

NEVADA LEGISLATURE

Twenty-sixth Special Session

SENATE DAILY JOURNAL

THE FIRST DAY

CARSON CITY (Tuesday), February 23, 2010

Senate called to order at 9:09 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Father, in times of confusion, when men and women doubt their beliefs and believe there doubts and are victims of ideologies that seek to divide and conquer, give to the women and men of this house a true appreciation of the great affirmations we hold in common.

Let us appreciate our agreements and have the courage and conviction to stand up for them, that we may stand united and fearless before the rest of this nation and before the world.

Direct those who govern in this great state, that they may make it as hard as possible to do wrong and as easy as possible to do right. To that end, incline these Senators to the eternal truths You have revealed for today and for the rest of this Special Session.

AMEN.

Pledge of Allegiance to the Flag.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. President requested Mrs. Claire J. Clift to serve as the temporary Secretary of the Senate and Mrs. Evelyn Matheus to serve as the temporary Sergeant at Arms.

Mr. President instructed the temporary Secretary to call the roll of the holdover Senators.

Roll called.

All holdover Senators present.

Mr. President appointed Senators Woodhouse, Schneider and Amodei as a temporary Committee on Credentials.

Mr. President announced that if there were no objections the Senate would recess subject to the call of the Chair while credentials of the

newly-appointed Senator were examined by the temporary Committee on Credentials.

Senate in recess at 9:12 a.m.

SENATE IN SESSION

At 9:17 a.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your temporary Committee on Credentials has had the credentials of the newly-appointed Senator under consideration and begs leave to report that the following person has been and is duly appointed and a qualified member of the Senate for the Twenty-sixth Special Session of the Legislature of the State of Nevada: Senator Stan R. Olsen:

JOYCE WOODHOUSE
MICHAEL A. SCHNEIDER
MARK E. AMODEI

MOTIONS, RESOLUTIONS AND NOTICES

Senator Woodhouse moved that the report of the temporary Committee on Credentials be adopted.

Motion carried.

Mr. President appointed Senators Lee, Care and Nolan to escort Chief Justice Parraguirre of the Supreme Court of Nevada to the rostrum to administer the oath of office to the newly-appointed Senator.

Chief Justice Parraguirre administered the oath of office to the newly-appointed Senator.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:22 a.m.

SENATE IN SESSION

At 9:24 a.m.

President Krolicki presiding.

Quorum present.

Senator Copening moved that the Chief Justice be extended a unanimous vote of thanks for administering the oath.

Motion carried unanimously.

Mr. President instructed the temporary Secretary to call the roll of the Senators.

Roll called.

All Senators present.

Senator Horsford moved that the organization of the Senate of the 2009 Session of the Nevada Legislature be designated as the organization of the organization for the Twenty-sixth Special Session of the Nevada Legislature with the exception of adding Mrs. Evelyn Mattheus as the Senate's Sergeant at Arms.

Remarks by Senator Horsford.

Motion carried.

Senator Horsford moved that the Secretary of the Senate be instructed to insert the Twenty-sixth Special Session organization in the Journal of the Senate as outlined in the Agenda booklet located on each Senator's desk.

Remarks by Senator Horsford.

Motion carried.

PRESIDENT PRO TEMPORE OF THE SENATE—

SENATOR MICHAEL A. SCHNEIDER

MAJORITY FLOOR LEADER—

SENATOR STEVEN A. HORSFORD

ASSISTANT MAJORITY FLOOR LEADER—

SENATOR TERRY CARE

MAJORITY WHIP—

SENATOR VALERIE WIENER

ASSISTANT MAJORITY WHIP—

SENATOR JOHN J. LEE

MINORITY FLOOR LEADER—

SENATOR WILLIAM J. RAGGIO

ASSISTANT MINORITY FLOOR LEADER—

SENATOR DENNIS NOLAN

MINORITY WHIP—

SENATOR BARBARA CEGAVSKE

SECRETARY OF THE SENATE—

CLAIRE J. CLIFT

SERGEANT AT ARMS—

EVELYN MATTHEUS

Mr. President appointed Senators Wiener, Carlton and Olsen as a committee of three to inform the Assembly that the Senate is organized and ready for business.

Mr. President appointed Senators Breeden, Parks and McGinness as a committee of three to inform the Governor that the Senate is organized and ready for business.

Senator Horsford moved that the following persons be accepted as accredited press representatives, and that they be assigned space at the press table and allowed the use of appropriate media facilities: ASSOCIATED PRESS: Cathy Bussewitz, Sandra Chereb, Rachelle Gines, Brendan Riley; CITYLIFE: Stephen A. Sebelius; CNN/COX: Steve Schorr; COVEREDGE: Daniel Bryant, Randy Hunter, James L. Parker, William G. Pearce, Jr., Kevin Ross; DAILY SPARKS TRIBUNE/NEVADALABOR.COM: Andrew L. Barbano; KKOH RADIO/CITADEL BROADCASTING CORP.: Ian L. Perry; KLAS-TV: Rich Czarny, Mark Mutcher; KNPB-TV: Michael Hagerty, Tyler McPherron, Elizabeth Welti; KOLO-TV: Edward Barnett, Thomas Goepner, Robert Ray Kinney, Kendra Kostelecky, Ed Pearce; KRNVTV: John Barrette, Robbie Beasom, Charles Benn, Jack Brown, Jack Bowe, Victoria Campbell, Ryan Coleman, Ford Ryan Corl, Jeff Deitch, Tad Dunbar, Roger Du Plessis, David Ernest Feher, John Finkbohner, Calli Fisher, Kirk Frosdick, Gem Gokmen, Joe Hart, Elizabeth Heywood, Kenny Holmes, Chuck King, Sherry Kudelka, Adam Randall, Meredith Richardson, Bryan Samudio, Lemor Shlomof, Kimberly Strow, Lawrence Vosper; KTVN-TV: Bill Brown, Jeffrey Foss, Darrell McComb, Jay Nobles, Brandon Rittiman; KUNR PUBLIC RADIO: Pam Dupree; LAHONTAN VALLEY NEWS: Christiane Lattin; LAS VEGAS REVIEW JOURNAL: Jason Bean, Ed Vogel; LAS VEGAS SUN: J. Patrick Coolican, John (Sam) Morris, Cy Ryan, David Schwartz; LIBERTY AND JUSTICE FOR ALL TV: Daniel Joseph; MRJERZ.ORG: Ryan Jerz; NEVADA APPEAL: Geoff Dornan, David Frank, Niki Gladys, Peggy Santoro; NEVADA APPEAL/ASSOCIATED PRESS: Brad Horn; NEVADA BROADCASTERS ASSOCIATION: Adrienne Abbott-Gutierrez, Robert D. Fisher; NEVADA NEWS BUREAU: Phillip Moyer, Sean Whaley; THE NEVADA OBSERVER: Dennis M. Locke; NEVADA PRESS ASSOCIATION: Kevin Clifford; THE NEVADA SAGEBRUSH: James L. Balagna, Nick Coltrain, Jessica Fryman; NEWS CARSONCITY.COM/18 NEWS: CARSON CITY: David D. Morgan; NOW on PBS: Alexandra Dean, Yasmeen Qureshi; PROGRESS NOW NEVADA: Erin Neff; RENO GAZETTE-JOURNAL: Ray Hagar, Guy Clifton, Anjeanette Damon, Tammy Krikorian, Lisa Tolda; REVERED MOMENTS: Robert Jones; REYNOLDS SCHOOL OF JOURNALISM (UNR): Jessica Estepa, Jeff Mosier, Emily Stott; SENIOR SPECTRUM NEWSPAPER: Connie McMullen; SIERRA NEVADA MEDIA GROUP: Scott McElhaney; SUN PRODUCTIONS: Sunny Minedew; TASMAN PACIFIC MEDIA GROUP: Peter J. Hutchinson; TRUCKEE MEADOWS COMMUNITY COLLEGE (JOURNALISM): Timothy Carlton III; UNIVISION CHANNEL 41: Anya J. Arechiga, Martha Torres; THE VOICEBOX/THE COLLEGE RADIO SHOW: Donnell Pike-Anuken; WE THE PEOPLE: Shayne Del Cohen; WINNEMUCCA PUBLISHING-HUMBOLDT TIMES: David M. Gouger; YE OLDE MORGUE: Robert W. Mulvana.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:28 a.m.

SENATE IN SESSION

At 9:29 a.m.

President Krolicki presiding.

Quorum present.

A committee from the Assembly composed of Assemblymen Horne, Conklin and Stewart appeared before the bar of the Senate and announced that the Assembly was organized and ready for business.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:30 a.m.

SENATE IN SESSION

At 9:35 a.m.

President Krolicki presiding.

Quorum present.

Senator Wiener reported that her committee had informed the Assembly that the Senate is organized and ready for business.

Senator Breeden reported that her committee had informed the Governor that the Senate is organized and ready for business.

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA

EXECUTIVE CHAMBER

CARSON CITY, NEVADA 89701

February 16, 2010

THE HONORABLE STEVEN A. HORSFORD, *Senate Majority Leader*, Nevada State Senate

401 South Carson Street, Carson City, Nevada 89701

To the Honorable Members of the Nevada State Senate:

The Nevada State Constitution, in Article 5, Section 9, provides that the Governor may on extraordinary occasions convene a Special Session of the Legislature by proclamation.

As we all know, general fund revenues for the current biennium continue to come in at a significantly lower amount than the general funds appropriated by the Legislature in its Seventy-Fifth Regular Session.

On January 22, 2010, the Economic Forum convened and determined that the general fund will be at least another \$580 million short in the current fiscal year. Adding in other revenue sources, the total shortfall comes to \$887 million.

Working together, we have already identified and implemented some spending reductions to address our fiscal crisis. However, as the amount of the budget deficit continues to grow, it has

become necessary to convene a Special Session of the Legislature to help find appropriate and responsible solutions.

I have therefore issued a proclamation calling the Legislature into a Special Session. In that proclamation, I identify numerous options that will not only solve the current revenue shortfall, but will show our citizens that their elected officials are willing to make the tough decisions necessary to maintain a balanced budget in difficult economic times.

My staff and I remain committed to working with you during this session.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR
EXECUTIVE ORDER
A PROCLAMATION BY THE GOVERNOR

WHEREAS, Section 9 of Article V of the Constitution of the State of Nevada provides that, "The Governor may on extraordinary occasions, convene the Legislature by Proclamation and shall state to both houses when organized, the purpose for which they have been convened, and the Legislature shall transact no legislative business, except that for which they were specifically convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session;" and

WHEREAS, the general fund revenue shortfall for the current biennium far exceeds any other revenue shortfall in the State's history; and

WHEREAS, general fund revenues for the current biennium are projected to come in less than the amounts appropriated by the Legislature at its Seventy-Fifth Session; and

WHEREAS, the Economic Forum was convened on January 22, 2010, and the economic projections from that body, in addition to decreases in other general fund revenues and increased caseload requirements, establish that the total general fund revenues for the current biennium will continue to decrease, and will be at least \$887 million less than the total general funds appropriated by the Legislature for this biennium; and

WHEREAS, believing that fiscally responsible reductions to the State's spending can be made so that spending does not exceed projected revenues; and

WHEREAS, Nevada is now facing the worst economic crisis in the State's history; and

WHEREAS, believing that an extraordinary occasion exists which requires immediate action by the Legislature;

NOW THEREFORE, I, JIM GIBBONS, GOVERNOR OF THE STATE OF NEVADA, by virtue of the authority vested in me by the Constitution of the State of Nevada, do hereby convene the Legislature into a Special Session to begin at 9:00 a.m., on February 23, 2010.

During this Special Session, I ask the Legislature to consider the following:

1. Reducing the general fund appropriations made to fund the State's government operations from the Seventy-Fifth Session of the Legislature;
2. Transferring to the general fund certain amounts in non-general fund accounts, including but not limited to:
 - a. Healthy Nevada Fund;
 - b. Public Health Trust Fund;
 - c. Millennium Scholarship Fund;
 - d. Special Capital Construction Fund for Higher Education;
 - e. Interim Finance Committee Contingency Fund;
 - f. Commission on Minerals Bond Reclamation Account;
 - g. Commission on Minerals Cash Pooled Bond Investments;
 - h. Insurance Insolvency Fund;
 - i. Disaster Relief Account;
 - j. Self-Insured Association Insolvency;
 - k. Common Interest Communities;
 - l. Rainy Day Fund;
 - m. Bond Interest and Redemption Account;
 - n. Public Utilities Commission;

- o. Home Owners Disaster Relief Account;
 - p. Insurance Education and Research;
 - q. Pollution Control Account;
 - r. Emergency Assistance Subaccount;
 - s. Tort Claims Fund;
 - t. Dairy Commission;
 - u. Employment Security Special Fund;
 - v. Financial Institutions Audit;
 - w. Prison Industries Capital Projects;
 - x. Department of Taxation Bonds; and
 - y. Nevada Department of Wildlife Heritage Account;
3. Increasing the number of furlough hours to 10 per month, providing for 10-hour work days and closing State offices 1 day a week where applicable;
 4. Revising sections of NRS which require State and local governments to provide certain hours of operation to allow for flexibility without sacrificing vital services to the public;
 5. Revising provisions of NRS to allow issuance of administrative assessments to owners of automobiles operating in the State without valid insurance and registration captured through license plate readers and confirmed by an insurance and registration verification system;
 6. Providing flexibility for the Department of Health and Human Services to transfer funds among various accounts in the same manner and limits as allowed for work programs under NRS 353.220;
 7. Revising NRS 3 1A.090 to require that employers with 25 or more employees make payments of child support orders to the State Collection and Disbursement Unit by electronic transfer of money;
 8. Revising NRS 422.4025 governing the list of preferred prescription drugs to be used by the Medicaid program and thus, allowing Medicaid to receive supplemental rebates from pharmaceutical manufacturers;
 9. Revising NRS 422.3785 so as not to restrict the State's ability to adjust rates paid to its nursing facilities pursuant to the Medicaid Program;
 10. Adopting a nexus law that provides that certain online vendors of taxable tangible personal property are subject to the existing Nevada use tax;
 11. Eliminating Chapter 288 of NRS to provide for flexibility to local government entities;
 12. Removing all spending earmarks in K-12 education except for Special Education and Federal School Lunch Program State Match, and provide for a statewide block grant to allow school districts the flexibility to choose which programs to offer to their students (e.g. class size reduction, full-day kindergarten, etc.).

During the Special Session, the Legislature shall consider solutions to reduce state government spending. The Legislature may also consider any other legislative business as I may call to the attention of the Legislature while in session.

The Legislature may consider an appropriation to pay for the cost of the Special Session or may cover said cost from the Legislative Fund.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 16th day of February in the year two thousand ten.

JIM GIBBONS
Governor
ROSS MILLER
Secretary of State

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee of the Whole:

Senate Resolution No. 1—Adopting the Rules of the Senate for the 26th Special Session of the Legislature.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the following Rules of the Senate for the 26th Special Session of the Legislature are hereby adopted:

I. *APPLICABILITY*

Rule No. 1. *Generally.*

The Rules of the Senate for the 26th Special Session of the Legislature are applicable only during the 26th Special Session of the Legislature.

II. *OFFICERS AND EMPLOYEES*
DUTIES OF OFFICERS

Rule No. 2. *President.*

The President shall take the chair and call the Senate to order precisely at the hour appointed for meeting. He shall preserve order and decorum, and in case of any disturbance or disorderly conduct within the Senate Chamber, shall order the Sergeant at Arms to suppress it, and may order the arrest of any person creating any disturbance within the Senate Chamber. He may speak to points of order in preference to members, rising from his seat for that purpose, and shall decide questions of order without debate, subject to an appeal to the Senate by two members, on which appeal no member may speak more than once without leave of the Senate. He shall sign all acts, addresses and joint resolutions, and all writs, warrants and subpoenas issued by order of the Senate; all of which must be attested by the Secretary. He has general direction of the Senate Chamber.

Rule No. 3. *President Pro Tem and Other Presiding Officers.*

1. *Except as otherwise provided in subsection 2:*

(a) *The President Pro Tem has all the power and shall discharge all the duties of the President during his absence or inability to discharge the duties of his office.*

(b) *In the absence or inability of the President Pro Tem to discharge the duties of the President's office, the Senate shall elect one of its members as the presiding officer for that occasion. A member who is serving as the presiding officer has all the power and shall discharge all the duties of the President until the absence or inability which resulted in the member serving as the presiding officer has ended.*

2. *When the President Pro Tem or another member is serving as the presiding officer, the President Pro Tem or other member may vote on any question for which he is otherwise qualified to vote as a member. If the Senate is equally divided on the question, the President Pro Tem or other member may not give an additional deciding vote or casting vote pursuant to Senate Rule No. 14 of the 26th Special Session or Section 17 of Article 5 of the Nevada Constitution.*

Rule No. 4. *Secretary.*

1. *The Secretary of the Senate is elected by the Senate, and shall:*

(a) *Interview and recommend persons to be considered for employment to assist the Secretary.*

(b) *See that these employees perform their respective duties.*

(c) *Administer the daily business of the Senate, including the provision of secretaries as needed.*

(d) *Unless otherwise ordered by the Senate, transmit as soon as practicable those bills and resolutions upon which the next action is to be taken by the Assembly.*

2. *The Secretary is responsible to the Majority Leader.*

Rule No. 5. *Sergeant at Arms.*

1. *The Sergeant at Arms shall attend the Senate during its sittings, and execute its commands and all process issued by its authority. He must be sworn to keep the secrets of the Senate.*

2. *The Sergeant at Arms shall:*

(a) *Superintend the upkeep of the Senate's Chamber, private lounge, and meeting rooms.*

(b) *Interview and recommend persons to be considered for employment to assist the Sergeant at Arms.*

3. *The Sergeant at Arms is responsible to the Majority Leader.*

Rule No. 6. *Assistant Sergeant at Arms.*

The Assistant Sergeant at Arms shall be doorkeeper and shall preserve order in the Senate Chamber and shall assist the Sergeant at Arms. He shall be sworn to keep the secrets of the Senate.

III. SESSIONS AND MEETINGS

Rule No. 7. Call of Senate—Moved by Three Members.

A Call of the Senate may be moved by three Senators, and if carried by a majority of all present, the Secretary shall call the roll and note the absentees, after which the names of the absentees shall again be called over. The doors shall then be closed and the Sergeant at Arms directed to take into custody all who may be absent without leave, and all Senators so taken into custody shall be presented at the bar of the Senate for such action as to the Senate may seem proper.

Rule No. 8. Absence—Leave Required.

No Senator shall absent himself from the service of the Senate without leave, except in case of accident or sickness, and if any Senator or officer shall so absent himself, his per diem shall not be allowed him.

Rule No. 9. Open Meetings.

1. Except as otherwise provided in the Constitution of the State of Nevada and in subsection 2 of this rule, all meetings of the Senate and the Committee of the Whole or a standing committee must be open to the public.

2. A meeting may be closed to consider the character, alleged misconduct, professional competence, or physical or mental health of a person.

IV. DECORUM AND DEBATE

Rule No. 10. Points of Order.

1. If any Senator, in speaking or otherwise, transgresses the rules of the Senate, the President shall, or any Senator may, call him to order. If a Senator is so called to order, he shall not proceed without leave of the Senate. If such leave is granted, it must be upon the motion, "That he be allowed to proceed in order," and the Senator shall confine himself to the question under consideration and avoid personality.

2. Every decision of points of order made by the President is subject to appeal, and a discussion of a question of order may be allowed only upon the appeal of two Senators. In all cases of appeal, the question must be, "Shall the decision of the Chair stand as the judgment of the Senate?"

Rule No. 11. Breaches of Decorum.

1. In cases of breaches of decorum or propriety, any Senator, officer or other person is liable to such censure or punishment as the Senate may deem proper.

2. If any Senator is called to order for offensive or indecorous language or conduct, the person calling him to order shall report the offensive or indecorous language or conduct to the presiding officer. No member may be held to answer for any language used on the floor of the Senate if business has intervened before exception to the language was taken.

3. Indecorous conduct or boisterous or unbecoming language is not permitted in the Senate Chamber.

Rule No. 11.5. Legislative Ethics.

1. In determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his position upon the matter in question would be materially affected by:

- (a) His acceptance of a gift or loan;*
- (b) His private economic interest; or*
- (c) His commitment to a member of his household or his immediate family.*

2. Except as otherwise provided in subsection 3, if a Legislator knows he has a conflict of interest pursuant to subsection 1, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Senate, as applicable. Such a disclosure must be entered:

(a) If the Legislator makes the disclosure in a meeting of a committee, in the minutes for that meeting.

(b) If the Legislator makes the disclosure on the floor of the Senate, in the Journal.

3. If, on one or more prior occasions during the current session of the Legislature, a Legislator has made a general disclosure of a conflict of interest on the record in a meeting of a committee or on the floor of the Senate, the Legislator is not required to make that general disclosure at length again regarding the same conflict of interest if, when the matter in question arises on subsequent occasions, the Legislator makes a reference on the record to the previous disclosure.

