #C22973**

Refer to discussion and motion for approval under Agenda Item E-68.

- 58. Department of Corrections - Northern Nevada Restitution Center - FY 2012 -** Deletion of \$9,554 in Budgetary Transfers to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22983**

Refer to discussion and motion for approval under Agenda Item E-68.

- 59. Department of Corrections - Stewart Conservation Camp - FY 2012 -** Addition of \$24,895 in Budgetary Transfers and transfer of \$48 from the Operating category to the Inmate Drivens category and \$2,755 from the Utilities category to the Inmate Drivens category to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22992**

Refer to discussion and motion for approval under Agenda Item E-68.

- 60. Department of Corrections - Pioche Conservation Camp - FY 2012 -** Deletion of \$7,286 in Budgetary Transfers and transfer of \$19,328 from the Inmate Drivens category to the Utilities category to cover projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22972**

Refer to discussion and motion for approval under Agenda Item E-68.

- 61. Department of Corrections - Three Lakes Valley Conservation Camp - FY 2012 -** Addition of \$245,259 in Budgetary Transfers and transfer of \$788 from the Operating category to the Inmate Drivens category and \$12,590 from the Boot Camp category to the Maintenance Contracts category. Requires Interim Finance approval since the amount added to the Utilities category exceeds \$75,000. **Work Program #C22981**

Refer to discussion and motion for approval under Agenda Item E-68.

- 62. Department of Corrections - Wells Conservation Camp - FY 2012 -** Addition of \$3,631 in Budgetary Transfers and transfer of \$29,468 from the Inmate Drivens category to the Utilities category to cover projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the

amount added to the Utilities category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22974**

Refer to discussion and motion for approval under Agenda Item E-68.

- 63. Department of Corrections - Humboldt Conservation Camp - FY 2012** - Deletion of \$25,148 in Budgetary Transfers and transfer of \$70 from the Inmate Drivens category to the Maintenance Contracts category to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22976**

Refer to discussion and motion for approval under Agenda Item E-68.

- 64. Department of Corrections - Ely Conservation Camp - FY 2012** - Deletion of \$18,450 in Budgetary Transfers and transfer of \$10,392 from the Inmate Drivens category to the Utilities category. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22977**

Refer to discussion and motion for approval under Agenda Item E-68.

- 65. Department of Corrections - Jean Conservation Camp - FY 2012** - Addition of \$56,814 in Budgetary Transfers to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since the amount added to the Inmate Drivens category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22986**

Refer to discussion and motion for approval under Agenda Item E-68.

- 66. Department of Corrections - Silver Springs Conservation Camp - FY 2012** - Deletion of \$5,370 in Budgetary Transfers to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22993**

Refer to discussion and motion for approval under Agenda Item E-68.

- 67. Department of Corrections - Carlin Conservation Camp - FY 2012** - Deletion of \$34,933 in Budgetary Transfers to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22979**

Refer to discussion and motion for approval under Agenda Item E-68.

68. Department of Corrections - Tonopah Conservation Camp - FY 2012 - Addition of \$905 in Budgetary Transfers and transfer of \$2,753 from the Inmate Drivens category to the Maintenance of Buildings and Grounds category and \$595 from the Inmate Drivens category to the Utilities category to fund projected shortfalls within the department for the remainder of the fiscal year. Requires Interim Finance approval since this work program includes a budgetary transfer that balances against other work programs. **Work Program #C22994**

7. DEPARTMENT OF CORRECTIONS

- b. Monthly status report dated January 10, 2012, on the closure of Nevada State Prison, provided pursuant to a request made by the Interim Finance Committee at its August 31, 2011, meeting ([Exhibit C](#)).

Deborah Reed, Deputy Director of Support Services, Nevada Department of Corrections (NDOC), explained the 22 work programs (items 47 through 68) represented budgetary transfers within the Department as authorized in section 48 of Assembly Bill 580, 2007 Legislative Session. She said neither revenues nor personnel expenditures were addressed in the work programs. The major transfers were in the following categories:

- Category 4 – Medical. Various shortfalls in medical for dialysis contracts for the inmates; temporary staffing; maintenance for temperature control items; dishwasher leases; unfunded permits.
- Category 9 – Contracts for building maintenance. Shortfalls in temperature controls; fire systems; generator maintenance.
- Category 50 – Inmate Drivens. Transfers due to distribution of inmates and increase in cost of kosher meals as required by RLUIPA (Religious Land Use and Institutionalized Persons Act).
- Category 59 – Utilities. Redistribution of funds due to savings in electric and natural gas costs and an increase in propane and fuel oil costs.

Ms. Reed offered to address specific questions from the Committee.

Chairwoman Smith said the Committee would be focused on the personnel issues because there appeared to be a large shortfall in that area of the budget.

Senator Horsford remarked the Committee's general concern was overtime expenses. The Northern Nevada Correctional Center (NNCC) was nearly \$2 million in the red based on overtime due to closure of the Nevada State Prison (NSP), which occurred before it was legislatively authorized to close. He asked for an explanation of why the commitment to save money from the closure of NSP was not realized and more money was being spent for operations at NNCC.

Greg Cox, Director, Nevada Department of Corrections, testifying from Las Vegas, explained there were several issues associated with the closure of NSP and positions working at different facilities. Positions were taken from other facilities throughout the state, including NNCC and Warm Springs in Carson City, in order to operate NSP until April 2012. He said there were 193 positions at NSP at the time of closure, and currently 29 employees could be laid off in April as a result of the closure.

Director Cox said there were a number of mechanisms for overtime at NNCC. It was the most robust operating facility because it contained the regional medical center; it had a large number of inmates who were transported to and from NNCC to the hospital; and inmates were brought in from other facilities to transport to court. He said he appreciated the fact that the 2011 Legislature added positions; however, a Correctional Officer position located anywhere within the state took an average of 15 to 16 weeks to fill. Director Cox said when a NSP employee was assigned to a budget code in another facility, the vacancy no longer existed at that facility because the position was assigned to the NSP employee in order for him to remain working in Carson City without being laid off.

Continuing, Director Cox said one of the reasons the determination was made to close NSP earlier was due to the increase in overtime, which was the result in large part of the decision to leave NSP open until April. The Legislature had clearly indicated it did not want any employees laid off, and no one had been laid off from NSP to date as a result of the decision to move the staff from NSP prior to the April closure date. He said staff at NSP had been notified of the possibility to transfer anywhere in the state, and he reiterated 29 remaining NSP staff could be affected by the closure in April.

Director Cox further explained that he had moved as many staff from NSP as he could; however, the facility housed medium-custody inmates who required a certain level of perimeter and inter-perimeter supervision, and several staff members were required to manage that type of population at custody level. He said when NSP was closed, staff was moved to Warm Springs and NNCC, which significantly reduced overtime. He noted the overtime expense at NNCC the last pay period, January 9 through January 22, 2012, was \$1,100. He pointed out that there would always be overtime in the Department of Corrections; every correctional department in the country had overtime.

Senator Horsford said the Committee did not expect that there would be no overtime. The concern was the level of overtime. He understood that the Department used staff from NSP and paid them in addition to the current workforce at NNCC, which created the overtime. He asked why the Department projected high overtime expense at NNCC even after NSP officially closed in April.

Director Cox replied the Department always projected what it believed to be the worst-case scenario and based its projections on the past history of the operation of the facility. The last projection for pay period 12 was for \$7,063,000, and the current projection for pay period 16 was \$6,250,000, a reduction of \$813,000, due to the

decision to ramp up the closure of NSP. He anticipated the overtime expense projection would continue to decrease until the end of the fiscal year.

Senator Horsford asked Director Cox to meet with Fiscal Division staff to review the projections so that the Committee could have a clear understanding of the Department's overtime and planned reductions. Director Cox agreed to do so.

Senator Horsford said he recently had the opportunity to tour the Ely State Prison (ESP). There were currently over 50 vacant positions at ESP, and 20 cadets were going through Peace Officers Standards and Training (POST). The warden at ESP was concerned about the vacancy rate, and because of the remote location of the facility, recruitment of employees was a challenge. Senator Horsford asked how many of the 20 cadets would accept employment at Ely State Prison upon completion of their training.