4. In determining whether to abstain from voting upon, advocating or opposing a matter concerning which a Legislator has a conflict of interest pursuant to subsection 1, the Legislator should consider whether:

- (a) The conflict impedes his independence of judgment; and
- (b) His interest is greater than the interests of an entire class of persons similarly situated.

5. The provisions of this rule do not under any circumstances and regardless of any conflict of interest:

- (a) Prohibit a Legislator from requesting or introducing a legislative measure; or
- (b) Require a Legislator to take any particular action before or while requesting or introducing a legislative measure.

6. If a Legislator who is a member of a committee declares on the record when a vote is to be taken by the committee that he will abstain from voting because of the requirements of this rule, the necessary quorum to act upon and the number of votes necessary to act upon the matter is reduced as though the Legislator abstaining were not a member of the committee.

7. Except as otherwise provided in the Joint Rules of the 26th Special Session, the standards and procedures set forth in this rule which govern whether and to what extent a Senator has a conflict of interest, should disclose a conflict of interest or should abstain from voting upon, advocating or opposing a matter concerning which the Senator has a conflict of interest pursuant to subsection 1:

- (a) Are exclusive and are the only standards and procedures that apply to Senators with regard to such matters; and
- (b) Supersede and preempt all other standards and procedures with regard to such matters.

V. QUORUM, VOTING, ELECTIONS

Rule No. 12. Action Required to Be Taken in Senate Chamber.

Any action taken by the Senate must be taken in the Senate Chamber.

Rule No. 13. Recorded Vote—Three Required to Call For.

1. A recorded vote must be taken upon final passage of a bill or joint resolution, and in any other case when called for by three members. Every Senator within the bar of the Senate shall vote "yea" or "nay" or record himself as "not voting," unless excused by unanimous vote of the Senate.

2. The votes and names of those absent or recorded as "not voting" and the names of Senators demanding the recorded vote must be entered in the Journal.

Rule No. 14. President to Decide—Tie Vote.

A question is lost by a tie vote, but when the Senate is equally divided on any question except the passage of a bill or joint resolution, the President may give the deciding vote.

Rule No. 15. Manner of Election—Voting.

1. In all cases of election by the Senate, the vote must be taken viva voce. In other cases, if a vote is to be recorded, it may be taken by oral roll-call or by electronic recording.

2. When a recorded vote is taken, no Senator may:

- (a) Vote except when at his seat;
- (b) Explain his vote or discuss the question while the voting is in progress; or
- (c) Change his vote after the result is announced.

3. The announcement of the result of any vote must not be postponed.

VI. LEGISLATIVE BODIES

Rule No. 16. Committee of the Whole.

1. All bills and resolutions may be referred only to the Committee of the Whole or to such standing committee as may be appointed pursuant to Rule No. 16.5.

2. The Majority Leader shall preside as Chair of the Committee of the Whole or name a Chair to preside.

3. Any meeting of the Committee of the Whole may be conducted outside the Senate Chamber, as designated by the Chair of the Committee.

4. A member of the Committee of the Whole may speak only once on an item listed on the Committee's agenda, for a period of not more than 10 minutes, unless he is granted leave of the Chair to speak for a longer period or more than once. If a member is granted leave to speak for a longer period or more than once, the Chair may limit the length of additional time that the member may speak.

5. Any motion made by a member of the Committee of the Whole must be seconded by another member of the Committee of the Whole.

6. The Chair may require any vote of the Committee of the Whole to be recorded in the manner designated by the Chair.

7. All amendments proposed by the Committee of the Whole:

(a) Must first be approved by the Committee.

(b) Must be reported by the Chair to the Senate.

8. The minutes of the Committee's meetings must be entered in the final Journal.

Rule No. 16.5. Standing Committees.

In addition to the Committee of the Whole, such standing committees may be appointed as may be deemed necessary.

Rule No. 17. Rules Applicable to Standing Committees and Committee of the Whole.

The Rules of the Senate shall apply to proceedings in Committee of the Whole and such standing committees as may be appointed, except that the previous question shall not be ordered. The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern such committees in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Senate.

Rule No. 18. Motion to Rise Committee of the Whole.

A motion that the Committee of the Whole rise shall always be in order, and shall be decided without debate.

VII. RULES GOVERNING MOTIONS

A. MOTIONS GENERALLY

Rule No. 19. Entertaining.

1. No motion may be debated until it is announced by the President.

2. By consent of the Senate, a motion may be withdrawn before amendment or decision.

Rule No. 20. Precedence of Motions.

When a question is under debate, no motion shall be received but the following, which shall have precedence in the order named:

1. To adjourn.

2. For a call of the Senate.

3. To lay on the table.

4. For the previous question.

5. To postpone to a day certain.

6. To commit.

7. To amend.

8. To postpone indefinitely.

↳ The first four shall be decided without debate.

Rule No. 21. When Not Entertained.

1. When a motion to commit, to postpone to a day certain, or to postpone indefinitely has been decided, it must not be again entertained on the same day.

2. When a question has been postponed indefinitely, it must not again be introduced during the Special Session.

3. There must be no reconsideration of a vote on a motion to postpone indefinitely.

B. PARTICULAR MOTIONS

Rule No. 22. To Adjourn.

A motion to adjourn shall always be in order. The name of the Senator moving to adjourn, and the time when the motion was made, shall be entered in the Journal.

Rule No. 23. Lay on the Table.

A motion to lay on or take from the table shall be carried by a majority vote.

Rule No. 24. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution has precedence over a motion to commit or amend. If a motion to strike out the enacting clause of a bill or resolution is carried, the bill or resolution is rejected.

Rule No. 25. Division of Question.

- 1. Any Senator may call for a division of a question.*
- 2. A question must be divided if it embraces subjects so distinct that if one subject is taken away, a substantive proposition remains for the decision of the Senate.*
- 3. A motion to strike out and insert must not be divided.*

Rule No. 26. Explanation of Motion.

Whenever a Senator moves to change the usual disposition of a bill or resolution, he shall describe the subject of the bill or resolution and state the reasons for his requesting the change in the processing of the bill or resolution.

VIII. DEBATE

Rule No. 27. Speaking on Question.

- 1. Every Senator who speaks shall, standing in his place, address "Mr. or Madam President," in a courteous manner, and shall confine himself to the question before the Senate. When he has finished, he shall sit down.*
- 2. Except as otherwise provided in Senate Rules Nos. 10 and 45 of the 26th Special Session, a Senator may speak only once on a question before the Senate, for a period of not more than 10 minutes, unless he is granted leave of the President to speak for a longer period or more than once. If a Senator is granted leave to speak for a longer period or more than once, the President may limit the length of additional time that the member may speak.*
- 3. Incidental and subsidiary questions arising during debate shall not be considered the same question.*

Rule No. 28. Previous Question.

The previous question shall not be put unless demanded by three Senators, and it shall be in this form: "Shall the main question be now put?" When sustained by a majority of Senators present, it shall put an end to all debate and bring the Senate to a vote on the question or questions before it, and all incidental questions arising after the motion was made shall be decided without debate. A person who is speaking on a question shall not while he has the floor move to put that question.

IX. CONDUCT OF BUSINESS

A. GENERALLY

Rule No. 29. Mason's Manual.

The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern the Senate in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Senate for the 26th Special Session of the Legislature, and the Joint Rules of the Senate and Assembly for the 26th Special Session of the Legislature.

Rule No. 30. Suspension of Rule.

No rule or order of the Senate for the 26th Special Session of the Legislature shall be rescinded or changed without a majority vote of the Senate; but, except as otherwise provided in Senate Rule No. 39 of the 26th Special Session of the Legislature, a rule or order may be temporarily suspended for a special purpose by a majority vote of the members present. When the suspension of a rule is called for, and after due notice from the President no objection is offered, he can announce the rule suspended and the Senate may proceed accordingly; but this shall not apply to that portion of Senate Rule No. 39 of the 26th Special Session of the Legislature relating to the third reading of bills, which cannot be suspended.

Rule No. 31. Protest.

Any Senator, or Senators, may protest against the action of the Senate upon any question, and have such protest entered in the Journal.

Rule No. 32. Privilege of the Floor.

- 1. To preserve decorum and facilitate the business of the Senate, only the following persons may be present on the floor of the Senate during formal sessions:
 - (a) State officers;*

- (b) *Officers and members of the Senate;*
 - (c) *Employees of the Legislative Counsel Bureau;*
 - (d) *Attaches and employees of the Senate; and*
 - (e) *Members of the Assembly whose presence is required for the transaction of business.*
2. *Guests of Senators must be seated in a section of the upper or lower gallery of the Senate Chamber to be specially designated by the Sergeant at Arms. The Majority Leader may specify special occasions when guests may be seated on the floor of the Senate with a Senator.*
3. *A majority of Senators may authorize the President to have the Senate Chamber cleared of all persons except Senators and officers of the Senate.*
4. *The Senate Chamber may not be used for any business other than legislative business during a legislative session.*

Rule No. 33. Material Placed on Legislators' Desks.

1. *Only the Sergeant at Arms and officers and employees of the Senate may place papers, letters, notes, pamphlets and other written material upon a Senator's desk. Such material must contain the name of the Legislator requesting the placement of the material on the desk or a designation of the origin of the material.*
2. *This rule does not apply to books containing the legislative bills and resolutions, the daily histories and daily journals of the Senate or Assembly, or Legislative Counsel Bureau material.*

Rule No. 34. Petitions and Memorials.

The contents of any petition or memorial shall be briefly stated by the President or any Senator presenting it. It shall then lie on the table or be referred, as the President or Senate may direct.

Rule No. 35. Objection to Reading of Paper.

Where the reading of any paper is called for, and is objected to by any Senator, it shall be determined by a vote of the Senate, and without debate.

Rule No. 36. Questions Relating to Priority of Business.

All questions relating to the priority of business shall be decided without debate.

B. BILLS AND RESOLUTIONS

Rule No. 37. Requests for the Drafting of Bills, Resolutions and Amendments.

Except as otherwise provided in this rule, the Legislative Counsel shall not honor a request for the drafting of a bill, resolution or amendment to be introduced in the Senate unless it is submitted by the Committee of the Whole, a standing committee or a Conference Committee. The Senate Majority Leader may request the drafting of five bills for the 26th Special Session without seeking the approval of the Committee of the Whole or any other committee that may be appointed for the 26th Special Session.

Rule No. 38. Introduction of Bills.

1. *Except as otherwise provided in this rule, no bill or resolution may be introduced in the Senate unless it is first approved by the Committee of the Whole or a standing committee.*
2. *The provisions of subsection 1 do not apply to a bill or resolution that is:*
- (a) *Required to carry out the business of the Senate or the Legislature; or*
 - (b) *Requested by the Senate Majority Leader pursuant to Senate Rule No. 37 of the 26th Special Session.*
3. *Skeleton bills may not be introduced.*

Rule No. 39. Reading of Bills.

1. *Every bill must receive three readings before its passage, unless, in case of emergency, this rule is suspended by a two-thirds vote of the members elected to the Senate.*
2. *The first reading of a bill is for information, and if there is opposition to the bill, the question must be, "Shall this bill receive no further consideration?" If there is no opposition to the bill, or if the question to reject is defeated, the bill must then take the usual course.*
3. *No bill may be committed until once read, nor amended until twice read.*
4. *The third reading of every bill must be by sections.*

Rule No. 40. Second Reading File—Consent Calendar.

1. *All bills or joint resolutions reported by the Committee of the Whole or a standing committee must be placed on a Second Reading File unless recommended for placement on the Consent Calendar.*

2. *The Committee of the Whole or a standing committee shall not recommend a bill or joint resolution for placement on the Consent Calendar if:*

- (a) An amendment of the bill or joint resolution is recommended;*
- (b) It contains an appropriation;*
- (c) It requires a two-thirds vote of the Senate; or*
- (d) It is controversial in nature.*

3. *A bill or joint resolution must be removed from the Consent Calendar at the request of any Senator. A bill or joint resolution so removed must be immediately placed on the Second Reading File for consideration in the usual order of business.*

4. *When the Consent Calendar is called, the bills remaining on the Consent Calendar must be read by number and summary, and the vote must be taken on their final passage as a group.*

Rule No. 41. Reading of Bills—General File.

1. *Upon reading of bills on the Second Reading File, Senate and Assembly bills reported without amendments must be placed on the General File.*

2. *Only amendments proposed by the Committee of the Whole, a standing committee or a Conference Committee may be considered.*

3. *Amendments proposed by the Committee of the Whole or a standing committee and reported with bills may be adopted by a majority vote of the members present. Bills so amended must be reprinted, engrossed or reengrossed, and placed on the General File. The File must be made available to members of the public each day by the Secretary.*

Rule No. 42. Reconsideration of Vote on Bill.

No motion to reconsider a vote is in order.

Rule No. 43. Certain Resolutions Treated as Bills.

Resolutions addressed to Congress, or to either House thereof, or to the President of the United States, or the heads of any of the national departments, or proposing amendments to the State Constitution are subject, in all respects, to the foregoing rules governing the course of bills. A joint resolution proposing an amendment to the Constitution must be entered in the Journal in its entirety.

Rule No. 44. Certain Resolutions Treated as Motions.

Resolutions, other than those referred to in Senate Rule No. 43 of the 26th Special Session of the Legislature, must be treated as motions in all proceedings of the Senate.

Rule No. 44.5. Return From the Secretary of State.

A Senate resolution may be used to request the return from the Secretary of State of an enrolled Senate resolution for further consideration.

C. ORDER OF BUSINESS, SPECIAL ORDERS AND OTHER MATTERS

Rule No. 45. Order of Business.

- 1. Roll Call.*
- 2. Prayer and Pledge of Allegiance to the Flag.*
- 3. Reading and Approval of the Journal.*
- 4. Reports of Committees.*
- 5. Messages from the Governor.*
- 6. Messages from the Assembly.*
- 7. Communications.*
- 8. [Reserved.]*
- 9. Motions, Resolutions and Notices.*
- 10. Introduction, First Reading and Reference.*
- 11. Consent Calendar.*
- 12. Second Reading and Amendment.*
- 13. General File and Third Reading.*
- 14. Unfinished Business.*
- 15. Special Orders of the Day.*
- 16. Remarks from the Floor; Introduction of Guests. A member may speak under this order of business for a period of not more than 5 minutes each day.*

Rule No. 46. Privilege.

Any Senator may rise and explain a matter personal to himself by leave of the President, but he shall not discuss any pending question in such explanation.

Rule No. 47. Preference to Speak.

When two or more Senators rise at the same time, the President shall name the one who may first speak—giving preference, when practicable, to the mover or introducer of the subject under consideration.

Rule No. 48. Special Order.

The President shall call the Senate to order on the arrival of the time fixed for the consideration of a special order, and announce that the special order is before the Senate, which shall be considered, unless it be postponed by a two-thirds vote, and any business before the Senate at the time of the announcement of the special order shall go to Unfinished Business.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Senate Resolution No. 1 provides for the adoption of the Rules of the Senate for the 26th Special Session of the Nevada Legislature. These rules have been drafted based upon the Rules of the Senate that were adopted for the 25th Special Session. However, the resolution includes some additional amendments.

Senate Rule 3 is revised for consistency with the parallel Senate Standing Rule. This Rule is revised to clarify that when the President pro Tempore or another member is serving as the presiding officer, they may continue to vote as members of the Senate, but they do not have the power of the Lieutenant Governor under the Nevada Constitution to cast a tie-breaking vote.

Senate Rule 11.5 is added to set forth the exclusive standards and procedures that apply to Senators with respect to disclosure and abstention this session. The Rule addresses the circumstances in which a conflict of interest exists, the requirements relating to disclosure of such a conflict and the consideration of abstention.

Senate Rule 15 is revised for consistency with the changes added by Senate Rule 11.5 as set forth above.

Senate Rules 37 and 38 are revised to clarify the requests for the drafting and introduction of bills during this Special Session.

If you have any questions, I will be glad to answer them at this time.

Resolution adopted unanimously.

By the Committee of the Whole:

Senate Resolution No. 2—Providing that no allowances will be paid for the 26th Special Session of the Nevada Legislature for periodicals, stamps, stationery or communications.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That for the 26th Special Session of the Nevada Legislature, no allowances will be paid for members of the Senate for periodicals, stamps, stationery or the use of telephones and no allowances will be paid for the President Pro Tempore, Majority Leader, Minority Leader or chair of a committee of the Senate for postage, telephone tolls or other charges for communications.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Thank you, Mr. President. As is the tradition of the Senate, no allowances will be paid for periodicals, stamps, stationery, etc. during the 26th Special Session.

Resolution adopted unanimously.

By the Committee of the Whole:

Senate Resolution No. 3—Providing for the appointment of attaches.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the following persons are elected as attaches of the Senate for the 26th Special Session of the Legislature of the State of Nevada: Susan Gaither, Jane Gill, Lynn S. Hendricks, Delia John, Evelyn Mattheus, Julie Mogensen, Ann-Berit Moyle, Mary R. Phillips, Jerry Pieretti, Sherry L. Rodriguez, Susan S. Whitford and Jeanine M. Wittenberg.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal

We are fortunate, once again, to have an excellent legislative staff work for us during this Special Session.

Resolution adopted unanimously.

INTRODUCTION, FIRST READING AND REFERENCE

By Senators Horsford and Raggio:

Senate Bill No. 1—AN ACT making an appropriation to the Legislative Fund for the costs of the 26th Special Session; and providing other matters properly relating thereto.

Senator Horsford moved that all necessary rules be suspended, reading so far had considered first reading and that rules be further suspended, and Senate Bill No. 1 be declared an emergency measure under the Constitution and be immediately placed on third reading and final passage.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Senate Bill No. 1 provides the appropriation for the operation of the Legislature for the 26th Special Session.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 1.

Bill read third time.

Roll call on Senate Bill No. 1:

YEAS—21.

NAYS—None.

Senate Bill No. 1 having received a constitutional majority, Mr. President declared it passed.

Senator Horsford moved that all necessary rules be suspended and that Senate Bill No. 1 be immediately transmitted to the Assembly.

Motion carried unanimously.

Bill ordered transmitted to the Assembly.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, February 23, 2010

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 1.

SUSAN FURLONG REIL

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 1—Adopting the Joint Standing Rules of the Senate and Assembly for the 26th Special Session of the Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the following Joint Rules of the Senate and Assembly for the 26th Special Session of the Legislature are hereby adopted:

APPLICABILITY OF JOINT RULES

Rule No. 1. Generally.

The Joint Rules for the 26th Special Session of the Legislature are applicable only during the 26th Special Session of the Legislature.

CONFERENCE COMMITTEES

Rule No. 2. Procedure Concerning.

1. In every case of an amendment of a bill, or joint or concurrent resolution, agreed to in one House, dissented from in the other, and not receded from by the one making the amendment, each House shall appoint a committee to confer with a like committee to be appointed by the other; and the committee so appointed shall meet publicly at a convenient hour to be agreed upon by their respective chairmen and announced publicly, and shall confer upon the differences between the two Houses as indicated by the amendments made in one and rejected in the other and report as early as convenient the result of their conference to their respective Houses. The report shall be made available to all members of both Houses. The whole subject matter embraced in the bill or resolution shall be considered by the committee, and it may recommend recession by either House, new amendments, new bills or resolutions, or other changes as it sees fit. New bills or resolutions so reported shall be treated as amendments unless the bills or resolutions are composed entirely of original matter, in which case they shall receive the treatment required in the respective Houses for original bills, or resolutions, as the case may be.

2. The report of a conference committee may be adopted by acclamation. The report is not subject to amendment.

3. There shall be but one conference committee on any bill or resolution. A majority of the members of a conference committee from each House must be members who voted for the passage of the bill or resolution.

MESSAGES

Rule No. 3. Procedure Concerning.

1. Proclamations by the Governor convening the Legislature in special session must, by direction of the presiding officer of each House, be read immediately after the convening of the special session, and must be filed and entered in the Journal of proceedings.

2. Whenever a message from the Governor is received, it shall be read and entered in full in the Journal of proceedings.

3. Messages from the Senate to the Assembly shall be delivered by the Secretary or Assistant Secretary, and messages from the Assembly to the Senate shall be delivered by the Chief Clerk or a person designated by the Chief Clerk.

NOTICE OF FINAL ACTION

Rule No. 4. Communications.

Each House shall communicate its final action on any bill or resolution, or matter in which the other may be interested, by written notice. Each such notice sent by the Senate must be signed by the Secretary of the Senate, or a person designated by the Secretary. Each such notice

sent by the Assembly must be signed by the Chief Clerk of the Assembly, or a person designated by the Chief Clerk.

BILLS AND JOINT RESOLUTIONS

Rule No. 5. Signature.

Each enrolled bill or joint resolution shall be presented to the presiding officers of both Houses for signature. They shall, after an announcement of their intention to do so is made in open session, sign the bill or joint resolution and their signatures shall be followed by those of the Secretary of the Senate and Chief Clerk of the Assembly.

Rule No. 6. Joint Sponsorship.