Director Cox thanked Senator Horsford and other members of the Committee for touring the correctional facilities. He was also concerned with the number of vacancies at ESP. Since December 1, 2011, 14 Correctional Officers, 10 Correctional Assistants, and 3 support staff had been hired at ESP. Director Cox said there was competition between the mining industry and ESP for employees and, he added, the remoteness of ESP was also a contributing factor to the facility's high vacancy rate. Recruitment had taken place in Las Vegas, and some staff were willing to transfer to Ely. He said the current POST class in Las Vegas had 62 candidates, and one of the Correctional Officer Trainees had asked him whether he could transfer to Ely. Director Cox was aware of the difficulties in filling the vacant positions at ESP, but he believed the human resources and recruitment staff was doing a good job. He added that NDOC had conducted recruitment at the Fallon Naval Air Station, Nellis Air Force Base in Las Vegas, and the large naval bases in San Diego for veterans seeking a second career, and those employees had served the Department well. He anticipated there would continue to be problems recruiting at ESP because of the increase in mining activity in that part of the state.

Senator Horsford remarked that mining was not the only impediment in Ely; the housing situation was a problem. The chambers of commerce in Ely and White Pine County had indicated the community was short 500 residences. He said the ESP Warden had hired a chaplain, but he declined the offer because he could not find housing. Senator Horsford suggested that the Department work with the Nevada Housing Division and other agencies to leverage opportunities for housing in that area.

Senator Horsford said another issue affecting recruitment was the decision to eliminate the differential pay for workers in remote areas. He believed the Executive Branch and the Legislature should reconsider the decision to eliminate differential pay; there was no incentive for someone to choose Ely State Prison over other facilities. It was a large issue during the budget process, but he believed it should be reconsidered.

Senator Horsford asked Director Cox to provide a status report to the Interim Finance Committee at its next meeting detailing the Department's projected shortfalls for FY 2012 and a summary of the actions it was taking to reduce overtime. He said it was important that the information be shared with Fiscal staff and IFC to provide an understanding of the problem before a further need for funding arises. He requested that the report be agendaized for the April IFC meeting.

Chairwoman Smith said she understood that 12-hour shifts had been implemented, and she asked what impact the shifts had on overtime costs.

Director Cox responded that 12-hour shifts had been implemented, and the Department would be analyzing the shifts on a quarterly basis. It would be difficult for him to estimate the impact on overtime with the closure of NSP, but a thorough analysis could be conducted at the southern facilities. He pointed out there were 15 different shifts at High Desert State Prison, and a staffing and post analysis should reveal whether the 12-hour shifts had been assigned to the correct positions. He noted that sick leave was a factor that drove the 12-hour shift, and Department staff had requested that an analysis be conducted to measure the effect of sick leave on 12-hour shifts at the different facilities. He would be conducting a quarterly analysis at the end of March; his intent was to support the 12-hour shifts and provide staff with materials and information to suggest what needed to be done to continue the practice. Both employee associations agreed with the continuing analysis and had urged Director Cox to expand the 12-hour shifts. He said that might be possible if it was determined the shifts were able to be monitored and managed efficiently.

Chairwoman Smith requested that the Department's status report at the April meeting include the 12-hour shift information. She said the Committee did not want to impede the Department's efforts, but the information would be helpful as the Committee moved forward and the Fiscal Analysis Division staff considered budgets for the 2013-2015 biennium. Director Cox agreed to provide the information.

Chairwoman Smith asked for further questions from Committee members; there were none. She then asked for public comment and seeing none, she called for a motion.

SENATOR HORSFORD MOVED FOR APPROVAL OF
ITEMS C-47 THROUGH C-68.

ASSEMBLYMAN HOGAN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Conklin was not present
for the vote.)

69. Department of Motor Vehicles - Automation - FY 2012 - Addition of \$109,136 in Reimbursement of Expenses funding transferred from the Assistance of Off-Highway Vehicle (OHV) Titling Trust Fund for projected costs related to the OHV project, including contract programmers, required travel, and database management

services provided by the Enterprise IT Services Division. Requires Interim Finance approval since the amount added to the OHV Registration category exceeds \$75,000. **Work Program #C23030**

Amy McKinney, Administrative Services Officer, Department of Motor Vehicles, explained item 69 requested the addition of \$109,136 in Reimbursement of Expenses funding transferred from the Assistance of Off-Highway Vehicle (OHV) Titling Trust Fund for projected costs related to the OHV registration and titling project. She offered to answer questions from the Committee.

Assemblyman Bobzien asked what progress had been made to date, whether there was a projected surplus in the remaining funds from Clark County that was transferred, and what the projected plans were for use of any surplus funds. He requested an update on the request for proposal (RFP) and the selected vendor.

Ann Yukish-Lee, Services Manager, Central Services, Department of Motor Vehicles, testified she would be the manager that would oversee the OHV program. Currently the Department was on track for the July 1 implementation date from the initial programming to testing and hiring staff for the team lead position, sending draft regulations to the Legislative Counsel Bureau, and programming and forms development. She said the RFP had been issued, but the bidding process had not been completed and a vendor had not been designated.

Assemblyman Bobzien asked whether the RFP included design specifications and what could be expected from the finished product.

Ms. Yukish-Lee replied the decal specifications were included in the RFP, and the decal would be the size of a license plate.

Assemblyman Bobzien said he was glad to hear the decal was large. He asked how the remaining funds would be expended.

Ms. McKinney replied any remaining funds at the end of fiscal year 2012 would be balanced forward to fiscal year 2013, per section 19.5 of Senate Bill 394 (2011 Legislative Session).

Chairwoman Smith asked for further questions or public comment. Seeing none, she called for a motion.

ASSEMBLYMAN BOBZIEN MOVED FOR APPROVAL OF
ITEM E-69.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Conklin was not present
for the vote.)

- 70. Department of Public Safety - Forfeitures - Law Enforcement - FY 2012 -** Transfer of \$77,000 from the Reserve category to the Evidence Vault category to perform a process review at three Department of Public Safety evidence vaults and to purchase an air filtration system for the Reno facility. Requires Interim Finance approval since the amount added to the Evidence Vault category exceeds \$75,000. **Work Program #C22968**

Refer to motion for approval under Agenda Item E.

- 71. Department of Public Safety - Highway Patrol - FY 2012 -** Addition of ~~\$26,500~~ **\$36,370** in Transfer from Traffic Safety - Traffic Accident Reconstruction Grant funds for the purchase of and training for collision investigation equipment. Requires Interim Finance approval since the amount added to the Traffic Accident Reconstruction category exceeds 10 percent of the legislatively approved amount for that category. **REVISED JANUARY 18, 2012. Work Program #C22874**

Refer to motion for approval under Agenda Item E.

- 72. Department of Public Safety - Parole and Probation - FY 2012 -** Addition of \$170,120 in Transfer from the Department of Public Safety Office of Criminal Justice Assistance Grant funds to align state authority with the remaining federal grant funding to provide offenders with vouchers to participate in established substance abuse counseling programs. Requires Interim Finance approval since the amount added to the Substance Counseling Assistant Program category exceeds \$75,000. **Work Program #C22772**

Refer to motion for approval under Agenda Item E.

- 73. Department of Public Safety - Emergency Management Assistance Grants - FY 2012 -** Addition of \$5,705,105 in Homeland Security Grant Program (HSGP) Urban Area Initiative funds, \$125,598 in HSGP - Citizen Corps funds, \$281,693 in HSGP - Major Medical Response funds, and \$5,137,205 in Homeland Security Grant program funds to support various activities relating to acts of terrorism, natural disasters, and emergency preparedness. Requires Interim Finance approval since the amount added to the Urban Area Initiative category exceeds \$75,000. **Work Program #C22677**

Refer to motion for approval under Agenda Item E.