1. A bill or resolution introduced by a committee of the Senate or Assembly may, at the direction of the chairman of the committee, set forth the name of a committee of the other House as a joint sponsor, if a majority of all members appointed to the committee of the other House votes in favor of becoming a joint sponsor of the bill or resolution. The name of the committee joint sponsor must be set forth on the face of the bill or resolution immediately below the date on which the bill or resolution is introduced.

2. The Legislative Counsel shall not cause to be printed the name of a committee as a joint sponsor on the face of a bill or resolution unless the chairman of the committee has signed his name next to the name of the committee on the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 4.

3. Upon introduction, any bill or resolution that sets forth the names of primary joint sponsors must be numbered in the same numerical sequence as other bills and resolutions of the same House of origin are numbered.

4. Once a bill or resolution has been introduced, a primary joint sponsor or nonprimary joint sponsor may only be added or removed by amendment of the bill or resolution. An amendment which proposes to add or remove a primary joint sponsor must not be considered by the House of origin of the amendment unless a statement requesting the addition or removal is attached to the copy of the amendment submitted to the front desk of the House of origin of the amendment. If the amendment proposes to add or remove a committee as a primary joint sponsor, the statement must be signed by the chairman of the committee. A copy of the statement must be transmitted to the Legislative Counsel if the amendment is adopted.

5. An amendment that proposes to add or remove a primary joint sponsor may include additional proposals to change the substantive provisions of the bill or resolution or may be limited only to the proposal to add or remove a primary joint sponsor.

PRINTING

Rule No. 7. Ordering and Distribution.

Each House may order the printing of bills introduced, reports of its own committees, and other matter pertaining to that House only; but no other printing may be ordered except by a concurrent resolution passed by both Houses. Each Senator is entitled to the free distribution of four copies of each bill introduced in each House, and each Assemblyman to such a distribution of two copies. Additional copies of such bills may be distributed at a charge to the person to whom they are addressed. The amount charged for distribution of the additional copies must be determined by the Director of the Legislative Counsel Bureau to approximate the cost of handling and postage for the entire session.

RESOLUTIONS

Rule No. 8. Types, Usage and Approval.

1. A joint resolution must be used to:

(a) Propose an amendment to the Nevada Constitution.

(b) Ratify a proposed amendment to the United States Constitution.

(c) Address the President of the United States, Congress, either House or any committee or member of Congress, any department or agency of the Federal Government, or any other state of the Union.

2. A concurrent resolution must be used to:

(a) Amend these joint rules.

(b) Request the return from the Governor of an enrolled bill for further consideration.

(c) Request the return from the Secretary of State of an enrolled joint or concurrent resolution for further consideration.

(d) Resolve that the return of a bill from one House to the other House is necessary and appropriate.

(e) Express facts, principles, opinion and purposes of the Senate and Assembly.

(f) Establish a joint committee of the two Houses.

(g) Direct the Legislative Commission to conduct an interim study.

3. A concurrent resolution or a resolution of one House may be used to:

(a) Memorialize a former member of the Legislature or other notable or distinguished person upon his death.

(b) Congratulate or commend any person or organization for a significant and meritorious accomplishment.

4. A resolution of one House may be used to request the return from the Secretary of State of an enrolled resolution of the same House for further consideration.

VETOES

Rule No. 9. Special Order.

1. Bills which have passed the Legislature, and which are transmitted to the Legislature accompanied by a message or statement of the Governor's disapproval, or veto of the same, shall:

(a) Be taken up and considered immediately upon the coming in of the message transmitting the same; or

(b) Become the subject of a special order.

2. When the message is received or, if made a special order, when the special order for their consideration is reached and called, the said message or statement shall be read, together with the bill or bills so disposed or vetoed; and the Secretary of the Senate and Chief Clerk of the Assembly shall, without interruption, read the message and the bill consecutively, the bill following the message, and the message and the bill must not be read upon separate occasions; and no such bill or message shall be referred to any committee, or otherwise acted upon, save as provided by law and custom; that is to say, that immediately following such reading the only question (except as hereinafter stated) which shall be put by the Chair is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such vetoed bill without the same shall have first been read; and no motion shall be entertained after the Chair has stated the question save a motion for "The previous question," but the merits of the bill itself may be debated.

ADJOURNMENT

Rule No. 10. Limitations and Calculation of Duration.

1. In calculating the permissible duration of an adjournment for 3 days or less, the day of adjournment must not be counted but the day of the next meeting must be counted, and Sunday must not be counted.

2. The Legislature may adjourn for more than 3 days by motion based on mutual consent of the Houses or by concurrent resolution. One or more such adjournments may be taken to permit a committee or the Legislative Counsel Bureau to prepare the matters respectively entrusted to them for the consideration of the Legislature as a whole.

EXPENDITURES FROM THE LEGISLATIVE FUND

Rule No. 11. Manner of authorization.

Except for routine salary, travel, equipment and operating expenses, no expenditures shall be made from the Legislative Fund without the authority of a concurrent resolution regularly adopted by the Senate and Assembly.

RECORDS OF COMMITTEE PROCEEDINGS

Rule No. 12. Duties of Secretary of Committees and Director.

1. Each committee shall cause a record to be made of the proceedings of its meetings.

2. The secretary of a committee shall:

(a) Label each record with the date, time and place of the meeting and also indicate on the label the numerical sequence in which the record was made;

(b) Keep the records in chronological order; and

(c) Deposit the records upon their completion with the Director of the Legislative Counsel Bureau.

3. The Director of the Legislative Counsel Bureau shall:

(a) Make the records available for accessing by any person during office hours under such reasonable conditions as he may deem necessary; and

(b) Retain the records for two bienniums and at the end of that period keep some form or copy of the record in any manner he deems reasonable to ensure access to the record in the foreseeable future.

LIMITATIONS ON REQUESTS FOR DRAFTING OF LEGISLATIVE MEASURES

Rule No. 13. Germaneness Required for Amendments.

1. The Legislative Counsel shall not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution.

2. For the purposes of this Rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general, single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.

CONTINUATION OF LEADERSHIP OF THE SENATE AND ASSEMBLY DURING THE INTERIM BETWEEN SESSIONS

Rule No. 14. Tenure and Performance of Statutory Duties.

1. Except as otherwise provided in subsections 2 and 3, the tenure of the President Pro Tem, Majority Leader and Minority Leader of the Senate and the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader of the Assembly extends during the interim between regular sessions of the Legislature.

2. The Senators designated to be the President Pro Tem, Majority Leader and Minority Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session of the Legislature if the Senator formerly holding the respective position is no longer a Legislator.

3. The Assemblymen designated to be the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session.

POLICY AND PROCEDURES REGARDING SEXUAL HARASSMENT

Rule No. 15. Maintenance of Working Environment; Procedure for Filing, Investigating and Taking Remedial Action on Complaints.

1. The Legislature hereby declares its intention to maintain a working environment which is free from sexual harassment. This policy applies to all Legislators and lobbyists. Each member and lobbyist is responsible to conduct himself or herself in a manner which will ensure that others are able to work in such an environment.

2. In accordance with Title VII of the Civil Rights Act, for the purposes of this Rule, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment;

(b) Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or

(c) Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

3. Each person subject to these Rules must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following noninclusive list provides illustrations of conduct that the Legislature deems to be inappropriate:

(a) Verbal conduct such as epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments;

(b) Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;
(c) Physical conduct such as unwanted touching, blocking normal movement or interfering with the work directed at a person because of his sex;

(d) Threats and demands to submit to sexual requests to keep a person's job or avoid some other loss, and offers of employment benefits in return for sexual favors; and

(e) Retaliation for opposing, reporting or threatening to report sexual harassment, or for participating in an investigation, proceeding or hearing conducted by the Legislature or the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission,
↳ when submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person or such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

4. A person may have a claim of sexual harassment even if he has not lost a job or some other economic benefit. Conduct that impairs a person's ability to work or his emotional well-being at work constitutes sexual harassment.

5. If a Legislator believes he is being sexually harassed on the job, he may file a written complaint with:

(a) The Speaker of the Assembly;

(b) The Majority Leader of the Senate; or

(c) The Director of the Legislative Counsel Bureau, if the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate.

↳ The complaint must include the details of the incident or incidents, the names of the persons involved and the names of any witnesses.

6. Except as otherwise provided in subsection 7, the Speaker of the Assembly or the Majority Leader of the Senate, as appropriate, shall refer a complaint received pursuant to subsection 5 to a committee consisting of Legislators of the same House. A complaint against a lobbyist may be referred to a committee in either House.

7. If the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate, the Director of the Legislative Counsel Bureau shall refer the complaint to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments of the Assembly or the Committee on Legislative Operations and Elections of the Senate, as appropriate. If the Speaker of the Assembly or the Majority Leader of the Senate is a member of one of these committees, the Speaker or the Majority Leader, as the case may be, shall not participate in the investigation and resolution of the complaint.

8. The committee to which the complaint is referred shall immediately conduct a confidential and discreet investigation of the complaint. As a part of the investigation, the committee shall notify the accused of the allegations. The committee shall facilitate a meeting between the complainant and the accused to allow a discussion of the matter, if both agree. If the parties do not agree to such a meeting, the committee shall request statements regarding the complaint from each of the parties. Either party may request a hearing before the committee. The committee shall make its determination and inform the complainant and the accused of its determination as soon as practicable after it has completed its investigation.

9. If the investigation reveals that sexual harassment has occurred, the Legislature will take appropriate disciplinary or remedial action, or both. The committee shall inform the complainant of any action taken. The Legislature will also take any action necessary to deter any future harassment.

10. The Legislature will not retaliate against a person who files a complaint and will not knowingly permit any retaliation by the person's supervisors or coworkers.

11. The Legislature encourages a person to report any incident of sexual harassment immediately so that the complaint can be quickly and fairly resolved.

12. Action taken by a complainant pursuant to this Rule does not prohibit the complainant from also filing a complaint of sexual harassment with the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission.

13. All Legislators and lobbyists are responsible for adhering to the provisions of this policy. The prohibitions against engaging in sexual harassment and the protections against

becoming a victim of sexual harassment set forth in this policy apply to employees, Legislators, lobbyists, vendors, contractors, customers and visitors to the Legislature.

14. This policy does not create any enforceable legal rights in any person.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Assembly Concurrent Resolution No. 1 provides for the adoption of the Joint Rules for the Senate and Assembly for the 26th Special Session of the Legislature. These rules have been drafted based upon the Joint Rules that were adopted for the 25th Special Session of the Legislature. However, the resolution includes some additional amendments.

Joint rule 2 is revised consistent with the parallel Joint Standing Rule and provides for the appointment of only one conference committee on any bill or resolution.

Joint Rule 3 is revised so that during this Special Session messages from the Assembly to the Senate may be delivered by the Chief Clerk or a person designated by the Chief Clerk.

Joint Rule 8 is revised consistent with the parallel Joint Standing rule to clarify that a concurrent resolution may be used to request the Secretary of State to return an enrolled joint or concurrent resolution for further consideration. The Rule also clarifies that either House may use a simple resolution to request the Secretary of State to return an enrolled single-House resolution for further consideration.

Joint Rule 9 is revised consistent with the parallel Joint Standing rule to clarify provisions governing the current practice of each House when considering a vetoed bill that is returned for the Legislature for reconsideration.

Joint Rule 12 is revised consistent with the parallel Joint Standing Rule to adjust the timelines and procedures for depositing committee records with the Director of the LCB for retention and preservation.

If you have any questions, I would be glad to answer them at this time.

Resolution adopted unanimously.

Senator Horsford moved that all necessary rules be suspended and that Assembly Concurrent Resolution No. 1 be immediately transmitted to the Assembly.

Motion carried unanimously.

Resolution ordered transmitted to the Assembly.

Senator Horsford moved that for the remainder of the 26th Special Session all bills reported out of the Committee of the Whole for floor consideration be declared emergency measures under the Constitution and be immediately placed on third reading and final passage.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Declaring bills emergency measures will speed up the legislative process of these measures by not having to comply with the "three readings on three separate days" requirement of the Nevada Constitution.

Motion carried.

Senator Horsford moved that for the remainder of the 26th Special Session all bills and resolutions that have been passed or adopted be immediately transmitted to the Assembly.

Remarks by Senator Horsford.

Senator Horsford requested that his remarks be entered in the Journal.

Suspending this rule will allow all legislative measures to be sent to the Assembly immediately instead of waiting for the day's floor session to adjourn. However, immediately transmitting these measures to the other house will eliminate the opportunity to reconsider or rescind a final Senate action on the bill or resolution once the measure has been transmitted. The President will announce the transmittal of these measures before they leave the Senate.

Motion carried.

REMARKS FROM THE FLOOR

Senator Raggio requested that this disclosure letter be entered in the Journal.

Pursuant to the provisions of NRS 281A.420(6), I am disclosing that I am an attorney with the law firm of Jones Vargas, several members of which firm are registered lobbyists. I am also a participant in the Public Employees Retirement System (PERS), having previously served as a county elected official. I also participate in the Public Employees Health Benefit Plan (PEHB) and pay my own premiums. I incorporate in this disclosure the disclosure I made in the previous regular session and request that it be printed in this day's Senate Journal along with this additional disclosure. I will file this also with the Legislative Director.

Pursuant to the provisions of NRS 281.501, the undersigned legislator, files with the Director of the Legislative Counsel Bureau (LCB) the following disclosure:

William J. Raggio is an attorney, duly licensed in the State of Nevada, and is a shareholder in the law firm of Jones-Vargas, with offices in Reno and Las Vegas, which firm represents clients who may have pecuniary interests in matters to be considered in this Legislative Session, and members of that firm, including, but not limited to the following: John P. Sande III, Joseph W. Brown, Anthony Sanchez, Michael Alonso, Michael Buckley, James Wadhams and Jesse Wadhams, may appear as registered lobbyists. All such individuals are duly registered in the LCB's list of lobbyists, including names of clients being represented, which list is by reference incorporated in this Disclosure Statement.

In addition, William J. Raggio serves as a member of the Board of Directors of Archon Corporation, a publicly traded company, which among other interests, owns and operates a licensed gaming facility in Laughlin, Nevada. The undersigned retired in May 2006 as a member of the Board of Directors of Sierra Health Services, a publicly traded company, and has been designated a Director Emeritus, an honorary position without vote or compensation, other than for certain health care benefits and limited travel expenses for attendance at one annual meeting. The undersigned also serves as a member of two nonprofit entities: the Board of Trustees of E. L. Wiegand Foundation and as a Chairman of the Board of the Washoe County Education Foundation, Inc., which assists in raising funds for the purpose of the WCSD which are not otherwise funded.

The undersigned has made the prerequisite oral disclosure of this statement during the Senate floor session of February 15, 2007, and will make similar oral disclosures of this statement in all of the committee meetings in which I am an assigned member on or prior to February 20, 2007.

WILLIAM J. RAGGIO
State Senator
Washoe District 3

Senator Care requested that his letter to the Director of the Legislative Counsel Bureau be entered in the Journal.

February, 15, 2007
LORNE MALKIEWICH, *Director*
Legislative Counsel Bureau
Carson City, Nevada 89701
DEAR LORNE:

In accordance with subsection 6 of NRS 281.501, I hereby submit the following regarding any and all potential conflicts this 74th Legislative Session.

I am a partner with the law firm of McDonald Carano Wilson LLP (the "firm"), which has offices in Las Vegas and Reno. Employees of the firm, James T. Endres and Kathleen A. Conaboy, have registered with the Legislative Counsel Bureau as paid lobbyists, and they in turn have disclosed their clients. I must presume they will testify for or against, and lobby for or against legislation. It is even possible that other attorneys affiliated with the firm will testify on legislation.

I have no pecuniary interest as a partner of the firm in the outcome of any 2007 legislation. Still, I will be watchful for bills, resolutions and amendments upon which employees and/or attorneys from the firm may testify.

I made the prerequisite oral disclosure of this statement during the floor session of the full Senate on February 15, 2007.

Therefore, I ask that you retain a copy of this disclosure as a public record and make it available for public inspection in accordance with the provisions of subsection 6 of NRS 281.501. I understand that once I have filed this written statement with you, I am not required to disclose orally my interest when the matter is further considered by the Legislature or a committee thereof. While I need not repeat this disclosure, I will consider each such matter

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering issues relating to the State's budget shortfall with myself serving as Chair of the Committee of the Whole.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:59 a.m.

IN COMMITTEE OF THE WHOLE

At 10:10 a.m.

Senator Horsford presiding.

Considering issues relating to the State's budget shortfall.

The Committee of the Whole was addressed by Senator Horsford; Nathaniel Waugh, College of Southern Nevada; Diana Washington, University of Nevada, Las Vegas; Laura Anne Guidry, University of Nevada, Las Vegas; Erica Peplowski; Kary Nguyen; C. Bryce Leinan, University of Nevada, Reno; Joshua Morgan; Adan Clony, University of Nevada, Las Vegas; Senator Coffin, Senator Care, Senator Amodei, Rebecca Gasca, American Civil Liberties Union; Senator Nolan, Lynn Chapman, Nevada Eagle Forum; Brenda Erdoes, Legislative Counsel, Senator Rhoads, Senator Lee, Senator Wiener, Senator Carlton, Senator Mathews, Senator Raggio, Andrew Clinger, Director, Department of Administration; Senator

Washington, Senator Nolan, Senator Schneider, Mike Wilden, Director, Department of Health and Human Services; Senator Cegavske, Senator Wiener, Senator Olsen, Keith Rheault, Superintendent of Public Instruction; Dr. Heath Morrison, Superintendent, Washoe County School District; Walt Rulffes, Superintendent, Clark County School District; Senator McGinness, Senator Townsend, Sharla Hales, Nevada Association of School Boards; Jim Wells, Deputy Superintendent, Administrative and Fiscal Services, Department of Education; Lynne Warne, Nevada State Education Association; Ken Burhmann, Washoe Education Association; Ruben Murillo, Clark County Education Association; Mark Coleman, Clark County Association of School Administrators and Dan Klaich, Chancellor, Nevada System of Higher Education.

Senator Horsford requested that all remarks and testimony made during the Committee of the Whole be entered in the Journal.

NATHANIEL WAUGH (Student Body President, College of Southern Nevada):

I am providing the Committee with pledges signed by several thousand students, concerned parents and community members in southern Nevada. This is a small fraction of the thousands of supporters we have been able to garner in a short period of time. Our pledge is:

Recognizing the critical role of education in shaping Nevada's future, we the undersigned hereby commit to developing a statewide culture where education is valued and protected. We pledge to prioritize education as an essential service, not as a luxury. We believe investing in education is an investment in the State's future, without which we will not be able to diversify Nevada's social and economic progress.

This is a historic challenge to the State, and we appreciate all of your leadership dealing with this difficult issue. We hope that you are able to keep the future of education and the State in mind, as I know you will.

DIANA WASHINGTON (Consolidated Students of the University of Nevada, Las Vegas):

If budget cuts occur, they are talking about cutting our engineering and nursing college. Engineers build our streets and freeways. Nurses take care of our medical needs. The purpose of the institution is to nurture students so they can provide care and give back to the community. We hope that you take into consideration that all students deserve the same type of education you received. Please keep in mind when making decisions that you are impacting thousands of students.

LAURA ANNE GUIDRY (Consolidated Students of the University of Nevada, Las Vegas):

I am also a Senator for the College of Liberal Arts at University of Nevada, Las Vegas. I want to express, on behalf of my constituents, that we really need our education. I am a political science major and hoping to become a legislator in the future. There is talk of raising our tuition by 48 percent. Personally, I cannot afford that, and neither can my constituents. I am here to ask that you keep education in mind because we are the future leaders of Nevada. Nevada is ranked 48th in the nation, and that is unacceptable.

ERICA PEPOWSKI (Student Government Secretary, College of Southern Nevada):

I am a non-traditional student in that I am older than the average student. I am not here only for higher education; I am also here for my daughter's education. She is in the Nevada public school system. I attended school in Nevada, understand the school system, and am worried for her education. I am going to school to make a better life for us because right now it is not good for anybody. I am in a small program, paralegal, at CSN. If we cut small necessary programs, our futures will be grim. I also feel my daughter will not be able to attend higher education.

KARY NGUYEN (College of Southern Nevada):

I am a student at CSN and also an Administrative Assistant in the Department of Student Life. I have the privilege of having two routes by which my life could be affected—not only by a tuition increase, but by being in a student affairs position. Traditionally, when money needs to be saved, those are the first things that go. I have been severely blessed by being able to serve the State as a State employee. Growing up in Las Vegas was different for me because my parents did not agree with the public education offered; they homeschooled me. Attending public college is an exciting new world for me because I am surrounded by people who want to be in school. Being homeschooled, I did whatever I wanted. I love the structure of public college and have no complaints. If we continue down this road, I know we are going to have cuts that cannot be avoided. It is completely understandable, but there are so many avenues that are appropriate. I am not knowledgeable on those, but I know people that are and listen to them and heed their words. I heed your opinions because you are the professionals.