- 74. Department of Public Safety - Emergency Management Assistance Grants - FY 2012 -** Addition of \$306,975 in Hazard Mitigation Grant Program 2007 funds and deletion of \$306,975 in federal Pre-Disaster Mitigation Grant funds to align revenue and expenditure authority for the City of Reno - Dant Wash Project. Requires Interim Finance approval since the amount added to the Hazard Mitigation Grant Program 2007 category exceeds \$75,000. **Work Program #C22820**

Refer to motion for approval under Agenda Item E.

- 75. Department of Public Safety - Emergency Management Assistance Grants - FY 2012** - Deletion of \$31,306 in Homeland Security Grant Program funds to align federal funding in FY 2012. Requires Interim Finance approval since the cumulative amount added to the Homeland Security Grant Program category exceeds \$75,000. **Work Program #C22847**

Refer to motion for approval under Agenda Item E.

- 76. Department of Public Safety - Emergency Management Assistance Grants - FY 2012** - Addition of \$60,007 in federal Pre-Disaster Mitigation Grant funds to support the development of a multi-jurisdictional hazard mitigation plan for Humboldt, Lander, and Pershing Counties. Requires Interim Finance approval since the cumulative change to the Pre-Disaster Mitigation category exceeds \$75,000. **Work Program #C22897**

Refer to motion for approval under Agenda Item E.

- 77. Department of Public Safety - Emergency Management Assistance Grants - FY 2012** - Addition of \$994,936 in Department of Energy (DOE) Emergency Preparedness Working Group (EPWG) Grant funds, to enhance emergency response capabilities related to the transportation of low-level radiological waste. Requires Interim Finance approval since the amount added to the DOE EPWG category exceeds \$75,000. **Work Program #C22898**

Refer to motion for approval under Agenda Item E.

- 78. Department of Public Safety - Highway Safety Plan and Administration - FY 2012** - Deletion of \$19,123 in 402 Highway Grant funds and transfer of \$44,579 from the Information Services category to the Reserve for Highway Funds category to align funding in the appropriate categories. Requires Interim Finance approval since the cumulative amount deducted from the Information Services category exceeds \$75,000. **Work Program #C22902**

Refer to motion for approval under Agenda Item E.

- 79. Department of Public Safety - Traffic Safety - FY 2012** - Addition of \$233,982 in federal 405 Incentive Grant funding to continue highway safety programs. Requires Interim Finance approval since the amount added to the Occupant Protection Grant Funds category exceeds \$75,000. **Work Program #C22896**

Refer to motion for approval under Agenda Item E.

- 80. Department of Conservation and Natural Resources - Environmental Protection - Air Quality - FY 2012** - Addition of \$32,400 in funds transferred from the Chemical Hazard Prevention budget account. This request also transfers \$21,600 from the Reserve category to the Training category to provide for additional

travel and training resources associated with the agency's Chemical Accident Prevention Program (CAPP), Compliance and Enforcement program and planning programs. This additional funding is needed to ensure that staff receive the required training for the programs to meet their core-critical missions for public safety and to ensure that regulated facilities are in compliance with applicable state and federal regulations. Requires Interim Finance approval since the cumulative amount added to the Training category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22966**

Refer to motion for approval under Agenda Item E.

- 81. Department of Conservation and Natural Resources - Environmental Protection - Water Pollution Control - FY 2012** - Transfer of \$54,599 from the Reserve category to the Federal 106 category to support the state's efforts in providing statewide protection and improvement in water quality. This action will provide sufficient federal funding to continue inspections of permitted storm water facilities; provide compliance and technical assistance; and carry out a public information and education program. Requires Interim Finance approval since the cumulative change to the Federal 106 category exceeds \$75,000. **Work Program #C22967**

Refer to motion for approval under Agenda Item E.

- 82. Department of Conservation and Natural Resources - Historic Preservation - FY 2012** - Addition of \$183,795 in federal Bureau of Land Management grant funds to continue expedited reviews of renewable energy projects within Nevada; continue work on the Nevada Cultural Resource Information System (NVCRIS); and continue funding the projects under the Southern Nevada Public Lands Management Agreement (SNPLMA). Requires Interim Finance approval since the amount added to the Cultural Resource Information category exceeds \$75,000. **Work Program #C22679**

Refer to motion for approval under Agenda Item E.

- 83. Department of Conservation and Natural Resources - Historic Preservation - FY 2012** - Addition of \$110,000 in federal Bureau of Land Management grant funds to aide in the transfer and integration of the Cultural Site Stewardship Program located in Clark County and administered under the Nevada Archaeological Site Stewardship Program. Requires Interim Finance approval since the amount added to the Site Stewardship Program category exceeds \$75,000. **Work Program #C22680**

Refer to motion for approval under Agenda Item E.

- 84. Department of Wildlife - Wildlife Fund - FY 2012** - Transfer of \$83,807 from the Reserve category to the Transfer to Operations category for the administration, maintenance, operation and continuing development of the Application Hunts System. Requires Interim Finance approval since the amount transferred to the Transfer to Operations category exceeds \$75,000. **RELATES TO ITEM 88. Work Program #C22959**

Refer to motion for approval under Agenda Item E.

- 85. Department of Wildlife - Wildlife Fund - FY 2012** - Transfer of \$21,217 from the Trout Reserve category to the Transfer to Fisheries Management category for the purchase of a medium duty commercial type truck for transporting fish. Requires Interim Finance approval since the cumulative amount added to the Transfer to Fisheries Management category exceeds \$75,000. **RELATES TO ITEM 92. Work Program #C22851**

Refer to motion for approval under Agenda Item E.

Chairwoman Smith announced items 86 and 89 would be heard together.

- 86. Department of Wildlife - Wildlife Fund - FY 2012** - Transfer of \$35,136 from the Reserve category to the Transfer to Operations category for unscheduled, urgent facilities maintenance repairs. Requires Interim Finance approval since the cumulative amount transferred to the Transfer to Operations category exceeds \$75,000. **RELATES TO ITEM 89. Work Program #C22912**

Refer to discussion and motion for approval under Agenda Item E-89.

- 87. Department of Wildlife - Wildlife Fund - FY 2012** - Transfer of \$23,205 from the Reserve category to the Transfer to Operations category to provide funding for 14 point of sales devices to accept credit card payments throughout the state. Requires Interim Finance approval since the cumulative amount added to the Administration category exceeds \$75,000. **RELATES TO ITEM 90. Work Program #C22956**

Refer to motion for approval under Agenda Item E.

- 88. Department of Wildlife - Operations - FY 2012** - Addition of \$83,807 in Transfer of Application Fees for the administration, maintenance, operation and continuing development of the Application Hunts System. Requires Interim Finance approval since the amount added to the Application Hunt System category exceeds \$75,000. **RELATES TO ITEM 84. Work Program #C22958**

Refer to motion for approval under Agenda Item E.

89. Department of Wildlife - Operations - FY 2012 - Addition of \$35,136 in Wildlife Funds to provide funding for unscheduled, urgent facilities maintenance. Requires Interim Finance approval since the amount added to the Maintenance of Buildings and Grounds category exceeds 10 percent of the legislatively approved amount for that category. **RELATES TO ITEM 86. Work Program #C22911**

Patrick Cates, Deputy Director, Nevada Department of Wildlife (NDOW), explained the work programs in items 86 and 89 were requesting an augmentation of the NDOW Operations Division budget by approximately \$35,000 for facility maintenance. He said the Department needed to accomplish a variety of facility maintenance projects in fiscal year 2012, and the augmentation would provide the resources to complete them. He added the funding source was unrestricted reserves, which were comprised of general hunting and fishing licenses and tag sales.

Assemblyman Bobzien recalled the Legislature had granted flexibility to the Department in the past to assist in budgeting for the federal Pittman-Robertson Wildlife Restoration Act funds, which did not always mesh well with the state's established budgeting process. He asked why this item was not included in the Executive Budget process.