C. BRYCE LEINAN (University of Nevada, Reno):

This is one of the few times when people from UNR and Western Nevada College can actually agree with our colleagues from the Las Vegas area: budget cuts are not just a regional issue but a universal issue facing the State. I am also a nontraditional student. I am disabled and older at almost 27. I have been attending UNR and Western Nevada College since 2002. I have had some challenges in my life. My mother is one of my few living relatives and works for the State of Nevada. I am also a UNR employee working the help desk at as a student supervisor. We know budget cuts are inevitable, but the budget cuts have come to the point now where I am taking classes at two institutions while living with my parents to finish my education. I am taking classes at WNC because UNR is not offering the courses we need at the times we need them. They are only offering one or two of each class. I understand cuts are inevitable, but I urge you not to do it at the expense of higher education to the point where people will have to go out of state. With the funding at the WICHE average of three years previous, I understand that the costs are not sustainable for very long, and I understand the costs have to be raised. I also urge you to balance that as best as you can with the needs of nontraditional students and students that cannot afford to go anywhere else. My only option at this point, if the programs are cut at UNR, is to go out of state where it may be more expensive, but at least I can finish my degree. I urge you to allow those of us that are so close to finishing our degree and making it a great benefit to the State of Nevada to be able to do so.

JOSHUA MORGAN (College of Southern Nevada):

This is my first year at CSN. I decided to go to school to better my life and get out of the labor field. It is bad timing because of the economy. It is not something we chose for ourselves, but it is something we have to live by. There are alternative means for us to accomplish things than to do it for money, which is why I would like to implore on everyone to think about volunteer work. Right now, most of the volunteer work in CSN is at disability centers and elderly centers. There are people with skill sets that have time on their hands who are willing to give their time to better the school system and the city itself. I just ask you all to consider it.

ADAM KRONIS (University of Las Vegas, Nevada):

I am with student government. We have a group of very dedicated people from the three southern Nevada higher education institutions who have travelled overnight to be here today to exhibit their passion and their wish to contribute back to the State. They are all pursuing bettering themselves and achieving an education to provide back to the economy and provide skills to the workforce.

Unfortunately, we face difficult challenges and understand the State is in the worst shape it has been in a generation. We also know the tools to allow us to get out of this situation are the skills that people will contribute back to society, whether through vocational training or four-year degrees. Businesses are looking for educated people. I feel strongly that the students I know, and the many thousands of students I have the good fortune of interacting with, can supply those needs. We want to contribute back and be productive citizens, but we just need the commitment to be able to finish our degrees. We want to make the State the best we possibly can

make and be the best we can be as individuals. Many of you have been political heroes for us. This last year, you stepped up when others would not when we were facing difficult budget cuts. We are in the same situation now and are looking for political heroes.

SENATOR COFFIN:

I know you are more than just student government. You are also the Student Body President for the second year in a row at UNLV. To be reelected as Student Body President is remarkable. Can you tell us what it costs to attend UNLV?

MR. KRONIS:

Fifteen credits for in-state tuition is close to \$3,000 per semester. That excludes course fees and is just for the credits. Out-of-state tuition is upwards of \$15,000. The numbers state a 40-percent increase for both in and out-of-state over the last 4 years. It will continue to rise, depending on the outcome of these and future discussions.

SENATOR COFFIN:

That is almost \$200 per credit. Does that include other fees?

MR. KRONIS:

Registration fee for in-state this year is approximately \$145, and out-of state is upwards of \$200. That is not factoring in various course and other fees.

SENATOR COFFIN:

I am trying to figure out how you get to \$3,000 per semester. Is it books, course fees and tuition or would it be over \$3,000 with all of those?

MR. KRONIS:

It would be over \$3,000. If you add books, it would be close to \$3,500.

SENATOR CARE:

My colleagues and I were inundated with e-mail on this subject. The mere volume of e-mail I received made it impossible to respond to them all. I would like to acknowledge that we did receive the e-mail, even though we may not have responded.

MR. KRONIS:

We appreciate that.

SENATOR AMODEI:

Do you have a feel for the job market in Clark County?

MR. KRONIS:

To use an economist term, it is contracted. There are fewer opportunities now. Students are having a difficult time gaining meaningful employment in their professions, and some are leaving the State.

REBECCA GASCA (American Civil Liberties Union, Nevada):

I am here to discuss two constitutional issues from an ACLU perspective. The first is the proposal by the Governor to allow a private entity called InsureNet to install video cameras across the State to take pictures of license plates in order to catch scofflaws who do not register their cars or carry mandatory auto insurance. The other is school vouchers.

From the ACLU perspective, a surveillance state is not a way to solve budgetary issues. I am sure you will hear testimony, or have already been given information, from the Department of Motor Vehicles on their system to catch insurance scofflaws. I understand that no state can have 100-percent compliance in this area. The State of New York has spent millions of dollars on trying to increase their compliance rate. While it is around 90 percent, they have thrown up their hands and said they are not going to get any better. Furthermore, filling the budget hole based on

the hope that people will continue breaking the law is quite a perverse approach to saddling those who are the poorest with additional fees. Those who cannot afford insurance and are not properly registered in the State are going to be the least likely to actually pay whatever citations are issued under this InsureNet system.

Beyond that, there are privacy implications. That is in the aggregate. When a private third-party company starts aggregating information based on real-time data, or even historical-aggregated data, such as what happens with Internet service providers, with cell phone companies that can do triangulation based on GPS tracking, what we have seen nationwide over the past decade is that law enforcement will begin to ask for that information without court oversight. Nationwide, there are multiple legal challenges to this that are wending their way through courts. You may have heard last week in the Third Circuit, there was a case that considered just this very matter: using GPS technology and cell phone triangulation without court oversight. These abuses are rising to the level of court intervention because the laws have not kept up. Nevada is no different. There are no laws on the books that prohibit misuse or abuse of this information, and we would foresee a similar situation in which law enforcement requests this information, either through self-executed subpoenas or generally without court oversight. The ACLU wants to ensure public safety. While we understand and would agree with all of you that there is use for this type of record for law enforcement, it is not a good use without court oversight. That is a constitutional red flag for us. We hope you will agree that creating a surveillance state is not the solution to filling Nevada's budget hole.

Secondly, there is a school voucher issue being floated. The ACLU has long argued that school vouchers violate the constitution, both federal and state. Article 11, Section 10 of the Constitution of the State of Nevada could not be more clear. It states that "no public funds of any kind or character whatever, State, County or Municipal, shall be used for sectarian purposes." We have seen nationwide challenges on school vouchers for many years. Very few challenges have survived constitutional scrutiny. It is our position that in the State of Nevada, it would not survive constitutional scrutiny because of the explicit statement noted above.

Beyond constitutional concerns, school vouchers are unfair. They create a benefit for only those students who can afford the balance of tuition at private schools. As you know, private schools tend to be much more expensive. Those who are the poorest in our State would basically have no way to opt-in because they would not be able to cover the additional financial burden. We believe individuals have every right to send their children to schools of whatever parochial nature they prefer, but that should be done without taxpayer funds.

In summary, we are concerned that school choice programs do not meaningfully extend educational opportunities to low income students. It would not withstand constitutional scrutiny in this State. The idea of funding our budget deficit with a surveillance state, in the hopes of people breaking the law is absolutely perverse.

SENATOR NOLAN:

When you indicate that now is not the time to place a burden on the people who are affected the most by this economic downturn, I want you to understand the other side of that coin. Two months ago, an older gentleman who had lost his job was involved in transporting his grandchildren when he was struck by another car, completely disabling his vehicle. Two of his grandchildren were injured and had to be taken to the hospital. The driver of the other vehicle provided the police officer with proof of insurance. After the accident, they found the insurance policy was cancelled two days after they received the proof of insurance.

We need to step up enforcement on auto insurance. It is costing the State and residents a lot of money. Those who cannot afford to insure their vehicle may have to consider public transportation. Driving without insurance and then expecting other people to pay for the cost of damages and medical bills is not acceptable.

MS. GASCA:

Insurance industry leaders, such as the American Insurance Association and the Insurance Research Council, have questioned whether the InsureNet system will be effective. I would be happy to provide the Committee with the Website information. Since this system has not been implemented anywhere else in the United States, I think this body should take a keen eye

towards whether or not what is being said will occur, will actually occur, and that you will be able to receive all the money promised.

SENATOR HORSFORD:

Please provide the Committee with the Website information.

LYNN CHAPMAN (Nevada Eagle Forum):

We agree with the ACLU on the InsureNet issues. Beyond that, what are you going to do about all the cars driving the roads of Nevada with no license plates? I drove around a small block and saw \ nine cars with no license plates.

We are in favor of schools having enough money to survive and teach children. Teaching children is the main objective. I would like to point out that a few sessions ago I was in a Finance hearing and we were listening to money situations and there were 120 curriculum developers in our State. We have 17 counties; why do we need 120 curriculum developers? I have spoken with many teachers I know and they were insulted by that number. They have been schooled in putting together a curriculum for their children in their classrooms. Why do we have 120 curriculum developers, working 200 days a year, making \$90,000 per year plus benefits? Perhaps we could start looking at and cutting back on those types of things. I have brought before the Committee of the Whole a number of times the fact that Washoe County homeschoolers are given books that were going to be thrown away. They were brand new books from the warehouses. Why is that money being wasted? How many millions of dollars have been wasted? I do not want to see money taken from the classrooms. I want to see our teachers given money to teach our children. That is where the money belongs. Who is paying for the lobbyists for the cities and counties? I am an unpaid lobbyist here on my time and my dime. There are many different areas to look at for saving money. I do not want to see money taken away from classrooms and teachers. That is what they are in business to do. Take the money from other areas, but not from classrooms and teachers.

SENATOR HORSFORD:

We will now have a presentation from our Legal Counsel, Brenda Erdoes. Ms. Erdoes, some Committee members have had questions pertaining to what the Legislature is able to take on to help adjust the budget shortfall. Please speak to that as well as the information you shared yesterday on the general approach to the 4-day 10-hour work week (4-10) proposal.

BRENDA J. ERDOES (Legislative Counsel):

Regarding the scope of what you can cover in a special session, the Governor's Proclamation sets out 12 topics. In addition to those specific topics, there is language about addressing the budget shortfall and decreasing State spending. It is our opinion, based on case law both in this State and other states, that the Proclamation opens up the 12 different areas that it lists; for example, the twelfth one is education. The Governor has listed his approach to each topic. However, because of the separation-of-powers clause in the Constitution of the State of Nevada, you are not bound to act on that topic in the manner in which the Governor sets out in the Proclamation. Under the separation of powers, the determination of how you deal with the topic is solely within the purview of the Legislature. The Proclamation also includes a few catch-all phrases. For example, the second item in the Proclamation gives you a number of what are referred to as sweeps. The item lists a number of specific funds you may consider, but says "including but not limited to," which gives you some leeway. In addition, one of the final paragraphs states, "The Legislature shall consider solutions to reduce government spending." That is basically balancing the budget. It should also be taken into consideration in all of this that Article 9, Section 2 of the Constitution of the State of Nevada gives the duty to the Legislature to determine that there is a deficiency in the revenue coming in any year, which includes the other year of the biennium, to impose a tax to cure that deficiency. This covers both the year you are in and the next ensuing year until the Legislature meets again.

I will review the proposal we are working on for the furloughs and 4-10 for those that were not in the Interim Finance Committee meeting. The bill we are working on increases the monthly furlough for State employees from eight hours to ten hours per month. It requires a reduction of

an equal percentage that at this point we think is 5.75 percent in salaries of positions that are exempt from the furloughs. There were approximately 2,000 positions that were exempted from the furloughs. If those exemptions stayed, those positions would have a pay cut by the equal percentage of the furloughs. We also extend PERS protection for those positions for those salary reductions. In other words, those employees are held harmless for that salary reduction for the period that this bill is effective for those salaries that are reduced in lieu of the furlough.

The bill would also require closure of State offices on Fridays and that State employees work 4 days of 10-hour shifts in a week, rather than 5 days of 8-hour shifts. There are specific exceptions provided in the bill for several areas. There is also the ability for an agency to go to the same entity that they got the exemption from for the furloughs before. The exceptions specifically included in the bill are for prison guards; the bill provides that to cover the 24-hour duty required for prison guards, they would work 12-hour shifts. The bill then provides for how it would work to get the same 10-hour furloughs. There is also an exception for university employees where they need 5-day coverage rather than 4-day coverage. That exception provides that there would be rolling 10-hour shifts. In other words, each employee would have 4 10-hour days, but they may not be Monday through Thursday. You could have a second group that could work Tuesday through Friday or take some day off other than Friday so that offices can be kept open five days a week. We also have a specific exception in the bill for holiday weeks. If a holiday falls on a Friday, you would lose that holiday pay if you are only working Monday through Thursday. The manner in which we have proposed to deal with that at this point would be to say that in all weeks that have one or more holidays, the employees would work 5-eight hour shifts, and then the holidays would be taken as normal.

The exemptions that can be granted are the same that you passed in the 2009 Legislative Session. The groups that can grant exemptions are the State Board of Examiners for the executive branch, the Board of Regents for NSHE, the Public Employees Retirement Board for PERS, the Supreme Court for the judicial branch and the Legislative Commission for the legislative branch. All of the exemptions granted by any of those entities must be reported to the Interim Finance Committee with 60 days.

This bill also includes a provision that extends statutory deadlines because offices without exemptions would be closed on Fridays. Deadlines would be extended to the next working day.

The bill also voids all of the previously granted exemptions from furloughs and provides for those agencies to reapply for exemptions. The purpose of that is that unless previous exemptions are voided, those approximately 2,000 employees would have their pay cut. To avoid that, the bill voids all current exemptions and agencies would apply again for those exemptions from the furlough if they choose. Howard Skolnik has announced a number of times that he may not seek exemptions because he may have found a way to work with the furloughs within the Department of Corrections. The vast majority of furlough exemptions were granted to the Department of Corrections.

Finally, this bill requires that any additional overtime worked during the furlough program must be worked pursuant to an approved plan. The plan has to be approved for each group by the same body that approves exemptions—the State Board of Examiners would approve the overtime plan for the executive branch and so on. The determination of what would go into those overtime plans and how the approval would be accomplished is left to those separate entities.

We have included a sunset date for all these provisions. The sunset is currently set to July 1, 2011, but you can choose any date you would like. There is also a provision regarding the Department of Culture Affairs employees whose hours were reduced. They currently work one eight-hour day less per week than other employees, and because of that they are exempted from the furlough. They were exempted from it before, and that exemption will continue.

SENATOR HORSFORD:

Has anything been proposed on pay reductions for constitutional officers or legislators?

MS. ERDOES:

Under the Constitution of the State of Nevada, you are not allowed to reduce the salaries of the constitutional officers during their term of office.

SENATOR HORSFORD:

The only way for a salary reduction for a constitutional officer is voluntary. Is that correct?

MS. ERDOES:

Yes. There is a specific provision in the Constitution that prohibits reduction of the salaries of legislators and most of the elected offices. That does not apply to their office staff, obviously.

SENATOR RHOADS:

Two years ago, we passed some tax and fee increases that would sunset. Where do those fit into the picture of the Special Session?

MS. ERDOES:

We matched the sunset in this bill to the previous sunsets. Those taxes would have sunset June 30, 2011. So that does not have an effect on this bill unless you choose to make a change to the dates.

SENATOR LEE:

Recently, I was in Esmeralda County and found we placed a burden on them by furloughing the Nevada Highway Patrol in that area. The sheriff is now responsible for picking up people at 10 a. m. in 10-degree weather because the Highway Patrol was not able to send someone out, since they had so many on furlough and were not allowed to get overtime that week. We are now burdening that county with that responsibility. Will this bill change that scenario?

MS. ERDOES:

As I understand it, this bill would further exacerbate that problem because it would increase the furlough from eight hours to ten hours for those officers. There is not a specific exception for the Department of Public Safety or for the Nevada Highway Patrol in this bill. Exemptions would be available for them if they chose to go to the Board of Examiners. There was an exemption in the previous bill for that. I do not believe they are currently on the exemption list.

SENATOR LEE:

The Department of Transportation funds most of the Nevada Highway Patrol. It is not a General Fund expenditure. Could we work with that?

MS. ERDOES:

You can legally make any exceptions you want to here. The money in the State Highway Fund comes from registration fees, drivers license fees, excise taxes on fuel and other sources and is restricted to be used for maintenance and construction of highways and administration costs associated with them. There is also General Fund money mixed with that to fund different agencies. You may want to ask your Fiscal Analyst about the relationship between those monies and how you could do that. There are very few constitutional issues with regard to how you decide to put these provisions into play, if you want to make an allowance for those positions.

SENATOR LEE:

We have a lot of museums, parks and recreation areas in this State. Will park rangers still be able to work on weekends so there will be no closures?

MS. ERDOES:

This bill allows those agencies to ask for an exception to the 4-10 and closure on Friday, or there may be a way for them to staff that.

SENATOR WIENER:

Ms. Erdoes, you mentioned the different authorizing entities would grant exceptions. They are the same ones who would design or review their overtime plan. Are they working from a plan now on their overtime policies? I get a lot of feedback that the furlough days may not be as effective as we had hoped because of the overtime necessary to pick up the slack on the

workload. What would go into that plan? Are they doing one now, and what would they be looking for in a revised plan?

MS. ERDOES:

My understanding is that there was an overtime plan, but this requires each entity to come up with a plan to manage overtime with the 4-10 and furloughs in place, and it must be approved before the overtime is worked by these entities. The bill leaves the details of the plan to the different entities. We did that because, for example, NSHE's Board of Regents constitutionally has the power to do their own administration. That is why the flexibility was built into the bill, though you could have some rules that apply across the board if you want.

SENATOR CARE:

I would like to have staff approach the Office of Veterans' Service to see how the Veteran's Cemetery in Boulder City will be affected. Burials usually take place Fridays and sometimes Saturdays. I suppose they could apply for an exemption, but I would like to know ahead of time if that is the case and how that office would be affected.

SENATOR HORSFORD:

That was brought up in yesterday's Interim Finance Committee meeting as well.

SENATOR CARLTON:

Would exemptions be a department decision rather than an employee decision, as far as furlough versus pay reduction? Will we see employees picking whether they will take furlough or salary cut?

MS ERDOES:

The bill provides the decision will be made by each agency. The agency may be able to apply for a certain division or group of employees' exemption that has 24-hour shifts or some scenario like that. There is no language in the bill that would allow for an exemption for a specific employee.

SENATOR CARLTON:

I wanted that on the record because in many agencies there are smaller divisions, and one size is not going to fit all. When you talk about extension to statutory deadlines, is that fairly broad-based? I would like to disclose that my husband is a parole officer with the State of Nevada. There are times when a parole officer may have to serve papers to someone who may have been jailed over the weekend, and there is a statutory requirement that the papers be served in so many days. Would this provision in the bill cover a scenario like that?

MS. ERDOES:

No, with the way the bill is currently drafted, but it is not because the language is not broad enough as to the filing of documents. It is because it only moves the deadline for someone coming to the office to meet a filing requirement. In the example you gave, someone may have a constitutional right to have a notice served within a certain period of time, so we would want to look into that. The way the bill anticipates that type of situation being handled is that the agency would get an exemption from the 4-day week so those things could happen on the days necessary to meet the requirements. You could build something into the bill for that situation, but it is not there now.

SENATOR CARLTON:

In a number of these situations I have looked up, the statute refers to "days" rather than "work days." So depending upon how the calendar falls, we could end up violating someone's rights because of the day they got locked up.

SENATOR HORSFORD:

We will get an outline of that proposed policy to everyone. We will now review the most recent version of the Governor's budget recommendations.

ANDREW CLINGER (Director, Department of Administration):

I have provided the Committee with three documents today, all of which are also available online at our Website (www.budget.state.nv.us). I will start with the one-page summary titled Estimated General Fund Shortfall.

General Fund Revenue has an estimated shortfall of \$587,432,302. This is revenues not only forecast by the Economic Forum, but there are some smaller revenues that we have forecast in concert with your legislative staff.

We anticipate that in every budget that has general fund reversions, at the end of the year they will revert back to the State approximately 2 percent of those funds. As you make reductions to those budgets, we have to reduce our estimate on reversion, and that amount is \$7,100,000.

Within the Distributive School Account, it is partially funded from what is called the Local School Support Tax. This is a 2.6 percent component of the sales tax. The State guarantees this revenue to the school districts. As this revenue goes down, the State has to make it up. The \$206,715,324 is primarily the State requirement to make up the Local School Support Tax. There are also some smaller revenues included in that, as well as changes in enrollment.

Currently, caseloads within Medicaid are trending higher than the amount of caseload that was projected in the last legislatively approved budget. We anticipate that we are going to have to contribute an additional \$60,878,658 of State funds into the Medicaid program to meet the increased demand.

Part of the budget was balanced with a \$30,000,000 line of credit in FY 2010 and \$130,000,000 in FY 2011 for a total of \$160,000,000. We are recommending that in FY 2010 we eliminate using the line of credit. We are removing the \$30,000,000 and in FY 2011, instead of drawing down \$160,000,000, we draw down \$145,000,000. The reason we reduced the amount from \$160,000,000 to \$145,000,000 is based on the balance in the Local Government Investment Pool. The line of credit is limited to 25 percent of the balance in the Local Government Investment Pool. Based on our current estimates in that pool, we think we can only draw down \$145,000,000 on the line of credit.

SENATOR HORSFORD:

What analysis has been performed on how much of the Distributive School Account shortfall is due to revenue projections that failed to meet estimates, versus the amount that is being diverted through incentives or abatements from the LSST?

MR. CLINGER:

When we put together the forecast for the Local School Support Tax forecast, the LEED credits are the primary piece we are looking at. I do not have a dollar amount, but I will get that information to you.

The next few lines represent the ten-percent budget reductions recommended by the Governor.

Ten percent reductions to The Nevada System of Higher Education total \$66,806,719.

Ten percent reductions to the Office of the Secretary of State total \$1,493,433.

Ten percent reductions to the Office of the State Treasurer total \$163,090.

Ten percent reductions to the Office of the State Controller total \$589,234.

Ten percent reductions to the Legislative Counsel Bureau total \$3,942,807.

Ten percent reductions to the Nevada Supreme Court total \$1,111,786.

Ten percent reductions being considered by the Governor total \$273,937,041 which ties in with the document titled "Ten Percent Reductions Recommended And Governor Considering." I will highlight some of those items for you.

SENATOR CARE:

Where did the figure of 10 percent come from? At first glance one might say it is arbitrary, but maybe there is some thought that went into it. The fact that it is the same 10 percent for every office listed would seem to imply they are all of equal worth.

MR. CLINGER:

It is strictly taking ten percent of the legislatively approved General Fund Appropriation for FY 2011. For FY 2010, we prorated it for the last four months of the year because we could not cut 10 percent out of the entire year. What we did on line 18, with the plan that was submitted by the agencies, was to go through all of the recommendations and make adjustments to the recommendations where we felt cuts could not be made for various reasons. Without having any information from the other offices, we have been unable to do that. They have not submitted to us a plan that we can analyze to say what is the impact and what are the things that we can take in and out. What we have presented is a 10-percent reduction to those agencies. Can the Office of the Secretary of State take a 10-percent cut the same as the Office of the State Treasurer? I do not know until we see the impact of their recommendations.

SENATOR AMODEI:

Has your office performed any analysis regarding which of these areas have grown the most in the last six years as a function of growth?

MR. CLINGER:

We have done that for the agencies from which we have received information. The Department of Mental Health is an example of that. A lot of funding has gone to the DMH and there are some items that we have put on the list that, while they are not necessarily cuts to the DMH, they are in areas the DMH has told us they cannot spend all of the available funding over the rest of the biennium.

SENATOR AMODEI:

Did you generate any data that you could share with us on that or was it just part of the process?

MR. CLINGER:

It was part of the process. I have two binders full of material that I did not bring today, and they are a small fraction of the data.

SENATOR RAGGIO:

Are the 10-percent reduction proposals based on the legislatively approved appropriations for the remainder of FY 2010 and FY 2011? Is it the General Fund portion you are speaking of?

MR. CLINGER:

That is correct. When we put it together, we sent out a list of 10-percent targets for every agency and department. There are budgets that are funded from other sources than the General Fund, and we are not cutting there.

SENATOR RAGGIO:

We are dealing with our shortfall, which is in General Fund revenue.

MR. CLINGER:

That is correct.

I will now continue with some of the Governor's proposed reductions.

Complete elimination of Project Challenge program in FY 2011 yields a total of \$163,489 from the General Fund and \$99,975 in federal funds.

The elimination of six auditor positions in the Budget and Planning Division of the Department of Administration for a total of \$625,693. Four of those will require layoffs.

The elimination of two positions within the Department of Agriculture yields a total of \$94,163.

The reduction of nuclear waste litigation expenditures that were budgeted for the Office of Attorney General yields \$1,481,837.

Eliminating two Administrative Assistant positions and related costs to those positions in the Consumer Affairs Divisions yields a total of \$138,500. That will result in one layoff.

Elimination of an Administrative Assistant II position in the Labor Commission yields a total of \$83,891.

SENATOR HORSFORD:

I would like to ask about that one, since it relates to the Green Jobs Initiative. Because enforcement of prevailing wage rates, which are required under the federal ARRA rules, will not be administered by the Labor Commissioner, is there a suggestion by the Governor's office on who would perform that function?

MR. CLINGER:

I do not have the answer to that right now, but I will get the answer to you.

Decreasing State grant funding to the Train Employees Now program yields a total of \$171,981.

The Tahoe Regional Planning Agency proposes to implement 6 unpaid furlough days in FY 2011 for a total of \$105,710.

At the state parks, eliminating various seasonal positions, conservation staff and park rangers yields a total of \$696,430. These positions are at various parks throughout the State. They are holding these positions vacant for the balance of the current biennium.

SENATOR HORSFORD:

Has there been any review by the Administration on whether increasing fees to support functions in those areas being eliminated from the General Fund as necessary to sustain the facilities?

MR. CLINGER:

We asked the Division of State Parks for an analysis on raising fees in State parks. The amount they came up with by raising the fees by two or three dollars at the various parks was \$1,086,000 per year. The Administration is not recommending implementing those fee increases.

SENATOR HORSFORD:

Could you share that analysis with our staff so we do not duplicate the effort?

MR. CLINGER:

Yes.

SENATOR AMODEI:

Do you have a ballpark figure on what percent of their budget this represents?

MR. CLINGER:

I will get the information to you today.

SENATOR LEE:

I know that right now we would love everyone in Nevada to vacation in Nevada. The new term for that I hear is "staycation." I do not know how we can ask people to do that and not give them somewhere to go. I do not see that this effort will benefit anyone in Nevada if we have a State park that is open and nobody on site to provide services. It is important that we work with the agency to provide the best experience we can for the residents of Nevada and not let them get dilapidated to the point where we have to close them.

MR. CLINGER:

The reductions to State parks do not eliminate staffing at those parks. It does reduce staffing, and certainly there will be fewer staff at those parks, but there will still be staff at the parks.

SENATOR LEE:

You asked the Division of State Parks to come up with fee increases to offset the challenges. Are you now saying you do not want the fee increases?

MR. CLINGER:

Correct. It is not the Administration's recommendation that the fees be increased.

We are recommending funding source changes and staff reductions for Water Resources totaling \$607,887.

SENATOR COFFIN:

I have a follow-up question regarding the state parks. There are a lot of confrontational possibilities for park rangers. Are all of our park rangers POST certified and carrying weapons?

MR. CLINGER:

I am not certain, but I believe they are POST certified. I will follow up on that to verify it for you.

SENATOR RAGGIO:

For Water Resources, you are proposing to change the funding source for an Engineering Technician position from General Fund to water basin assessments. Is that an increase in the assessments?

MR. CLINGER:

I do not believe that is an increase in the assessments. I will get back to you on that.

I will continue with the proposed reductions. In the State Lands Division, eliminating an Administrative Assistant position vacant for 9 months in FY 2010 and 11 months in FY 2011 yields a total of \$75,899.

The Department of Corrections has recommended charging rent to the stores and coffee shops through the Inmate Welfare Fund; charging the Inmate Welfare Fund for rent of the gymnasiums; covering 50 percent of officer salaries for visitation posts with the Inmate Welfare Fund; charging inmates a one-time energy surcharge on the purchase of electronic devices for use within the prison effective July 1, 2010; reducing the Uniform Allowance in FY 2010 by 25 percent and FY 2011 by 50 percent, only for FY 2010 and FY 2011; and changing the start and end time of one shift to eliminate shift differential pay for that shift.

SENATOR HORSFORD:

There is a recommendation to cancel a contract for services for reentry of inmates into society after release, including substance abuse services, job search assistance and financial planning, effective April 2010. That is just going to increase our recidivism rate, is it not?

MR. CLINGER:

That is a question for Director Skolnik; I cannot tell you if it will increase recidivism. It is in the notes that it may increase recidivism.

SENATOR RAGGIO:

Please explain the Department of Corrections proposed medical conversion to the federal 340B program with Renown Health and University Medical Center for a savings of \$1,000,000.

MR. CLINGER:

The proposal would privatize the doctors and mid-level practitioners under one of those two facilities.

SENATOR HORSFORD:

I would request that Director Skolnik be available for questions on the Department of Corrections proposed reductions for the Committee this afternoon.

MR. CLINGER:

I will continue with the proposed reductions. The Department of Corrections is recommending elimination of the 5 percent rural pay differential paid to correctional officers at Ely State Prison and the Lovelock Correctional Center effective April 2010 and the remote area differential of up to \$7.50 for each day. The staff who receive this must reside more than 25 miles from the facility they work at and can be compensated not more than \$7.50 for each day they report to work. This proposal would be implemented at Southern Desert Correctional Center, Three Lakes Valley Conservation Camp, Southern Nevada Correctional Center and High Desert State Prison.

SENATOR HORSFORD:

On the pay differential, you have a note that says "combined with proposed 3-percent cut to non furloughed employees this would result in an 8-percent cut in pay for Ely Correctional Officers." Does that indicate the non-furloughed employees took a 3-percent cut and were not exempted by the State Board of Examiners?

MR. CLINGER:

They did not; that note is incorrect. There were essentially five different proposals that were presented to our office: reductions of 1.4 percent, 3 percent, 6 percent, 8 percent and 10 percent. That note is referring to the Nevada Department of Corrections proposal under a 3-percent reduction.

SENATOR HORSFORD:

Because of the exemption to the furlough, they did not take any cut in pay?

MR. CLINGER:

Correct. Most of the custody staff in the Department of Corrections have been exempt from the furlough.

I will continue with the proposed reductions. The proposed closure of the Nevada State Prison in Carson City would eliminate 152 positions. The maximum number of layoffs would be 136. We, and Director Skolnik, believe that number can be reduced by placing correctional officers in some of the other facilities in northern Nevada. The recommendation saves \$12,817,533.

SENATOR HORSFORD:

I have concern over whether that number is accurate based on all of the other factors of relocating staff, inmates, medical care and everything else relating to the closure. Since we have not had answers from Director Skolnik, the actual savings from closing the prison are a question mark. Do you have any other analysis that could help justify the \$12,817,533 in savings?

MR. CLINGER:

I can follow up with Director Skolnik and provide you the analysis of how we arrived at that number.

SENATOR HORSFORD:

During the Interim Finance Committee meeting over a week ago, there was a laundry list of questions Assemblywoman McClain gave to Director Skolnik. We keep asking the same questions of the Director but have never received an answer. Until we get that information, it is hard for us to make a decision on the closure of the Nevada State Prison. My estimation is that the savings will not be what is being suggested.

MR. CLINGER:

I will follow up with Director Skolnik.

SENATOR RAGGIO:

We heard yesterday in the Interim Finance Committee that the closure of the Nevada State Prison and the relation of the proposed housing plan did include reopening of the Tonopah Conservation Camp, and that the initial proposal to close Wells Conservation Camp is now being retracted by the Administration. Is that accurate?

MR. CLINGER:

Yes to both of those questions.

SENATOR RAGGIO:

Do you still envision the closure and transfer of inmates from the Casa Grande Transitional Center?

MR. CLINGER:

Yes.

SENATOR WASHINGTON:

Does the figure of \$12,817,533 reflect the 152 positions that will be eliminated?

MR. CLINGER:

The figure includes any potential PERS buyouts, payoff of annual leave and that sort of thing. It also includes whatever would be required to maintain the facility, because obviously we cannot completely abandon it.

SENATOR HORSFORD:

The Casa Grande Transitional Facility houses 225 inmates. The Northern Nevada Restitution Center by comparison only has a capacity of 88. Have you or the Governor's Office analyzed the benefit of closing the Northern Nevada Restitution Center instead of the Casa Grande Transitional Center, since there is greater capacity at that facility? From a cost benefit analysis, I think that should be evaluated.

MR. CLINGER:

We have not analyzed that and can look into it.

SENATOR WASHINGTON:

I notice that officers would move from 12-hour to 8-hour shifts. Was safety taken into consideration with that decision?

MR. CLINGER:

I am not an expert on correctional operations. I do know that when Director Skolnik and his staff look at these things, correctional officer safety is always their top priority. I believe this has more to do with overtime and other issues on the shift than safety. I believe the number of correctional officers at a post at any given time would remain the same. It is only a difference in how they stagger their shifts.

I will continue with the proposed reductions. For the Department of Cultural Affairs it is recommended to freeze the position of the State Railroad Museum Director for the 2009-11 biennium for a savings of \$178,684.

It is also recommended to freeze the position of the Historical Society Museum Director for all of FY 2010 and July 1, 2010 through March 31, 2011, and a Curator III for all of FY 2010 and FY 2011 and utilizing budgeted terminal annual leave payoff savings. This would result in savings of \$250,646. There are also some curator positions being held vacant for a total savings of \$70,000.

SENATOR AMODEI:

What percentage of their budget, with the recommendations you just outlined and the recommendations that were implemented in the last legislative session, has the Department of

Culture Affairs given up? It seems to me their reductions are much larger than other agencies, with their staff having one furlough day a week rather than one a month.

MR. CLINGER:

For this round of cuts, it is ten percent. I do not recall the exact reduction percentage for them during the last legislative session, but it was indeed greater than most other agencies, I believe somewhere around 30 percent. I will get that information to you.

SENATOR AMODEI:

Would you say as a ballpark figure this agency has given up 40 percent?

MR. CLINGER:

As a ballpark figure, yes.

SENATOR WASHINGTON:

Is the proposed increase of \$431,057 for Client Services with the Department of Training and Rehabilitation based on the fact that you are proposing to eliminate the Nevada Equal Rights Commission?

MR. CLINGER:

Yes. The savings from eliminating the Nevada Equal Rights Commission is \$1,091,947. A portion of those savings, about 40 percent, will be moved to the Department of Training and Rehabilitation.

SENATOR WASHINGTON:

Where will the other 60 percent go?

MR. CLINGER:

Those funds will revert back to the General Fund.

SENATOR WASHINGTON:

The Nevada Equal Rights Commission would be eliminated altogether?

MR. CLINGER:

Yes. That is the recommendation. The proposal is that the function that the Nevada Equal Rights Commission performs would be assumed by the federal Equal Employment Opportunity Commission (EEOC). There are a few items that the federal EEOC does not take on, and those are complaints of employment discrimination based on sexual orientation and complaints of discrimination in places of public accommodation. Those issues will either need to be handled by another agency or legislation would have to be changed to eliminate those services.

SENATOR WASHINGTON:

Does the Governor have an idea on which agency would take over the functions?

MR. CLINGER:

I am not sure. I would have to ask Director Mosley for details. I know he has been working with the federal EEOC on this as well, trying to secure some funding from them to cover this function.

SENATOR WASHINGTON:

Please provide me with that information.

MR. CLINGER:

I will.

SENATOR HORSFORD:

I have not heard a status on that discussion, and we will need an update. I do not know what other agency would be qualified to take over the responsibilities for \$1,000,000. This is not just an employment issue; it also affects our tourism industry, based on the Rights of Public Accommodations bill passed by this Legislature. Until I receive an update, I do not think the savings of this outweigh the detriment.

MR. CLINGER:

I will provide you with an update.

I will continue with the proposed reductions. The Gaming Control Board is proposing leaving five unclassified agent positions vacant and reduce current staffing by 31.96 unclassified positions. This includes \$161,261 in terminal leave payoff. The estimated PERS buyout would be \$423,150, which was not included in the General Fund savings calculation of \$2,849,551 since the agency does not anticipate needing to fund this cost due to staffing fluctuations. The proposal would slow down a lot of the processes they perform whether it is auditing, investigating or licensing function.

SENATOR HORSFORD:

I do not know if there was any analysis performed on what increasing fees may do to allow this department, which is really a model for the rest of the country on regulatory oversight. If we had this in place in the banking industry, maybe we would not find ourselves in the problem we are in. I find it interesting that the one area of State government that works well is being recommended for reduction to this level. What is that going to do to what is still our number one industry here and their ability to continue to perform? Was any analysis performed supporting them going to a fee-based structure?

MR. CLINGER:

We did not ask the Gaming Control Board to provide analysis on any fee increase proposal. I know it was discussed at one of the Interim Finance Committee meetings, and one of the concerns Chairman Neilander had was the regulatory body charging fees to an industry.

SENATOR HORSFORD:

It was actually the administration's proposal last Session to make the Division of Insurance fee-based. What is the difference between that industry and regulatory oversight in the Gaming Control Board?

MR. CLINGER:

From a regulatory standpoint, I could not tell you the difference between the two. The Division of Insurance proposal had strong support from the industry. I do not think the same support is there for the Gaming Control Board.

SENATOR NOLAN:

I would like to give Chairman Neilander an opportunity to respond. On a national level, when the rest of the country begins to recover, there have been a number of reports speculating that Nevada may lag behind the rest of the country in recovery, owing to the nature of our industry being tourist based. I would like to know if some of the recommendations being proposed are not going to have an adverse impact, at least on perception, with regard to Nevada's gaming industry. If that is the case, that potentially might further delay some of the recuperation of the gaming industry in Nevada. That is a big question, but Chairman Neilander might be able to hypothesize on it for us.

SENATOR WASHINGTON:

Has there been an analysis on the revenue gained or lost for license processing times, both in the private and public sectors?

MR. CLINGER:

We have not received any information from the Gaming Control Board as far as an impact on the revenue by reducing the staff.

SENATOR WASHINGTON:

You said it may lengthen the wait time for license approval and especially table games. I would like the answer to that before we proceed further.

SENATOR HORSFORD:

We will follow up on that later in the proceedings. We will also discuss the proposed reductions to the Department of Health and Human Services later in the proceedings.

MR. CLINGER:

I will continue with the proposed reductions. In the Office of Veteran Services, increasing the veteran private pay rate from \$101 per day to \$110 per day and the non-veteran private pay rate from \$173 to \$187 per day for savings of \$244,963. The rate increase would not result in operating expenditure reductions but would allow the agency to revert General Funds in FY 2011. The Board of Examiners is required to approve any private-pay increases in the Veterans' Home and they did that at their last meeting.

SENATOR CARE:

Does that not constitute a fee increase?

MR. CLINGER:

This is a co-payment that the veterans are required to pay. Director Tetz explained that if a veteran is unable to pay the co-payment, then they are switched over to Medicaid. The way it has been explained to me, it does not have an impact on the veterans.

SENATOR CARE:

Would any veteran of the general public at the Veterans' Home be required to pay an increase if there were no co-payment?

MR. CLINGER:

If they were not Medicaid or Medicare eligible they would have to pay the increase. Most of the various veterans' services groups supported this when the Office of Veterans' Services presented this to the Board of Examiners.

SENATOR CARE:

The difficulty with that is the patient staying in the Veterans' Home is not one of the persons who testified they would be in favor of the increase.

SENATOR HORSFORD:

Increases to the consumer are a concern particularly to poor people, veterans and seniors, yet there is not a willingness to support fees to support other parts of State government. It is terribly inconsistent, and I cannot understand the Governor's position on this. Perhaps the Governor could come here and explain this himself.

MR. CLINGER:

The Governor will support fee increases when there is support from the industry or groups that represent those that will pay the fee. That was the case with the Division of Insurance and the veterans' co-payment increase.

SENATOR HORSFORD:

Are you telling me the children in my district who are enrolled in Nevada Check Up support the increase in the fees to be insured by that program for low-income families? I believe it is a 300-percent increase.

MR. CLINGER:

No. That is not what I am saying.

I will continue with the proposed reductions. Elimination of 23 positions with the Division of Parole and Probation will result in savings of \$3,233,513. The consequences of these eliminations are that the number of cases, in what they call the "bank," will increase.

The closure of the Department of Taxation's Elko Office, effective July 1, 2010, would result in savings of \$237,434. This would result in the elimination of five positions and five layoffs. The Department of Taxation would not have a presence in a rural community, and taxpayers would need to conduct business via the internet, phone or at the Reno office. Audits completed by this office would be completed by Reno based auditors. The closure would create a potential revenue loss of \$726,000.

SENATOR RHOADS:

I have spoken with some of the people that, not only work in the Elko office, but also do a lot of business there. They feel the amount of money collected, by eliminating all of five of the employees, would be a detriment. I am wondering if you have had a conversation with the employees of the office or if the Governor would reconsider.

MR. CLINGER:

I have not been involved. That would have to be addressed by the Director of the Department of Taxation. I know this office was selected for closure based on the low amount of activity that occurs at this location as compared to, for example, Reno or Las Vegas, versus the cost.

SENATOR COFFIN:

Does this office audit any of the mining enterprises in Elko or Eureka County?

MR. CLINGER:

I am unsure of that, but we are not eliminating the audit function in those areas. The auditing function would be performed out of the Reno office.

SENATOR HORSFORD:

How is the potential loss of \$726,000 of revenue factored?

MR. CLINGER:

In our estimation, there would not be a loss of revenue. Those functions would still be performed; they would not be performed out of the Elko office.

SENATOR HORSFORD:

Are there five positions in Reno that would assume the workload of the Elko office?