Mr. Cates replied identifying the Department's facility needs had been an evolutionary process. He said all new engineering staff had been hired in 2010 when the Department was preparing its proposed biennial budget, and they were sent on a mission to evaluate the conditions of the Department's facilities and identify those priority project needs. The analysis was not completed until after the agency's proposed budget was submitted in September 2010. In addition, Mr. Cates said, the Department had about \$27 million in Question 1 (Conservation and Resource Protection Grant Program) funds available, and facility improvements were an allowable use of those funds. Nearly \$1 million had been used for facility infrastructure needs, but there was only about \$3 million in Question 1 (Q1) funds remaining that had not been allocated to projects. The Department was reluctant to continue using Q1 funds, especially for relatively small projects, since the voters approved Question 1 funds primarily for conservation efforts, acquisition of property, and landscape projects.

Mr. Cates further explained that the facilities maintenance projects had just recently been identified as priority projects, and he reiterated the expenditures were not in the budget because the analysis of the Department's facilities was not completed until after the agency's proposed budget was due to the Budget Division. He added that initially Question 1 funds were being considered for the projects, which was a non-Executive Budget source that would not have been included in the budget process.

Assemblyman Bobzien asked whether the projects could be delayed until the next budget cycle.

Mr. Cates replied approximately \$15,000 of the request was for roof replacement on the dispatch center; the condition of the roof continued to deteriorate and leaks had recently

been discovered that could threaten electronic equipment. Additionally, significant electrical issues were found in the Fallon office during a roofing project in 2011.

Assemblyman Bobzien asked Mr. Cates to comment on the State Public Works Division's (SPWD) involvement in the dispatch center roofing project.

Mr. Cates explained there was a SPWD project to replace the roof at the headquarters building. The dispatch center was a small metal building behind the headquarters building. The Department initially thought the project would be covered under the *Nevada Revised Statutes* (NRS) section that stipulated the types of projects requiring SPWD participation. He said when it was pointed out that it was not covered under the exemptions, the project was combined with the headquarters roofing project.

Assemblyman Bobzien asked whether in the future the Department would complete its analyses and inventories before the deadline for proposed biennial agency budgets.

Mr. Cates replied that was the intent. He explained when the engineers completed their analysis, about \$2 million in maintenance and engineering projects were identified as being important for the Department to consider, and those would be included in the next budget request.

Assemblyman Goicoechea noted that 18 head of domestic livestock had entered a water guzzler enclosure area but could not get out and died. He said the Department had since been rebuilding the guzzler enclosure, and he asked how much liability or exposure the Department would face.

Mr. Cates replied he was familiar with the incident, but Elmer Bull from the Department's Habitat Division was in the audience and could provide further information on the guzzler incident. The Department was still reviewing and assessing its liability and financial exposure.

Chairwoman Smith asked Mr. Cates and Mr. Bull to contact Assemblyman Goicoechea when the final determination was made by the Department, and he could inform the rest of the Committee.

Chairwoman Smith asked for further questions from the Committee; there were none. She called for public comment and seeing none, she called for a motion.

ASSEMBLYMAN BOBZIEN MOVED FOR APPROVAL OF ITEMS
E-86 AND E-89.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

- 90. Department of Wildlife - Operations - FY 2012** - Addition of \$23,205 in Wildlife Funds to provide funding for 14 point of sales devices to accept credit card payments throughout the state. Requires Interim Finance approval since the cumulative amount added to the Administration category exceeds \$75,000. **RELATES TO ITEM 87. Work Program #C22955**

Refer to motion for approval under Agenda Item E.

- 91. Department of Wildlife - Game Management - FY 2012** - Addition of \$86,250 in federal Wildlife and Sport Fish Restoration Program funds and addition of \$1,250 in Wildlife Funds for upland game management activities. Requires Interim Finance approval since the amount added to the Upland Game category exceeds \$75,000. **Work Program #C22938**

Refer to motion for approval under Agenda Item E.

- 92. Department of Wildlife - Fisheries Management - FY 2012 - Addition of \$63,651** in Wildlife and Sport Fish Restoration Program funds and addition of \$21,217 in Transfer of Wildlife Funds for the purchase of a medium duty commercial type truck for transporting live fish. Requires Interim Finance approval since the amount added to the Sport Fish Production and Distribution category exceeds \$75,000. **RELATES TO ITEM 85. Work Program #C22792**

Refer to motion for approval under Agenda Item E.

- 93. Department of Wildlife - Habitat - FY 2012** - Addition of \$21,042 in federal Wildlife Restoration funds to purchase water development materials in the Winnemucca area. Requires Interim Finance approval since the cumulative amount added to the Wildlife Water Development category exceeds 10 percent of the legislatively approved amount for that category. **Work Program #C22786**

Refer to motion for approval under Agenda Item E.

- 94. Department of Transportation - FY 2012** - Addition of \$240,000 in Highway Fund Authorization to enable an earlier than planned Engine Hot Section inspection for the Gulf Stream Commander 840 aircraft owned and operated by the department. Requires Interim Finance approval since the amount added to the Airplane Operations category exceeds \$75,000. **RELATES TO ITEM 95. Work Program #C22927**

Refer to motion for approval under Agenda Item E.

- 95. Department of Transportation - FY 2013** - Deletion of \$240,000 in Highway Fund Authorization to enable an earlier than planned Engine Hot Section inspection for the Gulf Stream Commander 840 aircraft owned and operated by the department. Requires Interim Finance approval since the amount deducted from the Airplane

Operations category exceeds \$75,000. **RELATES TO ITEM 94.**
Work Program #C22929

Refer to motion for approval under Agenda Item E.

- 96. Department of Transportation - FY 2012** - Addition of \$254,000 in federal funds transferred from the Emergency Management State Homeland Security Program to provide equipment and consultants to develop capabilities and a governance structure for public safety agencies to build and operate a single interoperable communications system to be used throughout the state during emergency events. Requires Interim Finance approval since the amount added to the Administrative Consultants/Other Federal Programs category exceeds \$75,000.
Work Program #C22881

Scott Sisco, Assistant Director, Administrative Services Division, Nevada Department of Transportation (NDOT), explained the work program in item 96 requested authority to accept and expend \$254,000 in transfers from the Division of Emergency Management (DEM) State Homeland Security Program (SHSP). The DEM had awarded two subgrants for federal fiscal year (FFY) 2011. A subgrant of \$110,000 would be used to purchase crossband repeater gateways to connect the existing crossband repeaters to dispatch centers statewide to improve communications during emergency events. The second subgrant of \$144,000 would provide funding for NDOT to hire a consultant to review and recommend a governance structure, develop inter-local agreements, and design a business model for meeting multi-jurisdictional long-term evolution (LTE) broadband data needs for public safety applications related to monitoring and managing emergency response resources during major incidents or events.

Mr. Sisco further explained the Federal Communications Commission (FCC) was in the process of allocating 700 megahertz (MHz) spectrum radio frequencies exclusively to public safety agencies to build and operate a single broadband system for use by all eligible agencies. Nevada had formed a consortium of public safety agencies to develop the LTE, or 700 MHz latest technology, through the spectrum allocation. He said the evolving technology would provide for high-speed data for communications, both data and voice, for the public safety agencies, increase the capacity, and spread broadband data, which the current applications did not do. The Department of Transportation was one of the many partners in the consortium, and it would take the lead in administering the grant. Mr. Sisco added the project was 100 percent federally funded and there was no match requirement.

Assemblywoman Smith asked whether the grant was for some equipment and some planning, and how it would interface with the 800 MHz network. She noted it seemed to have taken a long time to get that network up and running.

Rick Nelson, Assistant Director of Operations, Nevada Department of Transportation, testified from Las Vegas that Chris Magenheimer had been working on a program that would expand the capability of the existing 800 MHz radio system to allow

inter-communication with local public safety officials that were not on the 800 MHz radio system.

Chris Magenheimer, Battalion Chief/Emergency Manager, North Lake Tahoe Fire District, explained there were 25 mountaintops across the state that had both an 800 MHz and a VHF (very high frequency) channel, and a local sheriff would be able to communicate from a VHF frequency through the crossband repeater into the 800 MHz system. He said the current mountaintops were stand-alones; the grant funding would tie those crossband repeaters into the Nevada Highway Patrol Elko dispatch where they would be monitored, and then that gateway would take those disparate systems and transfer them back into the 800 MHz radio system.

Assemblyman Bobzien asked to what extent the existing infrastructure could be ported over to the new spectrum.

Mr. Magenheimer replied the FCC had dedicated the 700 broadband as a nationwide public safety network, and any device would work at any location; that was the next generation in public safety. As the transition to LTE began, the current structure would continue to work, and the Department would be able to add to the existing network to have the capability to work in the 700 spectrum and the transportation of data. Mr. Magenheimer said the future was in data transportation.

Assemblyman Bobzien asked whether there were opportunities for federal funding since the project was a federal initiative.

Mr. Magenheimer replied legislation was currently in process in Washington D.C. It appeared the bill in the House of Representatives would likely be attached to the income tax relief bill and provide up to \$5 billion in grant funding for the states. As noted by Assemblyman Bobzien, the federal government was instituting the project and it appeared the federal government would pay for it. Mr. Magenheimer said the key was the ability of the states to have control of those spectrums and how funds would come in, be held within the state, and used to build out the infrastructure.

Assemblyman Bobzien asked Mr. Magenheimer to provide a timeline and estimate of costs at this point for the conversion to 700 MHz and a review of potential issues concerning the governance structure.

Mr. Magenheimer replied the original waiver request to the FCC was with the Nevada Department of Transportation, Las Vegas Metropolitan Police Department, Washoe County Sheriff, Washoe County shared radio system, and NV Energy, which were the current partners in the state's radio system. He said so far the public/private partnership had been very successful, but the FCC did not want any non-public safety entities and therefore NV Energy had to be kept on the sideline. The goal would be to leverage all the existing partnerships and work them into the governance. Mr. Magenheimer said the state currently had the Nevada Communications Steering Committee (NCSC), which would be instrumental in continuing the state's relationship

with the Homeland Security Commission, and that structure could take the spectrum as it became available and regulate how it would be used, especially as NV Energy, or any commercial carriers that might be available to provide spectrum in the rural areas, were brought in. He said the initial plan was to start with the metro areas – Las Vegas, Reno, and Elko – and then expand from there through the use of commercial carriers.

Mr. Magenheimer added that the cost to build out the network in the state would probably be approximately \$100 million; full build-out could be completed within the next 10 to 15 years. The next piece would be the voice over the 700 MHz broadband, which would take place further down the road.

Senator Denis recalled earlier problems and delays with implementing the system. Now that the towers were installed, he hoped the process would not be as difficult to complete.

Mr. Magenheimer replied the 700 MHz spectrum was much like a cell phone network; it would not depend so much on mountaintops as cell phone towers. The ability to build out the network would be much quicker.

Chairwoman Smith asked for public comment; there was none.

ASSEMBLYMAN BOBZIEN MOVED FOR APPROVAL OF
ITEM E-96.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Atkinson was not present
for the vote.)

Chairwoman Smith noted that items 97 and 98 would be heard together.

97. Adjutant General and National Guard - Military - FY 2012 - Addition of \$22,196 in federal Department of Defense Funds to support a new Project Manager position to assist in the oversight and administration of construction and capital improvement projects, as well as report on the condition of current facilities for the National Guard. Requires Interim Finance approval since the request includes a new federally-funded position. **RELATES TO ITEM 98. Work Program #C22987**

Refer to discussion and motion for approval under Agenda Item E-98.

98. Adjutant General and National Guard - Military - FY 2013 - Addition of \$69,326 in federal Department of Defense Funds to continue support in FY 2013 for a new Project Manager position requested to begin in FY 2012. This position will assist in the oversight and administration of construction and capital improvement projects, as well as report on the condition of current facilities for the National Guard. Requires Interim Finance approval since the request continues funding for a new federally-funded position requested to begin in FY 2012. **RELATES TO ITEM 97. Work Program #C23005**

Jennifer McEntee, Administrative Services Officer, Office of the Military, explained the work programs in items 97 and 98 requested authority to hire a 100-percent federally funded Project Manager position to perform project management duties and be responsible for reporting the status of capital improvement projects and condition of current facilities.

Assemblyman Conklin asked whether the position was temporary and if so, how long it would exist. Ms. McEntee replied the position was anticipated to be permanent and would provide adequate staffing for the Office of the Military.

Assemblyman Conklin surmised the position was not intended for one project; he had been under the impression that the position was associated with a federal grant.

Ms. McEntee explained the position would fall under the master cooperative agreement, which brought in federal dollars for the purpose of hiring state employees; it was a solid funding stream.

Chairwoman Smith remarked it was federal funding but not grant funding; Ms. McEntee indicated she was correct.

Chairwoman Smith asked for further questions; there were none. She called for public comment and seeing none, she called for a motion.

SENATOR DENIS MOVED FOR APPROVAL OF ITEMS E-97 AND E-98.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Atkinson and Senators Leslie and Settlemeyer were not present for the vote.)

Reclassifications

Agency	Agency/ Account Number	Position Number	Present Class Title, Class Code, Grade & Salary	Proposed Class Title, Class Code, Grade & Salary
Department of Health and Human Services - Health Division	406/3208	0281	Teachers Assistant II, Code: 05.167 Grade 25, Step 01, \$29,440.80 Employee/Employer Paid Retirement	Administrative Assistant II, Code: 02.210 Grade 25, Step 01, \$29,440.80 Employee/Employer Paid Retirement
Public Employees' Benefits Program	950/1338	0031	Administrative Assistant III, Code: 02.211 Grade 27, Step 01, \$31,862.88 Employee/Employer Paid Retirement	Management Analyst I, Code: 07.637 Grade 33, Step 01, \$40,862.16 Employee/Employer Paid Retirement

Refer to motion for approval under Agenda Item E.

F. STATEMENT OF CONTINGENCY ACCOUNT BALANCE.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, noted that the Statement of Contingency Account balance was included in the meeting packet. A copy of the balance statement is attached as [Exhibit D](#) and reflects the following balances as of February 9, 2012:

Unrestricted General Fund Balance	\$11.6 million
Unrestricted Highway Fund Balance	\$ 1.7 million
Restricted Funds Balance	\$24.5 million

Mr. Combs pointed out that the Restricted Funds balance had increased by \$23.9 million since the December IFC meeting as a result of the expiration of the allocation that was approved for the Unemployment Insurance Trust Fund loan interest payment, which was deferred until later in the fiscal year.

G. REQUEST FOR ALLOCATION FROM THE IFC CONTINGENCY ACCOUNT (GENERAL FUND) PURSUANT TO NRS 353.268 – Department of Taxation – Request for an allocation of \$260,164 to fund the costs of a new Tobacco Master Settlement Agreement Enforcement Unit in Fiscal Year 2013.

Bill Chisel, Director, Department of Taxation, introduced Michon Martin, Senior Deputy Attorney General, Bureau of Litigation, Office of the Attorney General, who managed the Attorney General's Tobacco Enforcement Unit and was handling the current nationwide arbitration.

Mr. Chisel explained the Department was requesting \$260,164 from the IFC Contingency Account for the biennium to create a three-person team to track non-participating manufacturers' cigarette sales in Nevada. He said the reason for the request was Nevada was involved in a nationwide arbitration with a group of tobacco companies over the Master Settlement Agreement (MSA). Mr. Chisel said the stakes of the arbitration were high; Nevada's potential liability was up to \$40 million for calendar year 2003, and Nevada was also potentially liable for each subsequent year to the current year, totaling approximately \$360 million. The risk of losing substantial amounts of money year after year would increase if the state did not institute a team to successfully enforce the qualifying statute. Mr. Chisel offered to provide a brief history of the Master Settlement Agreement and non-participating manufacturers.

Chairwoman Smith asked Mr. Chisel to explain where the state was in the proceedings and why the request was to hire staff when a settlement had not been reached.

Michon Martin, Senior Deputy Attorney General, Office of the Attorney General (AG), explained the AG's office was currently handling the nationwide arbitration against the nation's largest tobacco companies. Discovery had finally closed, and the arbitration was entering into the next phase, which included a common-case presentation currently scheduled in Chicago during the last two weeks of April. The arbitration would then

move into the final phase just for the year 2003, at which time Nevada would have its state-specific hearing to determine whether the state diligently enforced the qualifying statute.