MR. CLINGER:

The function would be assumed by the Reno office with existing staff. There are not five positions being transferred to Reno.

SENATOR HORSFORD:

This is something we discussed with the Director of the Department of Taxation during an earlier budget hearing. There are already outstanding taxes due to Nevada. To cut the audit positions seems counterintuitive to bringing in revenues owed to the State of Nevada.

MR. CLINGER:

You may recall during the Interim Finance Committee meeting yesterday that we did restore two of the intermittent positions proposed for cuts, based on what you are referring to.

SENATOR HORSFORD:

Where will those positions be located?

MR. CLINGER:
I am not sure.

SENATOR HORSFORD:
This is an issue that both the urban and rural caucuses agree upon. You cannot eliminate resources in Elko and expect to provide services in Reno or Las Vegas. It is not feasible or efficient.

MR. CLINGER:
That is why the office was chosen. It is not as efficient as the other offices.

SENATOR HORSFORD:
Is it a staff performance issue?

MR. CLINGER:
I do not believe so. I believe the demand in that area is not as great as it is in Carson City or Las Vegas.

MR. CLINGER:
I will now discuss the Department of Education proposed reductions. We propose to utilize funding for school support team leaders for schools that failed to make Adequate Yearly Progress. There were fewer schools who failed to make Average Yearly Progress than were projected in the budget. This is not a cut but anticipated savings of \$1,733,398.

Revert the projected excess funds for the incentives for licensed educational personnel. This is not a cut but anticipated savings of \$7 million.

The largest item is to reduce Basic Support to meet budget reduction target. Once the final reduction target is determined, the individual districts will be asked to submit specific plans to meet the target. This is not a cut but anticipated savings of \$131,195,802. This number was previously \$166 million and was reduced yesterday by \$35,703,000. That amount is equivalent to the proposed 1.75 percent salary reduction to K-12. With the "add back" from Medicare Part D clawback and some other funding, we were able to eliminate \$35 million of the reduction originally recommended in the Basic Support function for K-12.

When you look at the reductions to K-12 of \$139,929,200 and add back the \$35,703,000, it becomes \$175,000,000 between both items.

SENATOR HORSFORD:
Is that the total reduction in Basic Support from the General Fund that the Governor is recommending?

MR. CLINGER:
Yes.

SENATOR HORSFORD:
He told us yesterday he was saving education.

MR. CLINGER:
The press release from yesterday refers to the overall funding in K-12. The State General Fund is just one portion of the funding that goes into K-12. There are federal funds, Local School Support Tax, property tax revenue, Governmental Services Tax and other local revenues included in K-12 funding. When you look at their budget as a whole and add all of the revenue sources together, the press release was referring to the 2.4 percent. When you take the total budget with all of those funding sources, the reduction being made to the State General Fund is 10 percent, but overall the reduction is 2.4 percent.

SENATOR HORSFORD:

I do not want to argue with you. The Governor is welcome to come speak with us about this. I think it was disingenuous. The Governor is proposing \$175 million in cuts in Basic Support from the General Fund to K-12 education in the State of Nevada. Is that accurate?

MR. CLINGER:

Yes.

SENATOR SCHNEIDER:

One of your illustrations indicates the elimination of 285.27 positions. Does that include any education positions?

MR. CLINGER:

No.

SENATOR SCHNEIDER:

I have been a member of the Legislature for many years. Senator Townsend and I worked together in the Senate Committee on Commerce and Labor. When we worked on economic develop and commerce projects he used to say, "One job created by a business creates two more jobs." If there are 285 positions eliminated in the public sector, there will be 570 positions in the private sector eliminated the same way. The reduction would be 855 jobs in Nevada because of the 285 positions eliminated. That does not include education, and there is word that 2,300 teachers may be eliminated. That may result in the loss of approximately 7,500 jobs. We are spinning down the drain as fast as we can. A lot of these positions are safety-net support positions. As we eliminate more, the private sector suffers. We are already borrowing \$20 million a week from the federal government to pay unemployment insurance compensation.

I do not see that we have a spending problem; we are last in the nation in almost every category. We have a revenue problem. If someone gets fired and has trouble making the house payment and buying groceries, they do not have a spending problem; they cannot stop eating and living in a house. They have a revenue problem; they need to get a job and bring in more money. What we are doing here, eliminating positions, only exacerbates our problem. I would like the Governor to come tell us how we are going to fix this problem when this will make the problem worse at the end of this Special Session.

SENATOR WASHINGTON:

Is the 1.75 percent actual salary reductions for K-12 and the Nevada System of Higher Education?

MR. CLINGER:

The 1.75-percent salary reduction for the Nevada System of Higher Education is \$9,480,000. It is up to the Nevada System of Higher Education for their professional employees and the various K-12 school districts as to what they do with their reduction. We cannot dictate to them that they reduce salaries; it is up to them to decide how to implement the reduction.

SENATOR WASHINGTON:

I have heard there may be a potential to find some flexibility within Chapter 288 of the Nevada Revised Statutes to meet the possible salary reductions of 1.75 percent in K-12. Is that true?

MR. CLINGER:

It is in the Governor's Proclamation that Chapter 288 of the Nevada Revised Statutes be reviewed and that some flexibility be given.

SENATOR HORSFORD:

It is my understanding those concessions in wages and benefits are something that could be agreed to now. We will hear from representatives from education this afternoon.

SENATOR RAGGIO:

It is my understanding that the Administration is also suggesting transferring \$600,000 from the Charter School Fund to replace General Fund money. That is money that comes from NAEP and other grants. If that happens, is there an impact to the true purpose of those funds and impair charter school operations?

MR. CLINGER:

This transfer takes into consideration projected expenditures for the remainder of the biennium and leaves a sufficient reserve to start FY 2012.

SENATOR RAGGIO:

I would not want to see us take away the technical support for the charter schools.

SENATOR HORSFORD:

Did the Governor remove the 1.75-percent salary reduction to K-12 of \$35,703,000 yesterday?

MR. CLINGER:

To clarify, it was taken from their ten-percent reduction, and we left the line item of \$37,503,000. As I said earlier, it is up to the school districts and school boards as to how they implement those reductions.

SENATOR HORSFORD:

What was the amount approved by the Legislature last year per pupil?

MR. CLINGER:

I do not have that information with me.

SENATOR HORSFORD:

I would like to know the legislatively approved amount per pupil, and what it represents in the \$175 million in reductions.

MR. CLINGER:

I will get that information to you.

SENATOR HORSFORD:

You indicated that the 1.75-percent reduction to the Nevada System of Higher Education is still remaining as a recommendation of the Governor. I do not understand how that can be accomplished since the decision is made by the Board of Regents. Why was the Nevada System of Higher Education included for the 1.75-percent reduction of \$9,480,000 when K-12 was not?

MR. CLINGER:

We do not have the authority to cut salaries. We can only make recommendations. It would be similar to reductions approved by this body in the 75th Legislative Session. The Legislature approved a four-percent reduction in salaries, and their budgets reflected that. How they implemented the reduction was obviously different than the recommendation. This recommendation is no different.

SENATOR HORSFORD:

So the impact to NSHE is \$66.8 million plus \$9.4 million for a total of \$78 million. That is higher than a ten-percent reduction, because that was \$67 million. When you add to that, rounding up to \$9.5 million, it brings the reduction close to 13 percent based on the Governor's recommendations. The Nevada System of Education then has to decide how to reduce their budgets, correct?

MR. CLINGER:

Yes. Your previous question as to why the 1.75-percent reduction was restored to K-12 goes back to the Governor's priority of restoring any reductions to K-12 first. If we had enough funding to restore other items, we would. There is only \$944,623 left to work with.

SENATOR HORSFORD:

I want us to be straightforward and honest in what is being presented. I do not want to play what some have called a shell game with the public. The impact to NSHE is nearly 13 percent. The impact to K-12 is \$175 million. That is a reduction in spending from the 2009 legislatively approved amount. I believe the amount funded per pupil was \$5,910. If this proposal is approved, we are going to fund education ten percent less than that.

MR. CLINGER:

I do not want to be argumentative on the numbers, but I do take offense to calling the 2.4 percent a shell game. I put those numbers together, and it is not a shell game. When you look at the entire budget of K-12, add up all of the funding sources and add the piece being reduced, it is 2.4 percent. The same answer is true for NSHE. They have other sources of revenue. When you factor those in, the reduction is less than ten percent. I do not dispute that it is a ten-percent reduction to State funding.

SENATOR HORSFORD:

I would like to review that this afternoon. I just want us to be honest, straightforward and direct. Everyone needs to have the same information so that we all may be informed. I do not think you personally had anything to do with how the information was characterized by the Office of the Governor. I think you are attempting to explain the additional revenue sources that go into education. That is a valid discussion. I want the public to understand that if this budget recommendation of the Governor passes into law, there will be a \$175 million reduction to K-12 education for a 10-percent reduction, and a \$78 million reduction to NSHE for a 13-percent reduction. Those are the facts we are dealing with as a Legislature.

MR. CLINGER:

When I present information to this Committee, I always try to do it in a straightforward fashion. I am not here trying to make the numbers represent one thing or another. I am presenting them as facts to you and the Legislature as a whole. You are correct in that the cut to State support for K-12 is 10 percent. The cut in State support for NSHE, when you factor in salaries and other items, approaches 13 percent.

SENATOR HORSFORD:

That is all this Legislature has control over. That is why we are focused on those numbers specifically. We welcome other further analysis on other funding sources outside of State support. Our constitutional duty is to provide State support. That is what we are debating in this Special Session.

SENATOR RAGGIO:

That is the reason I asked the question before. We are talking about General Fund support, taxes for State purposes only. We have nothing to do with local governments and what they are doing with their own budget problems. When you try to characterize the amount of cuts by what we call "other authorizations," which also have an impact because those federal funds are not just for K-12 or NSHE, it cuts across all of the State budgets. They all get other funding. The shortfall is in the General Fund. To characterize something as a lesser percentage is not helpful to the process. We also need to understand that cutting off the General Fund by these large amounts affects the other authorizations. Other authorizations, federal or not, have limitations on usage. They are not available to address a budget shortfall. In many instances, a large portion of the other authorizations are required as matching funds. When we do not fund the General Fund, we are losing federal funds that would be otherwise helpful.

I agree with Senator Horsford, and I am not chiding you. I just want to make sure we understand the ramifications and impact of the decisions we are making jointly with the executive branch.

MR. CLINGER:

I would be happy to provide you with the information on a large portion of the revenue we are discussing. It is important to note there are some large items on the list that are discretionary funds applied to operating expenses and are not earmarked federal funds. I will not argue with that. Included in the information there is also Local School Support Tax, Property Tax and Governmental Services Tax. Those are all revenue streams applied to the general operating budgets of the school districts. They are not earmarked for anything. It paints a fair picture to say that the impact to the school districts is going to be something less than ten percent. Maybe it is not 2.4 percent, but a particular school or school district is not going to take a 10-percent reduction. That is the point I am trying to make.

SENATOR WASHINGTON:

I understand what you are saying. Once you mentioned the other revenue streams, it does make sense.

What has not been mentioned is that in the last Legislative Session we were mandated by the voters to increase the Room Tax by three percent in both Clark and Washoe Counties. Could the Department of Taxation provide us with the revenue generated from that time until now, so that we may know how much of that went into the Distributive Schools Account?

SENATOR HORSFORD:

Mr. Clinger, I will allow you to present your analysis to us this afternoon. The Room Tax all went to the General Fund. None of it was dedicated to the Distributive Schools Account. It is important that the Superintendent of Public Instruction informs all of us and the public this afternoon as to what is included in the DSA. The DSA is very specific on what it funds. The \$175 million reduction will have a direct impact on the schools in the State of Nevada. The LSST has been coming in under projections. The State makes up the difference. I want to make sure we are diverting our focus on whether it is 2.4 percent or 13 percent. Whatever it is, it is low and about to be lower based upon the recommendations coming from the Governor.

SENATOR AMODEI:

This afternoon, I would like information on increases to General Fund education funding from FY 2006 to FY 2009.

SENATOR HORSFORD:

According to my review, the Department of Motor Vehicles, the Department of Transportation and the Division of Tourism are not included in the recommended ten-percent reduction. I understand this is partly due to the way in which they are funded but I do not understand why those agencies are not seeing the same level of proposed reduction. I would like to discuss that with you and get the information to the Committee.

MIKE WILDEN (Director, Department of Health and Human Services):

I am handing out a document entitled "Nevada Department of Health and Human Services Proposed Budget Cuts" that shows how the cuts have been packaged in the DHHS. All of these correspond to the documents handed out by Mr. Clinger this morning. The proposed cuts recommended by the DHHS as part of the original 10-percent cuts total \$92,698,844. The Executive Budget Office vacancy savings reductions come to \$3,061,990. The Executive Budget Office travel and training reductions come to \$807,547. The Executive Budget Office "other" reductions come to \$3,079,409. Funds that are recommended to be swept into the General Fund total \$9,568,836. In all, the General Fund budget reductions for DHHS total \$108,216,626. To put that into context, our original 10-percent goal was \$132,017,954.

I will highlight a few reductions out of each division. In the Grants Management Unit and the Director's Office, we are repackaging our Title XX funds, sweeping the Gleeson-Otten Trust

Fund and using some Children's Trust Fund reserves. We are repackaging those dollars and reclaiming them into the Grants Management Unit. We will then reissue all those funds back out to our Family Resource Centers. Because the Family Resource Centers are primarily funded out of General Funds, we will pull a like amount out of the Family Resource Centers and revert it to the General Fund. The net result is that the Family Resource Centers will not be harmed, and we will send \$605,694 to the General Fund. The Problem Gambling Program will be eliminated in 2011, for a savings of \$1,842,082. We will basically take a one-year hiatus from June 30, 2010, to June 30, 2011. That program is funded through a \$2 slot task collected by gaming and sent to us.

SENATOR CARE:

The Legislature approved this program in 2003, as I recall, and the funds come from the industry itself. This money will be held in reserve, correct?

MR. WILDEN:

The money will be swept out of the Problem Gambling Account and taken into the General Fund. The money will not be there if and when we restart our Problem Gambling Program; it will be gone to help meet the budget shortfall.

In Aging and Disability Services, we will revert \$714,300 out of our Disability Services Independent Living Program. This is basically because of a lower caseload than projected. We are budgeted at 280 clients and are projecting 223, and we are reverting the difference to the General Fund. We are also seeing a smaller caseload than budgeted in the Office of Disability Services. The caseload is running at 166, and we were budgeted at 223. We are thus reverting \$440,604 to the General Fund.

I have gotten a lot of emails from legislators about the Community Services Options Program for the Elderly (COPE), which helps keep seniors in the community rather than in nursing facilities. We were budgeted at 187 slots in FY 2010 and 193 in FY 2011. We are cutting 62 slots, leaving us 125 slots in FY 2010 and 131 in FY 2011. That saves \$1,196,352. Our wait list is only two people, and in December we were only serving 105 people in this program, so we still have some room for growth.

The next area is Personal Care Attendants (PCAs). Many of you will remember this issue from the 2009 regular session. We are recommending a reduction of \$1.50 per hour for PCAs, from \$18.50 per hour per service to \$17 per hour per service, for a savings of \$503,733. This is related to the Aging and Disability Services clientele, also known as the Saint Mary's Program. You will see similar reductions when we talk about the Medicaid program; all PCAs will be reduced \$1.50 an hour.

SENATOR MATHEWS:

Have you had an opportunity to talk to Saint Mary's Regional Medical Center about this? They are the only ones you have contracted right now for this.

MR. WILDEN:

I have not personally spoken with them, but staff did meet with them. There was some concern that they would just bail out and not provide the services.

SENATOR MATHEWS:

Are we prepared to pick that up?

MR. WILDEN:

They are not bailing out. They have provided a letter to us that says they will eliminate some transportation reimbursements, redirect some administrative money to programs and have some supervisory PCAs provide personal care. I give kudos and high praise to Saint Mary's, who sharpened their pencil and kept the program. They say as long as we do not go below \$17 an hour, they will make it work.

SENATOR MATHEWS:

Good. I know you said you were talking to them, and I had not heard their response. All of us are hurting, including Saint Mary's.

SENATOR CEGAUSKE:

What year was it we increased the hourly rate? I remember the debate but not the amount.

MR. WILDEN:

We have been at this about six years, I think. The rate started at \$12 or \$13, and we had a strategic plan to get it up to \$17 for programs other than Saint Mary's and \$18.50 for the Saint Mary's program. The reason for the higher rate was that Saint Mary's includes case management. We increased the rate at first, but over the last two years we have been paring it back down; the non-Saint Mary's programs will go to \$15.50.

We are proposing to take \$420,968 from the civil monetary penalty fund that funds the Ombudsman Program for nursing homes. That fund currently totals about \$2.3 million. We will pull a like amount out of Aging Services to fund the program, and there will be no reduction in services. This is an allowable function under the civil monetary penalties regulations set forth by the federal government.

In the Senior Property Tax Assistance Program, we will be reducing the average rate from \$358 to \$262 for a savings of \$1,209,399. We serve about 17,000 seniors a year and spend about \$6 million a year. This will require the approval of the Interim Finance Committee.

SENATOR COFFIN:

What was the criterion for lowering the rate to that amount? Why 27 percent?

MR. WILDEN:

We did not have any criterion. It was a "plug" factor. When we were trying to meet our rate reductions, we had a couple of options to look at in this program. One was total elimination of the program. Another was to try to rewrite the eligibility criteria spelled out in statute to, for example, not provide the service to renters or tie it to the value of the home. We did not want to do either of those things, so we decided instead to tie it to the amount of money we needed. There was no logic to 27 percent other than that is how much money we needed.

SENATOR COFFIN:

So you waited till the end, and this was one of the ones left over.

MR. WILDEN:

It was a balancer.

The next division is Health Care Financing and Policy. This includes Medicaid, SCHIP and Nevada Check Up.

We are implementing a new evaluation tool for clients receiving personal care services. We will now be requiring a physical evaluation be done by a physical therapist rather than relying on a statement of needs from the client. This change has already been covered in public workshops, and changes are moving forward. This is expected to save \$4,030,825.

The CHIP program, which is jointly administered by Aging Services and Medicaid, is a program that keeps seniors in the community rather than in nursing homes. The current wait list on the CHIP program is 106 people. The December caseload was 1,123. We have set aside enough slots that we can grow the program to 1,241, which would allow us to take everybody off the wait list and still have room to grow. We were budgeted for 1,430, and the difference gives us a savings of \$1,991,026.

SENATOR WIENER:

Do we have numbers on how long this program allows seniors to postpone going into long-term care facilities on average?

MR. WILDEN:

I do not have that information with me, but I can send it to you.

The next item has been controversial over the last several weeks. This is a reduction in the rate of reimbursement to anesthesiologists. We looked at how we were reimbursing them compared to how Medicare was reimbursing them and found there was a 43-percent difference in the rates. This is a calculation taking the Nevada Medicaid rates down to the national Medicare rates, and it saves \$2,489,913.

SENATOR CEGAVSKE:

Yes, it has been controversial. Is this the only area where you saw such a large difference in reimbursement rates? I find it hard to believe anesthesiology is the only group we were overpaying.

MR. WILDEN:

It was the only group that did not get cut in the first four rounds of cuts. We cut reimbursements to many physicians and other healthcare providers in the first four rounds of cuts.

SENATOR CEGAVSKE:

How did we get so far over our skis on what we were paying anesthesiologists?

MR. WILDEN:

What happens is we adjust our rates for access issues. After several years go by, we find we are upside down and we need to readjust.

SENATOR CEGAVSKE:

Anesthesiologists provide some of the most critical care to some of the most difficult surgeries. Is there a difference between what is paid for regular anesthesiology services and the more complex situations?

MR. WILDEN:

That same question was asked in the Assembly this morning, and I have an email from my staff answering it. I have not had a chance to read and digest the information yet. It is a complex question; there is a value of each unit of service, and as soon as I can analyze that, I will give you the information.

Next is the request to implement the Preferred Drug List (PDL). You have seen such requests many times. This change would save us \$766,741. One of the areas of concern that has surfaced in public hearings has been the anti-diabetic drugs. Although we are requesting to add the anti-diabetic class of drugs to the PDL, all drugs in the class will be on the PDL. No one will be denied their anti-diabetic drugs. That has been a misconception, and it is not true. The question then becomes, if all the drugs will be on the PDL, why is it important to have a PDL at all? If you do not have a PDL, the Medicaid program cannot negotiate for supplemental rebates from the manufacturers. The legislation we are requesting is now and has always been about having a PDL in place so we can negotiate those rebates.

SENATOR HORSFORD:

We need to spend some time on this. This is a recommendation the Administration has made previously, and there have been issues, particularly in this chamber.

SENATOR WIENER:

When you have brought this forward previously, the savings was proposed at about \$1 million. Is that correct?

MR. WILDEN:

In previous sessions, savings have ranged between \$1 million and \$1.5 million. The savings are lower this time because many brand-name drugs have gone generic, which means the price drops and the opportunity for savings is less.