Ms. Martin said Nevada was prepared to present evidence that it did in fact diligently enforce the qualifying statute, but it would be the arbitration panel's responsibility to first define what diligent enforcement was for the state, and secondly to determine whether the state met the definition. She reiterated the risk was \$40 million for each calendar year and a total of \$360 million over all of the years.

In response to Chairwoman Smith's question, Ms. Martin explained the state was only recently getting a perspective as to what needed to be done to continue to diligently enforce. During the discovery period, she had experienced countless depositions of big tobacco companies and different states, and she now had an understanding of what big tobacco companies thought diligent enforcement meant and what the state should be doing. The state did not agree with the tobacco companies but, Ms. Martin pointed out, at least Nevada was aware of the tobacco companies' stance and had obtained important information concerning what other states were doing.

Ms. Martin said the process had been an evolving one, and the arbitration had given the state real information about the status of the settlement. Because the process had evolved over time, the technology that could support the efforts was also evolving. To continue the state's efforts to diligently enforce, it would be necessary for the Department of Taxation to build the technology infrastructure to assist in that effort. She said it would be a much more efficient means of tracking the cigarettes sold in the state if the Department of Taxation was able to do so electronically and have an investigator to follow up on any discrepancies. Ms. Martin stated the technology was needed regardless of whether the states and tobacco companies reached a settlement.

Ms. Martin recalled she had spoken to several legislators after the 2011 Legislative Session concerning a settlement offer the state had received, which provided a roadmap as to how the state should proceed. She reiterated the Department of Taxation would need the tobacco enforcement unit, regardless of whether a settlement was reached, because technology was advancing and the state wanted to have the infrastructure in place. Ms. Martin added that she hoped a settlement would be reached, and in that event, the infrastructure would be in place to meet all of the settlement requirements, which were extensive. She again emphasized that the infrastructure would be needed to continue required enforcement.

Ms. Martin further explained the MSA payment received by the state was over \$40 million a year and funded important programs such as the Millennium Scholarship program and Department of Health and Human Services programs. For the state to continue to benefit and keep the money it was entitled to, the adjustments and technology upgrades would be required going forward.

Chairwoman Smith asked whether it was assumed that additional funding would need to be added after a settlement was reached.

Ms. Martin replied that was not clear. The enforcement unit would be the first piece toward settlement, but she could not anticipate whether additional funding would be needed once arbitration was settled. The exact terms of the settlement were not yet clear.

Chairwoman Smith asked whether the enforcement unit would put the state in a better position for settlement. Ms. Martin replied it would; the technology and database were needed to track every cigarette, which would be required if settlement was effectuated.

Senator Denis asked whether a typical database would be used or a custom one developed.

Mr. Chisel replied the Department was planning to develop its own database. An information technology technician would be hired to develop it and work with other states that had implemented systems. He said most of the databases cost \$1 million off the shelf, so Nevada would prefer to create its own.

Senator Denis remarked other states had probably developed their own, and there was no need for Nevada to start over if the information could be shared. Mr. Chisel said it was his understanding the Department would be working with an expert in Arizona.

Chairwoman Smith said the Committee would look forward to receiving further information on the status of the settlement, and Ms. Martin said updates would be provided.

Chairwoman Smith asked for public comment. Seeing none, she called for a motion.

ASSEMBLYMAN CONKLIN MOVED FOR APPROVAL OF AN ALLOCATION OF \$260,164 FROM THE IFC CONTINGENCY ACCOUNT TO THE DEPARTMENT OF TAXATION.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Atkinson and Senators Horsford and Leslie were not present for the vote.)

H. DEPARTMENT OF ADMINISTRATION – STATE PUBLIC WORKS DIVISION.

1. Request to modify the scope of CIP project 11-M04, Replace Fire Protection Ponds with Underground Storage Tanks – Stead Army Aviation Support Facility, to upgrade the fire pumps and improve the fire ponds rather than replacing the ponds with underground storage tanks, pursuant to NRS 341.145(1)(f), and to increase the authority to receive and expend an additional \$248,395 in federal funds for the project pursuant to NRS 341.121.

Gus Nuñez, Administrator, State Public Works Division, Department of Administration, explained Agenda Item H.1. was a request to modify the scope of CIP Project 11-M04 and for authorization to receive and expend additional federal funds to upgrade fire pumps and improve the fire protection ponds. He said the change in scope was to upgrade the fire ponds rather than replace them with underground storage tanks.

Chairwoman Smith said the Committee's concern was that the amount of federal funding for the project when it was approved by the Legislature was not consistent with federal government requirements.

Mr. Nuñez said the process had met all of the definitions of state deferred maintenance projects. The most cost-effective method to resolve the deferred maintenance for the fire system was to replace the ponds instead of fix them. However, recently it was learned that the federal funding from the National Guard Bureau could only be used to repair the existing ponds and make improvements and not to replace the ponds.

Chairwoman Smith said that was her point. The Committee wanted assurance that the state was operating within the federal guidelines for the use of the federal funds from the beginning of a project instead of being required to modify the project after it had been approved.

Mr. Nuñez said it appeared the Division would have to add an additional step to its procedures to check with the Office of the Military to ensure the Division's deferred maintenance solutions met with the National Guard's stipulations for use of federal funds recommended for deferred maintenance projects.

Lieutenant Colonel Clayton Chappell, Construction and Facilities Manager, Nevada National Guard, Office of the Military, explained the federal National Guard Bureau had interpreted its regulations differently than the state. Replacing the fire ponds would have required a military construction project and funding, which was estimated to be at least five years out. Immediate maintenance of the project was required, and the funds for maintenance were available.

Assemblywoman Mastroluca recalled that when the project was originally approved to install new tanks, it was agreed the state would pay approximately \$57,000 from bond funds and the balance would be provided by the federal government. With the change in scope, which was more expensive, she asked whether the Division would ask for more state funding in the future.

Mr. Nuñez replied no, the National Guard was providing additional funds to complete the maintenance; the state would not have to provide additional funds.

Assemblywoman Mastroluca asked whether the \$57,000 that was originally allocated was needed. Mr. Nuñez replied that it was.

Assemblywoman Mastroluca noted Lieutenant Colonel Chappell had indicated that replacing the tanks would be a military construction project that would be five years out. She asked whether the Public Works Division would pursue that project in the future and consider the current project a short-term fix.

Mr. Nuñez replied the current project should serve the Guard for at least 15 years, but there was a need for additional capacity for fire storage at that site which would have to be addressed in the future. At that point, there would be a new construction project for which the Office of the Military would have to acquire federal funds and submit a request to the Public Works Division.

Assemblywoman Mastroluca asked whether the fire ponds would be as effective as underground storage tanks and if additional maintenance would be involved.

Mr. Nuñez replied as part of the maintenance project, the plan was to put a cover on the pond to avoid accumulation of debris and clogging the sump pumps. The other maintenance problem was algae growth, which would occur in either a pond or a tank, and that was related to ongoing maintenance and chemical treatments.

Chairwoman Smith asked for public comment. Seeing none, she called for a motion to approve Agenda Item H.1.

ASSEMBLYWOMAN MASTROLUCA MOVED FOR APPROVAL
OF AGENDA ITEM H.1.

SENATOR DENIS SECONDED THE MOTION

THE MOTION CARRIED. (Assemblyman Atkinson and Senators
Horsford, Leslie, and Settlemeyer were not present for the vote.)

2. Information regarding the Project Exception Report pursuant to NRS 341.100(8)(g).

Chairwoman Smith remarked the Committee had questions on the Exception Report. She asked whether federal funds were expected to be received within the month for Project 09-C13, Field Maintenance Shop Facility, Las Vegas Readiness Center.

Mr. Nuñez replied that he had discussed the project with Lieutenant Colonel Chappell earlier, and the funds were expected to be received by the end of the month.

Lieutenant Colonel Clayton Chappell, Construction and Facilities Manager, Nevada National Guard, Office of the Military, testified the funding had been approved at the federal level and should be forwarded to the state shortly.