SENATOR WIENER:

One of the concerns we have had historically on this issue dealt with – and help me understand if this is fear-based or reality-based – that people who – some of these types of drugs are very sophisticated and treat very complicated medical conditions. The concern was that if a doctor prescribed a specific drug, the patient would not be able to access that because of the PDL. Regardless of what the doctor prescribes, the patient has to take a generic drug or something comparable, which the doctor may not feel is adequate. Can you explain how that would work in practice?

MR. WILDEN:

There is a prior authorization process in the PDL. If a physician believes for a list of reasons that we will set out, including allergy to the preferred medication, contraindication to the drug, history of unacceptable or toxic side effects, therapeutic failure and those sorts of things, a physician can ask for prior authorization. It is a quick process that has a one-day turnaround, and it authorizes the physician to prescribe the drug the patient needs. We will also have a grandfather clause, stating that if a Medicaid recipient is on a specific drug when this policy is put in place, they can be grandfathered on the drug they are taking.

There has been a lot of misinformation or confusion on this issue. There are six classes of drugs we are barred now in statute from having on the PDL: atypical and typical anti-psychotics, HIV and AIDS drugs, anticonvulsants, anti-rejection drugs, anti-diabetics and anti-hemophiliac drugs. We do not need to put the HIV and AIDS drugs or the anti-hemophiliac drugs on the list because there are no supplemental rebates from the manufacturers for those medications. However, we would like to add atypical and typical anti-psychotics, anticonvulsants, anti-rejection drugs and anti-diabetic drugs to the PDL so we can negotiate for those supplemental rebates.

SENATOR HORSFORD:

What is this issue with the "dispense as written" clause?

MR. WILDEN:

We are opposed to the "dispense as written" clause. It basically stops us from being able to get the savings we are trying to get. It is a way around the PDL. Mr. Duarte has prepared a write-up about it, and I can provide it for you. There are a lot of issues on this. There is a "dispense as written" law on Nevada's books now, and it looks to us that the way some would like to have it interpreted in the Medicaid program it would be contrary to Nevada law for all Nevada citizens. We are trying to work with PhRMA and their representatives on our concerns. Members of that organization have emailed me with a bill draft they want us to look at as opposed to the one we currently have. We are trying to work with them to find common language.

The next two items deal with disposable medical supplies. Much has been said and written about the reduction in reimbursement for incontinence products and the disposable gloves, so I will not expand on this unless you have questions. These limitations will save us \$829,304 for incontinence products and \$834,271 for disposable gloves.

Capping non-emergency transportation administrative costs at 15 percent saves us \$644,149. Our staff calculate that our current provider is now getting somewhere around 24 percent for administrative costs.

We are reducing our reimbursement rates for behavioral health training and psychosocial rehabilitation. We have a two- and three-tier system for those reimbursements, and we would be flattening the tiers. That would save us \$4,964,832.

The next one I would highlight is the PCAs reduction, which has the same logic as the PCAs reduction I described under Aging Services. This reduction is for the regular Medicaid population and saves us \$2,993,573.

The next cut is to reduce hospital reimbursement rates by 5 percent, saving \$5,310,880. I would remind the Committee that we already reduced them 5 percent in a prior budget cut, so this would be a total cut of 10 percent over the last couple years.

SENATOR HORSFORD:

Previously when we did these budget hearings, I thought you included on your spreadsheet where federal money was also being lost.

MR. WILDEN:

These are all General Fund dollars. In my previous testimony, I talked off our Nevada Executive Budget System (NEBS) documents. They show the General Fund savings and the loss of federal dollars. In this instance, you can take any Medicaid program reduction and double it to find the federal funding lost. We are currently in a roughly 36:64 matching situation; for every dollar in medical costs we expend, the State puts in 36 cents and the federal government puts in 64 cents. When we cut one State dollar, we lose the ability to get two federal dollars.

SENATOR HORSFORD:

Is it possible to get that information for these numbers as well? Any time there is a federal match that will be lost, it is important for us to have that information.

MR. WILDEN:

I can do that, and I can also summarize it for you now. All the DHHS cuts total \$155,986,247; that is money that is either General Fund or it looks like General Fund. To that, you need to add about another \$122 million in lost federal dollars. Those numbers are off the NEBS spreadsheets.

SENATOR HORSFORD:

So the total loss to DHHS is really closer to \$277 million.

MR. WILDEN:

That is correct.

SENATOR WASHINGTON:

With regard to the FMAP monies that are going to be lost because of the reduction of some services provided by Medicaid, I know that some services are provided at the county level. Do you have a best guess as to what the impact is going to be on those services?

MR. WILDEN:

I do not have that information with me, but we can calculate it. The counties are affected three ways. First, Congress is considering passing an FMAP extension for two quarters. That will benefit Nevada by some \$88 million by getting the higher federal match for two more quarters than we budgeted. That will benefit the State and the counties because they participate in the County Match Program in long-term care, so they have to put in less county money to run the program. Second, they will also benefit from the Medicare claw-back. The State will benefit about \$16.3 million, and the counties will benefit about \$1 million.

SENATOR WASHINGTON:

Is that just the two largest counties?

MR. WILDEN:

That is all 17 counties. I can give you an estimate of how each county will do. The counties have puts and takes. They are gaining in some places by not having to put in as much money because of the policy decisions we are making. Then, as they send us dollars, if we do not have a program to match to get federal dollars and we are not providing the service, they may have to provide it with all county dollars.

SENATOR WASHINGTON:

Is that true for services for long-term care and foster care?

MR. WILDEN:

Yes. There are puts and takes on all of them.

We are also reducing reimbursement rates for residential treatment centers by 5 percent. These are 36 psychiatric facilities for youth. This will save us \$924,162.

We are proposing to increase the premiums in the Nevada Check Up program, and that would save us \$1,065,444. The premiums will change on a sliding fee scale based on the family's income.

SENATOR CARE:

Could you explain that? They will be required to pay a higher premium, but there is no way of knowing whether they will continue to be enrolled. Is that right?

MR. WILDEN:

The very-low-income clients who now pay \$25 per quarter per family to enroll in the Nevada Check Up program would pay \$75 per quarter per family. If they do not pay the premium, we disenroll them from the program.

SENATOR RAGGIO:

I do not mean to be difficult, but how do you differentiate that from a fee increase? Those families that were paying \$100 a year will now be paying \$300 a year. That is a fee increase.

MR. WILDEN:

I do not have a good answer. It is in fact a fee increase, yes.

SENATOR CARLTON:

These premiums are based on the level of income these folks have. Those who are at 100 percent of the poverty level pay a lower rate than those at 150 percent of the poverty level. Is that still true?

MR. WILDEN:

Yes. The eligibility guidelines for the Nevada Check Up program are for people above 150 percent up to 200 percent of the poverty level, and the premiums are graduated. What we attempt to do is benchmark the premiums to be below 3 percent of their gross income.

SENATOR CARLTON:

What would an income level be at the 100- to 150-percent level?

MR. WILDEN:

I believe the poverty level is around \$21,000 per year. People at that level will be expected to pay \$300 a year for Nevada Check Up.

SENATOR CARLTON:

My concern about this is that these people are on the edge right now. The last thing I want to do is raise the premium for healthcare and have these children end up in the University Medical Center (UMC) emergency room for their primary healthcare. I do not want to see us move backwards on that.

SENATOR WASHINGTON:

I would like to go back to the hospital reimbursement rate. A few sessions back, we were able to raise their reimbursement rate by 5 percent. You said that with the last cut, they would be losing a total of 10 percent. I know there is going to be an adverse effect on the hospitals, but I am concerned that those Medicaid clients will probably revert to the county hospitals, mainly UMC and Renown. What kind of cause and effect is that going to have on the formula we are

trying to come up with on the Disproportionate Share Hospital (DSH) program to meet the CMS requirements?

MR. WILDEN:

That is a very difficult question to answer in a short period of time. In one of the first four rounds, we cut the hospitals 5 percent. We had proposed in the 2009 session to cut them another 5 percent; that was one of the addbacks, so we did not go there. This is the second 5 percent. As I noted earlier, when we make a \$5.3 million General Fund cut, that is like a \$15 million payment cut to them from Nevada Medicaid because of the loss of federal dollars. The other thing the hospitals have said, and it is true, is that many payers benchmark their payment rates to the Nevada Medicaid rates. If Nevada Medicaid goes down, others will typically go down also. Bill Welch, the executive director of the Hospital Association, would be better at providing that information, but I have seen figures that suggest a 5-percent rate reduction in Nevada Medicaid gets into an impact of \$20 million or \$30 million.

I do not see a big impact on what we are doing with the DSH program from here. What drives that program is who has unreimbursed indigents and who does not.

SENATOR WASHINGTON:

The county puts up the bulk of the money for DSH. I am wondering if, given that they are going to lose some FMAP money and this reduction in the reimbursement rate, they are going to keep some of that DSH money.

MR. WILDEN:

We are not making eligibility reductions, so people that are eligible for Medicaid are still going to be eligible for Medicaid. We are simply reducing hospital payments by 5 percent on the same number of eligibles. I do not believe, under current law, that the hospitals can balance out a 5-percent cut in Medicaid by getting an additional 5 percent from the counties. They have to accept the Medicaid payment as the payment.

SENATOR WASHINGTON:

I am speculating that the hospitals will say they do not want to accept Medicaid patients any longer because of the reduced reimbursement rate, so those clients eligible for Medicaid have to go somewhere.

MR. WILDEN:

I do not think hospitals can say they will not accept the 5-percent cut to Medicaid. They might close some services, but the Medicaid population is getting a bigger percentage of the hospital's business. We are working with the hospital association and the chains in southern Nevada. We just submitted a state plan amendment to the federal government within the last few weeks to hopefully get approval to start a new program in southern Nevada where private hospitals there would assume some of UMC's existing expenses. That frees up money for Clark County to send to the DHHS, which we would then match to federal dollars and return the tripled money back down to the participating hospitals, and they would all make money on the deal. This is a lawful transaction, an IGT Upper Payment Limit transaction, that we are trying to get going. Depending on whose estimates you follow, it is a significant amount of money over the next few years.

SENATOR CEGAVSKE:

I would like to go back to the Nevada Check Up. Can you tell us what costs have gone up for healthcare? One of the reasons this payment has been suggested is because healthcare costs have gone up. Is the increase in line with the increase in costs or not?

MR. WILDEN:

I do not know those figures off the top of my head or whether this is in line or not.

SENATOR CEGAUSKE:

When we first started the Nevada Check Up program, we had difficulty getting eligible people to sign up. Have we seen a decline in the numbers?

MR. WILDEN:

We currently serve about 22,000 recipients. We have been as high as around 33,000, and it has been declining over the years. When we are not doing active outreach, enrollment declines. Also, the program is for people between 100 percent and 200 percent of the poverty level. People who are unemployed or have no income at all do not qualify for Nevada Check Up; instead, they qualify for Nevada Medicaid. Thus, the Medicaid rolls are growing and the Nevada Check Up rolls are shrinking. That is why we have a \$60 million Medicaid shortfall. We are 18,000 Medicaid recipients over budget today and expect to be 40,000 over budget at the end of the biennium.

SENATOR WIENER:

You are working on an application for revision to the Medicaid plan for Nevada subsequent to S.B. No. 307 of the 2009 Legislative Session. It may take 3 years for approval, but would it be retroactive?

MR. WILDEN:

We have a placeholder in for a potential approval of January 1, 2010, by the Center for Medicaid Services (CMS). I signed that state plan submittal two weeks ago, and it has been filed with CMS. We are trying to put as much pressure as we can that it not take them several months to act on it. We have had state plans that take 2 1/2 to 3 years to get approved, and we need this approval now.

SENATOR WIENER:

Many pieces of this particular plan have been approved for other states; there are pieces that already have a track record. I am hoping we can get approval sooner rather than later. I want to compliment Mr. Wilden and Mr. Duarte; they worked very diligently to get that placeholder for the closest possible retroactive date so Nevada can benefit. We cannot take care of the \$61 million and growing, but we can certainly take care of it going forward from January 1, with a lot of things we have not been able to do before.

SENATOR HORSFORD:

On Nevada Check Up, while \$1 million in General Fund savings may seem like a little money, to the families who make \$20,000 a year before taxes, paying this increased premium can be very difficult. As you said, Nevada Check Up is reserved for the working poor, where Medicaid is now for those who have lost their jobs. I do not dispute that there should be an increase, but the increase proposed is 300 percent in some categories. I would challenge anyone to claim that the cost of health care has gone up by 300 percent, though it has gone up by double digits in some instances. If we do not find a way to increase premiums modestly, we are going to have the net effect of the individuals choosing not to enroll in this program because they simply cannot afford it. This means they will be uninsured altogether, because they will not be able to get into Medicaid, and that means we will pay for them in the long run as taxpayers, just through a different door.

This is not a partisan issue. I have worked over the years with Assemblyman Hardy on improving the electronic application process for Nevada Check Up, and I know your administration has tried to improve that process. But this recommendation seems out of balance with the type of approach we are trying to take, where there is a shared sacrifice. This seems like we are asking for a disproportionate impact on the poor, the vulnerable, the ones who can least afford it. I know I asked you before, but what was the rationale for the up to 300-percent increase in the premium?

MR. WILDEN:

The rationale was that the federal rules benchmark the premiums not to exceed 3 percent of income. We were trying to maximize that 3 percent. With the rate increases we are proposing here, each of the groups would be at either 2.06 percent, 2.56 percent, or 2.82 percent of income. I understand your comments about the percent of growth, but we are trying to get as close to the 3-percent limit as we can.

I do understand your concerns. I asked staff to track the disenrollment rate over the last year when we increased the premiums in a previous budget-cutting rounds, though the increase was not as steep as this. We enrolled about 28,000 unduplicated cases in that period, and we had 746 children disenrolled for nonpayment, about 3 percent.

SENATOR HORSFORD:

I appreciate the information. This is a recommendation we need to take another look at.

MR. WILDEN:

Under Medicaid optional services, we have added back many services, such as dentures and transitional rehabilitation. Those that are still on the cut list are adult vision, adult audiology, adult hearing aids and some of the adult therapies, for a savings of \$1,282,066.

We are proposing a cut of \$10 per day in the rate for skilled nursing facilities for a savings of \$3,053,113. This affects 38 facilities.

Those are the highlights in Nevada Medicaid. I will move on to the Health Division.

We are sweeping \$8,990,050 from the Health Radioactive and Hazardous Waste fund; this is also referred to as the Beatty Dump Site fund. We swept \$4 million out of that fund in a previous budget cut. This will leave just enough money in that fund to cover operational costs for the next three years.

We are sweeping \$267,293 out of the Marijuana Health Registry fund. Those are dollars in excess of our operational needs over the next couple of years.

The rest of the cuts in the Health Division are cuts to operating and travel expenses.

SENATOR LEE:

With regard to the Health Radioactive and Hazardous Waste fund, you said this is referred to as the Beatty Dump Site fund. Is there anything that encompasses the other dump site in Nye County on the test site property itself?

MR. WILDEN:

We are not involved in that. We have what I call the U.S. Ecology Site. We closed the site in 1992 to low-level radioactive waste, and hazardous waste is still being dumped in the other half of the Beatty site. That is managed by the Department of Natural Resources and Conservation, which is where the funds are generated. This fund was created as a perpetual care fund in case anything happened in that site that we would need to deal with. This sweeps that fund, so if anything does go wrong at the Beatty Dump, we do not have any money to deal with it. Nothing has gone wrong since 1992.

SENATOR LEE:

After you sweep this fund, will any more money come in to start to fill those coffers again?

MR. WILDEN:

Yes. It comes to about \$200,000 a year in fees.

SENATOR LEE:

Will that allow us to continue to test and maintain that site?

MR. WILDEN:

Yes, absolutely. We have a number of monitoring wells that will still be maintained to operate it. We are currently in the middle of a three-year project to recap the dump site, and we have money reserved to continue that process and monitoring the wells.

In the Division of Welfare and Supportive Services, they have a lot of administrative issues that I will not highlight. In the initial round of cuts, we had to cut 137 eligibility staff; they have all been put on the "do not cut" list. Welfare has a green light to hire all the 248 new staff that were authorized by the 2009 Session. That is necessary because of the high caseload growth in food stamps, Medicaid, and public assistance.

SENATOR HORSFORD:

I understand that, with proper training, some of that could occur at the county level. Would that still necessitate all 248 positions in Welfare, or is there a better way to partner with local governments to help us with eligibility criteria?

MR. WILDEN:

Yes, there is a better way to do that. You will remember that the 2009 Legislature funded a new automated Web-based application system at roughly \$11 million. That system combines with what we call a Trusted Partners program where we can have family resource centers, food banks and county partners do a lot of the front-end eligibility work. According to federal law, we still have to be the ones who make the final decision on eligibility. We are working on that system and intend to have it operational in the next year. Some of it is already being piloted.

SENATOR HORSFORD:

Is this for the 77 positions?

MR. WILDEN:

I do not know how many we will pull off altogether. One of the things we were counting on is – we are anticipating that new system and the new Trusted Partners program will save us 20 to 25 percent efficiency in our workers. As we get that system fully working, yes, we anticipate we would be able to give up some of these positions. We will have enough turnover in the future that we would freeze those positions and give some of them back. Again, that depends on how much more caseload growth we get.

SENATOR HORSFORD:

For purposes of the budget, I would like to know how we can avoid staffing up through the partnership. We need some of these positions, but I am not sure we need all of them. I have been concerned since last session about "staffing up" because we are in a bad economy, and when the economy improves we are going to lay off these people because our welfare rolls are going down. Is there something you could do to work with our staff to give us some better options for the next budget year to give us some savings?

MR. WILDEN:

I would be happy to work with staff. Because of the high caseload growth in Medicaid, food stamps and TANF, our application processing timeframes have been falling off dramatically. We were in the range of 95 percent timeliness 9 months ago; we are now hovering around 80 percent timeliness and dropping. The caseload is outstripping our ability to have workers trained and processing applications. We are waiting for the new automated system and our Trusted Partners program to come help us, but meanwhile we are struggling with the caseload growth and getting the new workers trained. Hopefully, it will all come together in the next year and we will not need so many eligibility workers.

Several of the items in Welfare and Supportive Services deal with us using the State Share of Collections, whereby we get to retain some of the child support collections we make. We are plugging those into budget accounts where we can and reverting General Fund in several areas. Another item we have been following closely is whether or not the USDA would give us additional administrative dollars for the food stamp program. We are anticipating savings to the General Fund of \$1,500,000 for this.

In the Mental Health and Developmental Services Division, we are proposing to revert \$8,162,406 in pharmacy savings in mental health services. Caseload growth savings will save us \$9,587,717 from the Desert Regional Center and \$3,747,732 from the Sierra Regional Center.

These are our two centers that serve clients with developmental need. We can revert these funds and still pull 78 people off the waiting list in Desert RC and get them into service, and through the biennium we can grow the caseload up another 60 to 80 slots in addition. In Sierra RC, we have a wait list of 33 people; we can pull those people off the wait list and grow the caseload up another 31 slots.

SENATOR RAGGIO:

When we were first discussing these proposed cuts, it was my understanding that the wait lists would not be addressed. I know you are going through this rapidly, but I am not clear on what you are saying. If these proposed budget cuts are implemented, can you furnish us your best estimate as to the number of people who will be on wait lists in these programs who will not be served? Or is that not going to happen?

MR. WILDEN:

You are correct. I can provide your staff with the calculations on all the service projections and the wait list. I probably added some confusion when I talked to the Interim Finance Committee two weeks ago on these two caseloads. My information at that time was that we would not be able to pull anybody off the wait lists, but that was based on a scenario in which we also cut an approximate \$6 million from what we call our E601 package. If we had lost all that money, then we would not have been able to take anybody off the wait list. In working with Mr. Clinger and the Governor's office, they did not cut that additional money, so we will be able to serve the wait lists and ramp up, based on the numbers I have here. I can share spreadsheets to the end of the year with your staff.

SENATOR RAGGIO:

You are talking about wait lists just within the Division of Mental Health and Developmental Services.

MR. WILDEN:

Yes.

SENATOR RAGGIO:

I want to see if there still are wait lists for any of the areas under your jurisdiction that will not be serviced if we follow these proposed budget cuts.

MR. WILDEN:

We can provide those.

SENATOR HORSFORD:

Where is the \$22 million pending in congress for the TANF money?

MR. WILDEN:

In the TANF program, we get a basic block grant of roughly \$44 million. Through the ARRA stimulus package, there is an emergency contingency fund of roughly \$22 million. Nevada and many other states have been drawing down on their emergency contingency allocation. Nevada is on course to draw all the money the federal government have allotted to us. There is discussion that one of two things may happen in congress. They may extend the timeframe to allow states to draw down their allocation for the states that are not on course to do so. That will not help Nevada, since we feel we are going to have all our \$22 million drawn down. The second possibility is that there will be a second emergency contingency allocation by congress. I do not know if it will be the full \$22 million, but that is what I am hearing. We support that; it will help us get out of the hole in our TANF block grant. Unfortunately, I do not have a date for that, and I do not even know what bill it will be in or how it will show up. I can check with staff for the latest information. Does that answer your question?