Referring to Project 09-C15, the Elko Readiness Center, Chairwoman Smith asked whether federal funds would be coming; she also questioned the status of Congress approving the site change.

Mr. Nuñez replied funding for the Elko Readiness Center was anticipated to be received in April. He hoped it would arrive prior to the close of escrow between the state and the Nevada System of Higher Education (NSHE) on April 22, 2012.

Chairwoman Smith asked whether additional costs were anticipated because of NSHE's decision and the change in occupancy.

Mr. Nuñez replied the contract documents for the remodel, modifications, and new construction would require additional work. He said a small amount of fees would be required for the architecture and design because some of the structures may have to be closed down rather than remodeled for continued use.

Mr. Nuñez added the amount of new construction may be reduced; the Division was currently working with the National Guard to determine which buildings would be shut down on a temporary basis. It would only involve some reworking of the bid documents, which may result in some decreasing costs.

Assemblywoman Smith said she assumed a more concrete status of the project could be provided at the next IFC meeting. Mr. Nuñez agreed that it would.

Assemblyman Goicoechea said it was his understanding that with the transition and the closure of the Fire Science Academy, NSHE would be responsible for removing props and clean-up. He was concerned with how much of the \$10 million sales price would have to be used to clear the facility.

Mr. Nunez replied that under the current agreement, the University of Nevada, Reno, would be responsible for any environmental cleanup upon close of escrow. Because the facility would not be used as originally intended, the requirement to clean up the facility would be part of the close of escrow.

Assemblyman Goicoechea requested a status report at future meetings; the cleanup costs could be astronomical. Chairwoman Smith agreed that future agendas would include follow-up information.

Chairwoman Smith asked for further questions from the Committee; there were none. She noted the CIP Exception Report was an informational item and required no action.

- I. ECONOMIC FORUM – Report regarding matters considered by the Economic Forum at its meeting conducted on December 13, 2011, pursuant to NRS 353.228(1)(f). INFORMATIONAL ONLY.

Ken Wiles, Chairman, Economic Forum, introduced Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, who was present to answer questions from the Committee.

Mr. Wiles explained Assembly Bill 332, 2011 Legislative Session, required that the Economic Forum (Forum) conduct two additional meetings: one on or before December 10th of each odd-numbered year and the other on or before June 10th of each even-numbered year. The purpose of the meetings was to consider current economic indicators and update the status of the General Fund revenue compared to the most recent Economic Forum forecasts. Additionally, A.B. 332 required the Chairman of the Economic Forum to present a report ([Exhibit E](#)) on the updated information and related matters considered at the meeting to the Interim Finance Committee.

At the December 13, 2011, meeting, Mr. Wiles said the Forum heard several presentations on the current status and outlook for key economic indicators, such as employment, unemployment, personal income, visitor volume, and housing market statistics for the state as well as for the southern and northern Nevada economies. The Forum was also updated on the tax changes approved by the 2011 Legislature and the adjustments made to the Economic Forum's May 2011 General Fund revenue forecast to account for the legislative actions. In addition, information was provided concerning the Supreme Court's decision regarding the Clean Water Coalition funds.

Mr. Wiles said that perhaps the most important provision under A.B. 332 was the requirement for the Forum to review the status of current actual fiscal year-to-date revenue collections compared to the Economic Forum's latest General Fund revenue forecast. He said information was provided on how the Forum's May 2011 forecast for fiscal year (FY) 2011 compared to actual collections for FY 2011, because those results determined the growth rates required to achieve the Forum's May 2011 forecast for FY 2012. Mr. Wiles reported the following comparison results as prepared by the Fiscal Analysis Division staff:

- Total FY 2011 actual General Fund revenues collected were approximately \$3.2 billion, which was \$38 million or 1.2 percent greater than forecasted.
- Total FY 2012 year-to-date General Fund revenue collections were approximately \$21.2 million or 2.5 percent above the Economic Forum's year-to-date forecast.

Mr. Wiles noted the dollar amounts in the December 2011 report were based on actual fiscal year-to-date collections during a three- to five-month period for the monthly revenue sources and during the first quarter of collections for the quarterly revenue sources.

Mr. Wiles went on to say that after the December meeting, Fiscal staff discovered an accounting problem with two General Fund revenue sources administered by the

Department of Motor Vehicles (DMV). The problem had been resolved and did not affect the actual amount of fiscal year-to-date revenue collected. However, it did impact the comparison of fiscal year-to-date actual collections to the fiscal year-to-date forecast. He explained after properly accounting for the actual collections of the two DMV revenue sources and the estimated fiscal year-to-date forecast, actual total fiscal year-to-date General Fund revenue collections were \$12.6 million or 1.5 percent above the forecast compared to the \$21.2 million or 2.5 percent above the forecast originally reported.

Mr. Wiles noted that after review of the tables prepared by Fiscal staff at the December 2011 meeting, Forum members had requested that they be provided with updated tables from Fiscal staff on a monthly basis.

Continuing, Mr. Wiles explained Table 2 in [Exhibit E](#) contained the actual and forecasted fiscal year-to-date comparison based on information available when the tables were updated by Fiscal staff on January 20, 2012. He reviewed the following information contained in Table 2:

- Actual FY 2012 year-to-date total General Fund revenue collections were approximately \$27.7 million or 2.7 percent greater than the estimated fiscal year-to-date forecast.
- The current fiscal year-to-date actual collections represented approximately 35 percent of the total General Fund revenue forecasted for FY 2012.
- Actual sales tax collections through the first four months of FY 2012 were approximately \$15.5 million or 6 percent greater than forecasted.
- Based on updated figures from the Department of Taxation, sales tax collections through the first five months of FY 2012 were approximately \$20.2 million or 6.3 percent above the forecast.
- Gaming percentage fee taxes through the first six months of FY 2012 were approximately \$5.3 million or 1.6 percent below the forecast.
- Actual FY 2012 year-to-date collections for the state's six major General Fund revenue sources, which accounted for about 74 percent of the General Fund, were approximately \$20.9 million or 2.6 percent greater than forecasted.

Chairwoman Smith asked for questions from the Committee.

Senator Rhoads asked where the mining tax appeared in the report.

Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, replied the net proceeds of mines was not separately broken out because the net proceeds tax was not collected on a quarterly or monthly basis. An

estimated amount was included in "All Other Revenue" on the tables for purposes of tracking. He explained estimated payments were made at the beginning of the fiscal year, and then there were true-ups that occurred throughout the year. The actual amount of the net proceeds of mines was not known until the end of the fiscal year. Mr. Guindon said the second additional meeting of the Economic Forum would be held in June, and the Forum would be able to report the total net proceeds of mines revenue for FY 2012 to the Interim Finance Committee after that time.

Continuing, Mr. Wiles explained Table 3 of [Exhibit E](#) displayed the amount of revenue that must be collected over the remainder of FY 2012 for each revenue source, along with the required growth rate to achieve the Economic Forum's May 2011 forecast for the revenue source. As an example, Percentage Fees tax collections would have to increase by 3.6 percent in the remaining six months of FY 2012. Mr. Wiles noted Percentage Fees tax collections increased by 4.4 percent over the last six months of FY 2011.

Mr. Wiles pointed out that all of the information presented to the Economic Forum at its December 2011 meeting was available on the Economic Forum's page on the Legislative Counsel Bureau's (LCB) website. In addition, he said that Assembly Bill 332 required the report presented to IFC to be placed on the LCB website.

Mr. Wiles said the next additional meeting of the Economic Forum would take place on or before June 12, 2012. He thanked the Committee for the opportunity to present the Economic Forum report.

Assemblyman Conklin remarked he had worked closely with Mr. Guindon on A.B. 332, and there were two primary purposes for the bill. The first was to create transparency and awareness about the budget and revenue sources, which he thought Mr. Wiles had done well in his presentation. He said the information would create an opportunity for individuals to have a conversation based on factual information.

The second purpose of the bill, which Assemblyman Conklin said he hoped the Economic Forum would use to its advantage, was to allow the Forum the opportunity to solicit information from key business leaders and industries to learn and understand some deeper issues in the data that may have previously been glossed over. He said the Forum should be allowed to ask members of the gaming, mining, and retail industries what they foresaw in their economic futures. The industries had access to day-to-day reports of current status and future projections. He thought the volatility of the current economic times demanded that the Forum have better access and understanding of the data to guarantee that forecasts remained sound.

Mr. Wiles thanked Assemblyman Conklin. He noted that he had joined the Economic Forum at the December meeting and was elected chairman on the second agenda item; he would appreciate any guidance on the intent of Assembly Bill 332 and any suggestions or recommendations from any member of the Legislature. He had both a private sector and academic background, and he served as the chief executive officer of

a company based in northern Nevada, Alert ID, as well as manager/director of a restructuring investment banking firm called Acceleron Group. He saw certain segments of the market, but it was helpful to speak to other key components of the economic base concerning what they foresaw on a going forward basis.

Chairwoman Smith thanked Mr. Wiles for his presentation and Mr. Guindon and his staff for their efforts on the Economic Forum. Mr. Wiles added his thanks to Mr. Guindon and the Fiscal staff for their assistance.

Chairwoman Smith asked for public comment; there was none.

J. APPROVAL TO ACCEPT GIFTS AND GRANTS PURSUANT TO NRS 353.335(2)(c) – STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES – DIVISION OF STATE LANDS – Request for approval to accept a donation of two parcels of land from the National Fish and Wildlife Foundation.

Charles Donahue, Deputy Administrator, Division of State Lands, Department of Conservation and Natural Resources, introduced Elmer Bull, Chief of the Habitat Division, Nevada Department of Wildlife (NDOW).

Mr. Donahue explained Agenda Item J was a request for the Committee's approval to accept a donation of two parcels of land in Mason Valley adjacent to or in close proximity to the Mason Valley Wildlife Management Area. The donations were being made by the National Fish and Wildlife Foundation, and there would be no cost to the state. He said the Committee meeting packet ([Exhibit B](#), volume II, page 403) included information concerning the conveyance agreement, the phase 1 analysis that was conducted at the two locations, and a restoration plan.

Mr. Donahue said the Department of Wildlife was interested in securing the parcels for conversion from agricultural land to upland wildlife habitat. He noted a portion of one of the parcels was currently being used for cultivation of alfalfa.

Assemblyman Grady asked whether the two parcels were adjacent to the existing Wildlife Management Area.

Elmer Bull, Chief of the Habitat Division, Nevada Department of Wildlife, replied one parcel adjoined the existing Wildlife Management Area, and the other was located further south, about halfway between the Wildlife Management Area and the City of Yerington. He said there was also a designated easement into the second parcel of land.

Chairwoman Smith asked for public comment; there was none.

ASSEMBLYMAN GRADY MOVED FOR APPROVAL OF AGENDA ITEM J.

SENATOR PARKS SECONDED THE MOTION

THE MOTION CARRIED. (Assemblyman Atkinson and Senators Horsford, Leslie, and Settlemeyer were not present for the vote.)

K. DEPARTMENT OF EDUCATION – INCENTIVE GRANTS FOR LICENSED EDUCATIONAL PERSONNEL – Request for approval of school districts' recommendations for financial incentives for certain education personnel, as compiled by the Department of Education, pursuant to NRS 391.166.

Greg Weyland, Deputy Superintendent, Department of Education, explained Agenda Item K was a request for approval of incentives by school districts for licensed teaching personnel. In addition to the one-fifth retirement incentive, 14 school districts had decided to give cash incentives, which they had done in the past. He said since the one-fifth retirement incentive had priority, two separate grant processes were conducted. A balance of approximately \$5.8 million was available for other incentives after the calculation of the cost of the one-fifth retirement. Mr. Weyland said the request from the 14 school districts was approximately \$6.8 million, and a prorated allocation was made per *Nevada Revised Statutes* (NRS), which resulted in approximately 85 percent of the amount requested for cash incentives.

Chairwoman Smith asked whether a report would be prepared concerning the effectiveness of the incentives.

Mr. Weyland replied with the application for the grant, each school district submitted a narrative and discussion as to whether the program was successful for retention and recruitment for teaching positions. He said overall, the input had indicated the incentives had not made a significant difference in either recruitment or retention.

Chairwoman Smith said going into the 2013 Legislative Session she would be interested in an in-depth review of the effectiveness of the incentives and information from the districts compiled into one report, both with data and anecdotal observations.

Assemblyman Conklin asked whether the school districts that took one-fifth retirement were also eligible for the cash incentives.

Mr. Weyland replied when additional incentives were added to the one-fifth retirement in 2007, teachers who were receiving the one-fifth retirement had to elect whether to continue the incentive, and at the point they earned the entire one year's worth of retirement credit, they could be eligible for cash incentives.

Chairwoman Smith added that the school districts were obligated to pay off the one-fifth retirement incentive before they could award any cash incentives.

Assemblyman Conklin noted that Clark County School District had not applied for cash incentives. Chairwoman Smith explained the District had to pay off all of its one-fifth retirement incentives before applying for cash incentives.

Chairwoman Smith asked for public comment. Seeing none, she called for a motion.

ASSEMBLYMAN CONKLIN MOVED FOR APPROVAL OF
AGENDA ITEM K.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Atkinson and Senators
Horsford, Leslie, and Settlemeyer were not present for the vote.)

L. INFORMATIONAL ITEMS

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, stated the Committee wished to hear testimony on Informational Items L.1, Office of the Attorney General, and L.7.b., Department of Corrections.

1. OFFICE OF THE ATTORNEY GENERAL – Bureau of Consumer Protection – Response to Interim Finance Committee inquiries from the December 15, 2011, meeting regarding the use of Morgan Stanley settlement funds to establish a civil enforcement unit for mortgage and home foreclosure activities within the Bureau of Consumer Protection.

Eric Witkoski, Chief, Bureau of Consumer Protection, Office of the Attorney General (AG), recalled that the Attorney General's office had requested approval of Morgan Stanley settlement funds at the December Interim Finance Committee, and a question had been asked regarding the costs of the investigation. The AG's office had reviewed the investigation costs, which amounted to \$27,446 in time spent and a small amount for telephone usage, for a total of \$27,553. There were also costs of \$52,809 for an expert witness and travel paid from the Attorney General's Special Fund, which allowed the AG to keep some amount for litigation costs, with any excess to revert to the General Fund. Mr. Witkoski said the AG's office would revert \$52,809 to the General Fund, in addition to the costs of the investigation of \$27,553, for a total reversion to the General Fund of \$80,362.

Chairwoman Smith thanked Mr. Witkoski and said the dollar amount was approximately the same as had been calculated by the Fiscal Analysis Division staff. She noted the item was for the Committee's information only and no action was required.

7. DEPARTMENT OF CORRECTIONS

- b. Monthly status report dated January 10, 2012, on the closure of Nevada State Prison, provided pursuant to a request made by the Interim Finance Committee at its August 31, 2011, meeting.

The Monthly Status Report on the Closure of Nevada State Prison is attached as [Exhibit C](#). Refer to discussion under Agenda Item E-68.

M. PUBLIC COMMENT.

Chairwoman Smith asked for public comment in Carson City and Las Vegas; there was none.

N. ADJOURNMENT.

Chairwoman Smith thanked LCB Fiscal and Legal staff and state agency staff for their presentations and hard work. She announced the next meeting of the Interim Finance Committee would be held in Las Vegas on April 24, 2012.

There being no further business to come before the Committee, Chairwoman Smith adjourned the meeting at 2:44 p.m.

Assemblywoman Debbie Smith, Chairwoman
Interim Finance Committee

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

**EXHIBITS
INTERIM FINANCE COMMITTEE
February 9, 2012**

Exhibit	Witness/Agency	Description
A	*****	Agenda
B	*****	Meeting Packet
C	Greg Cox, Director Department of Corrections	Monthly Status Report on Closure of Nevada State Prison
D	Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division	IFC Contingency Account Balance Statement
E	Ken Wiles, Chairman Economic Forum	Report to IFC from the Economic Forum