SENATOR HORSFORD:

Please let us know what you find out.

MR. WILDEN:

I will.

Continuing in Mental Health and Developmental Services, we are proposing to limit the in-patient beds at the Rawson-Neal Psychiatric Hospital to 212 for a savings of \$1,533,421. The current enrollment today is 177, so this should leave use some headroom.

SENATOR CEGAUSKE:

The Rawson-Neal Hospital is in my district, so I hear about the issues. How are we doing with staffing and making sure patients are secure inside? Have we had any more issues?

MR. WILDEN:

The Rawson-Neal is currently a 234-bed hospital. During the budget cuts we have made over the last couple of years, we have pulled about 100 staff out of that facility. This was discussed in the 2009 budget closings. That proposal was put forth based on a number of private-sector companies analyzing our staffing ratios, as well as our own staff looking at staffing ratios in other states. We were staffed at about 1 staff to 2.4 patients; the national numbers we were looking at were 1 staff to 2 patients. By adjusting to those national ratios, we were able to eliminate 95 to 100 positions.

The second issue that has gone on in the Rawson-Neal is the furlough. I have not granted a single exception to the furlough policy; every employee in DHHS is taking an 8-hour furlough every month. That has put additional pressure on staff and management to cover all the shifts, and I certainly appreciate staff for their perseverance and endurance through my bullheadedness to make that work. We have actually managed to reduce overtime at the Rawson-Neal at the same time.

People ask if we have patient safety issues, and we do. But they are not at an alarming level or even a level that concerns me. We can provide you with data showing our OSHA statistics are as good or better. Yes, we have patient safety issues; there have been two or three really ugly issues in the last several months, and we are dealing with them. But when we do the root-cause analysis and the serious incident investigations, it is not staffing that is the problem.

SENATOR CEGAUSKE:

You know what the issue is, and it is being addressed, correct?

MR. WILDEN:

Yes.

SENATOR NOLAN:

An ongoing problem in Clark County is overcrowding in emergency rooms. Quite often, that is attributed to mental health patients who cannot be moved quickly enough from acute care facilities into long-term care facilities like the Rawson-Neal. Even prior to the current economic crisis, we have had situations in which the hospital community in southern Nevada has reached out to us and told us they had a crisis, with over 100 mental health patients in beds for more than a couple days and they could not get them into the facility. The issue is two-fold: staffing ratios and furloughs. I am told some of the furloughs are taken voluntarily and usually on a Monday or Friday to make for a long weekend, which means staffing is lower during the week than it normally would be. There is also a physical plant problem with not being able to receive more than one patient at a time, which leads to ambulances stacked up at your back door.

The situation is becoming worse in emergency rooms. As our economic crisis deepens, so are the number of people suffering depression and other related mental health problems. My concern is that we are seeing a vicious cycle with a grave prognosis if we do not keep the Rawson-Neal staffed and handle the intake. People who are having heart attacks are being diverted to two or three hospitals to get care because of overcrowding at the emergency room, and there have been

fatalities because of it. What are you doing to address this, and will these cuts affect the problem?

MR. WILDEN:

You are correct. There is typically a backlog in emergency rooms. When we have a situation known as a Legal 2000, in which someone is considered to be a danger to self or others, they are transported by police or ambulance to one of the emergency rooms where they have to be medically cleared before they can come into the Rawson-Neal. Yesterday, for example, there were 46 patients waiting in the emergency rooms in Las Vegas. A few months ago, this number was in the 20s. So 46 is much more than we would like to see, but it is much lower than the 120 to 130 we saw a few years ago. What I am hearing from staff is the time people are waiting in emergency rooms now is measured in hours rather than in days, so that is good news.

How that has been improved is based on the fact that the Rawson-Neal facility actually has two sides. There is the inpatient side of the hospital, and there is the psychiatric observation side. When somebody first arrives, they are put on a 72-hour hold in the psychiatric observation unit to decide what needs to happen to them: medications, housing and what has happened to them to cause them to have a psychiatric incident. That is the funnel point. They come from the emergency rooms to the psychiatric observation unit, and about half of the patients will never go to the inpatient side. They can go back into the community on medication. The goal is keeping psychiatric observation running at full tilt. The inpatient side is not the problem.

The next item is tied in with this. Originally, we were going to have to cut \$4 million out of our residential services in southern Nevada. We have been able to cut this down, so now we are recommending reducing it \$1,250,000. That allows us to add 85 more residential support slots to the Southern Nevada Adult Mental Health Service.

SENATOR NOLAN:

You say you are running the observation units full tilt. Do you have enough observation beds? If you need more, can you move some from the inpatient side? Again, my interest is reducing overcrowding in the emergency rooms.

MR. WILDEN:

As I understand it, we can move beds to the observation side, and that is going on now. The Rawson-Neal was built with 30 observation beds. As they have vacancies within the hospitals, they can run temporary observation units. They are experimenting to keep the front end as wide open as they can.

The rest of the proposed cuts in Mental Health and Developmental Services are operating and travel expenses.

Finally, I will cover the Division of Child and Family Services. The first three items are opportunities where we have caseloads running lower than budgeted. For room and board payments to behavioral health residential facilities, we can revert \$899,734; for foster care payments and residential care placements in Rural Child Welfare, we can revert \$1,629,039; and for Youth Parole, we can revert \$900,000. Part of the reversion in Rural Child Welfare is related to the fact that we will not be implementing the sibling rate increase.

Because of revised cost allocations, we will be able to cut \$720,000 from the Wraparound program and replace it with Nevada Medicaid dollars.

Closure of the Summit View Correctional Center will save \$3,494,745. This is a 96-bed facility, and we are authorized to run it at 48 beds. We are proposing the facility be closed, and in fact we are in the process of closing it now. We are suggesting we open 20 beds in the Nevada Youth Training Center in Elko or the Caliente Youth Center in Caliente. Last Friday, there were 26 children in Summit View.

SENATOR HORSFORD:

If we have not made the decision yet, why are you in the process of closing Summit View?

MR. WILDEN:

Our direction was to start saving money. This is not a move that we viewed as requiring legislative action.

SENATOR HORSFORD:

It does require the Interim Finance Committee to approve the additional positions you would need at the other facilities to accommodate the youth from Summit View.

MR. WILDEN:

That is correct.

SENATOR HORSFORD:

You do a phenomenal job as director of the DHHS, and I do not know what the State of Nevada would do without you. But I am disappointed that we were not given the opportunity in this case to figure out options before the steps were taken. The youth are already being relocated and released, and that is not fair to this process. We may be able to figure something out.

SENATOR LEE:

Does Summit View hold youths who have done a different type of crime than those who are in the other two locations, or are they all the same?

MR. WILDEN:

Caliente is more or less our minimum-security facility, Elko is medium to high security, and Summit View is high security.

SENATOR LEE:

Would it not be more appropriate to meld the two lower security facilities together and keep the high-security group separate, rather than interspersing the high-security group among the others and allowing the not-so-violent, not-so-criminally active to be around these youths?

MR. WILDEN:

That is actually what our plan is. None of the youths who are currently in Summit View would go to Caliente. The plan that is being rolled out is that the higher-end, more-need youth to go to one or two units in Elko, and if there are some currently in Elko who need to go to Caliente, they will. Basically, we will be running the system with one low-medium facility, which is Caliente, and one medium-high facility, which is Elko. This is how we ran the system before 2000; we did not have Summit View until 1999 or 2000.

SENATOR LEE:

At one time, female youth offenders went to Caliente. Are there female offenders at the other centers as well?

MR. WILDEN:

No. Female offenders still go to Caliente. We have one female unit at Caliente, I believe, and that is the only place there are female offenders.

SENATOR CARE:

I toured Summit View a few years ago, and I have been to Caliente. My recollection is that Summit View is relatively new and more modern than the others. How was the determination made to close Summit View and send everyone to Caliente and Elko, rather than closing Elko and sending everyone to Summit View and Caliente? Also, how did you come up with the savings of \$3.5 million, as opposed to doing it some other way?

MR. WILDEN:

When we decided over the last few years to reduce Summit View from a 96-bed facility, and we never got to the population, down to 48 beds, it became a very expensive facility to run for

only 48 children. The cost per child is significantly higher than Elko or Caliente; I do not have the exact figures, but I can get them for you. Summit View is basically a prison, with razor-wire fences and cells. It was built in 1998 and 1999 and opened in 2000. We ran it for a couple of years, had problems with a national contractor, and I closed it when I became director in 2004. It remained closed for two years, and then we were allowed to staff it and reopen it. Both Caliente and Elko were built in the early 1960s, and they are staff-secured facilities rather than the hard razor-wire type facility. They have more of a dormitory, cottage feeling.

SENATOR CARLTON:

My understanding is that we will still be on the hook for the bond payment for Summit View, and it is something like \$1.2 million. How do we factor in that we have an empty facility that we still have to pay the mortgage on?

MR. WILDEN:

You are correct; I do not have the exact number, but \$1.2 million per year is in the ballpark. We have bond payments to make until 2017, I think it is. What we are working on is attempting to lease the facility. We are working with bond counsel to try to find someone who would lease that facility and operate it. There are problems with that, since it was financed with tax-exempt bonds, so it cannot be leased by a for-profit company; it has to be a nonprofit group. We are continuing to work on that. The second piece of this is not only trying to save this \$3.5 million by downsizing from three to two correctional facilities, but also to lease Summit View to an entity that will meet bond counsel's approval. It would then be a revenue opportunity for the State.

SENATOR CARLTON:

I too am disappointed. Summit View has been discussed and we had some very passionate testimony about it, and then we hear through emails and other communications that these young people are being moved. These are criminals; these are not kids in detention. I am disappointed that if we were going to do this and you were going to figure out a way to pay for it, we didn't figure that out before we started moving these kids around. They were doing fairly good and having some successes at Summit View, and I am afraid all of that is going to be lost with all this transition.

SENATOR HORSFORD:

If we decide to do something different, what will happen to the youth that have been moved?

MR. WILDEN:

I guess we would move them back to Summit View. I want to be accurate for the record. When we downsized Summit View from 48 beds to 26, only 11 youth were moved. The others were paroled. Those were natural paroles; that is, they were scheduled for parole.

Continuing with the Division of Child and Family Services, we are reducing the state payments to the Washoe County Child Welfare Integration budget by \$2,046,368. This is a reduction to their General Fund payment of 10 percent. We will also reduce Clark County's payment by 10 percent for a savings of \$6,101,647.

SENATOR RAGGIO:

That is not taking all the money from those funds, but just reducing it by 10 percent. Is that right?

MR. WILDEN:

That is correct.

SENATOR RAGGIO:

Is that an attempt to be consistent with the 10-percent reductions across the board?

MR. WILDEN:

Yes.

Mr. Clinger's budget includes a sweep of \$40,890,585 from the Fund for a Healthy Nevada and Public Health Trust Fund, which we are calling the tobacco sweep. In particular, this is comprised of \$8,891,525 from Senior Rx; \$3,748,095 from Disability Rx; \$8,949,734 from Individual Living; \$6,956,879 from Tobacco Use; \$868,610 from Children's Health; \$713,320 from Disability Services; and \$10,762,420 from the Public Health Trust. There are three policy decisions that are being implemented to do this: (1) Hold Senior Rx and Disability Rx enrollment flat. They currently have waiting lists of 150 in Senior Rx and 90 in Disability Rx. We will not pull people off the waiting list unless someone leaves the program. (2) Eliminate Tobacco Cessation Program funding in FY 2011 and FY 2012. (3) Reduce all other funding categories 10 percent.

SENATOR HORSFORD:

Thirty percent of our State budget goes to DHHS, so this is a big chunk. For you personally and collectively for your team, these are really hard recommendations to have to make, particularly since you helped to build up so many of these programs. I appreciate what you have done and the explanations you have provided.

SENATOR RAGGIO:

You did not address the TANF shortfall. I think I understand what you are doing there, but what about the timeliness issue? With TANF and SNAP, is there not a timeliness problem?

MR. WILDEN:

Yes. I have a spreadsheet I can provide to staff. We have different categories of eligibility, and our goal is to process cases timely 95 percent of the time. "Timely" has different definitions in different programs; it can be 10, 30 or 45 days, depending on the program. We try to meet the timeliness standard 95 percent of the time. On average, we are only timely right now about 80 percent of the time and declining. That is a worry. The caseload is growing faster than we can get trained workers online to keep up.

SENATOR RAGGIO:

What is the sanction if you do not keep up?

MR. WILDEN:

There is a series of sanctions that can occur. The federal government can implement various penalties. I can provide a sheet on that. They are graduated penalties. The first thing they usually do is cite you with a need for corrective action plan, and you usually get a year or so to implement your corrective action plan. Then they will hammer you with penalties. In TANF, there is a specific prescribed set of penalties. There are penalties involved in the other programs as well.

SENATOR RAGGIO:

Were you going to address cuts to the autism services?

MR. WILDEN:

I can. This does not impact the General Fund, but if we were not going to make these cuts, we would need to ask the General Fund for money. Based on last month's calculations, our TANF block grant will be short by roughly \$6.8 million at the end of the biennium if we continue with the caseload growth we are projecting and funding all the programs we currently fund with the TANF block grant. In order to right the ship and avoid asking the General Fund for \$6.8 million, we are proposing a number of cuts in the programs funded by the TANF block grant.

We would be reducing the monthly support rates by 22 percent for autistic children and self-directed support clients at the three regional centers. We would not be reducing the number of people served, but we would be reducing the money we give the families to procure services. For clients ages 0 to 5 years, it will go from \$1,555 to \$1,213; for clients aged 6 to 8 years, from

\$1,037 to \$809; and for clients aged 9 to 10 years, from \$778 to \$607. Self-directed support clients will see a drop too, from \$450 to \$351 for some clients and from \$175 to \$136 for others. This will save a total of \$1,486,285.

Secondly, we would be eliminating a \$1.5 million transfer from the TANF block grant to the Title XX block grant, which funds some services in Child and Family Services. This Title XX funding was being used for room and board charges for non-DCFS custody kids. It should have no negative impact, as caseloads are running lower than budgeted. We will also be eliminating transfers from the TANF block grant to the two largest counties; for Washoe County, this comes to \$439,086, and for Clark County, it is \$1,135,238.

SENATOR RAGGIO:

Are those the full amounts, or are those percentages?

MR. WILDEN:

Those are about 25 percent of what we used to fund. In previous cuts, we took away 75 percent of the funding we transferred to the counties. This proposal would zero it out.

SENATOR RAGGIO:

Forgive my ignorance, but what is the difference between "autism clients" and "self-directed support clients"?

MR. WILDEN:

There are two ways we provide services. Sometimes we give the money to the family, and they procure the services independently. Other times, we provide the services. It is just a matter of how the services are procured.

SENATOR OLSEN:

For the most part, these are 10-percent reductions, but the cut to autism services is significantly more than 10 percent.

MR. WILDEN:

It is a 22-percent reduction.

SENATOR OLSEN:

I am curious why we went to 22 percent and some of the others are only 10 percent. What is the reasoning behind that?

MR. WILDEN:

In this program, these are funds transferred out of the TANF block grant. We are simply saying we do not have the financial ability to make the transfers at all. Once we stop the transfer, in this case of \$1,486,285, it results in a 22-percent reduction. If we do not implement these changes, we will need General Fund money to backfill the TANF shortfall. If we get the \$22 million emergency contingency money from the federal government, we can backfill with that. That is an unknown factor at this point, however.

SENATOR LEE:

What do you think the total hit is to Clark County and Washoe County because of these cuts?

MR. WILDEN:

I have not calculated that. The two biggest cuts are first in Child and Family Services, where we are eliminating approximately \$2 million to Washoe and \$6 million to Clark; and in the TANF budget, we are eliminating approximately \$400,000 to Washoe and \$1.1 million to Clark.

SENATOR LEE:

There is also a little in the youth camps and those kind of things. In the other counties, Esmeralda, Lincoln, Pershing and so on, what kind of hit will they take? Do you think it will be \$1 million to the counties that have hospitals and that kind of stuff?

MR. WILDEN:

I have not calculated that.

SENATOR LEE:

Is it possible to have someone give me an idea how we are affecting each county? This matters in real life to these counties, and I do not think they need shocks and surprises. We need to let them know right now, because they are in the middle of some severe budget cuts and have some serious things to prepare for. They need to know this information, and it would be valuable to the Committee also.

SENATOR HORSFORD:

We appreciate your being here and following up with the information you will provide to our staff. We are going to turn next to K-12 and higher education issues.

KEITH RHEAULT (Superintendent of Public Instruction):

I would like to start out by saying that in general, K-12 education knows it has to be part of the solution. However, if you poll the citizens of Nevada, K-12 education funding is probably as high a priority as any in the State. We are here to work with the Legislature on coming up with the best solution to the fiscal problems we face. I can give you a walkthrough of how the 10-percent cuts were determined for K-12 education, or if you have a different line of questioning, we are open to that.

SENATOR HORSFORD:

We have two sheets here from Mr. Clinger's office; one is titled "State of Nevada Kindergarten through 12th Grade (including the State Department of Education) Legislatively Approved State and Local Funding, Fiscal Years 2008 through 2011," and the other is titled "State of Nevada Distributive School Account Fiscal Years 2008 through 2011." We will work with those; they show a cut of \$175,632,200 to K-12 over the biennium.

We would like to hear from the counties. The general question we would like to start with is based on the Governor's recommendation of a reduction of \$175 million to K-12 support from the General Fund, how will those cuts apply to your individual districts, and how do you plan on going about making the decisions you will be faced with?

HEATH MORRISON (Superintendent, Washoe County School District):

It is interesting being the "new guy on the block." I was selected to be the superintendent of Washoe County School District on August 1, 2009, and people keep talking about the difficult times and the difficult decisions I will have to make. I honor the tough choices you will have to make and the challenges that lie ahead for you, because I believe we are all in this together.

With regard to the \$175 million, I have read a lot in the past 24 hours about whether it is a 10-percent cut or a 2.4-percent cut. It is \$175 million. In Washoe County School District, which is the second largest school district in Nevada and one of the largest school districts in the country, a 10-percent cut for us would be approximately \$25 million. That cut would also be accompanied by other drops in local revenues, decreased enrollment and negotiated agreements totaling another \$15 million. We would therefore be looking at a total cut of approximately \$40 million. How we go about solving that \$40 million is going to be dependent on whether that is the ultimate cut we are asked to bear, based on the decisions reached at this special session.

We understand that there will be a cut. We are not here today to say that we do not think there should be any cuts; we understand the magnitude of what you are having to do, and we are absolutely prepared to work with you. But we would ask, through your commitment to public education, the cut be as small as possible and come with a maximum amount of flexibility. That will help us determine how we approach that large a gap.

One of the flexibilities we ask for has to do with class size. As you know, by State law, we cannot increase class size in grades 1 through 3. If we wanted to adjust class sizes to make up some of that gap, we would have to confine it to grades 4 through 12. If we did that in Washoe County, we would save about \$6 million for every student we increased. But there are some important things to put on the table about what that means. Increasing class size by one student in grades 1 through 12 would mean laying off 110 teachers. Sometimes when we talk about increasing class size, we forget that it means layoffs and reductions in force. Also, I am concerned about class sizes at our secondary level. I walk in the high schools and see core academic classes of 31, 32 and 33 students. To start to cut into a \$40 million budget gap, we would be talking about increasing class sizes 4, 5 or 6 students if we can only increase class size in grades 4 through 12. I am worried about the ability of a teacher to be able to differentiate among the needs of 40 students, when some of those students speak English as a second language and some have disabilities that require Individualized Education Programs (IEPs). With some classrooms, there is a question whether we can physically fit 40 students in the room.

Again, what we ask for is flexibility, once we know the actual number. Once we know the amount of flexibility we will be given, we have plans. We will go out to the public and get input; we are a public education system. We will negotiate with our employee groups; we have to do this with our people, not to them. We will then aggressively try to come up with a combination of ways to adjust to whatever the budget shortfall might be.

SENATOR CEGAVSKE:

I am sorry we are here again under these circumstances. We all want K-12 to be the best it can be, so this is difficult for everybody. When you mentioned layoffs of teachers, I need clarification. Are you including substitutes and long-term substitutes? Are you classifying them as teachers in the classroom? If you are, I want numbers of how many long-term substitutes and substitutes would be laid off. Does that leave us with qualified teachers in the classroom? That is a huge issue. We all know that has brought a lot of problems for us.

You also mentioned your negotiations. Have the teacher's associations come forward at all in any of the meetings? I do not know if they have been involved with the Interim Finance Committee (IFC) at all. Have they come forward to help us with this State problem? Have they offered any solutions? Have they come in good faith, willing to negotiate in any concept whatsoever, to help us through this problem?

WALT RULFFES (Superintendent, Clark County School District):

Yes, we have had good dialogue with our teacher's union. They recognized the seriousness and profound nature of the problem. They have strong reservations about accepting the responsibility for all the cuts through their membership, particularly in areas of compensation. They also recognize that it is going to be a lose-lose situation. We hope to work this out at the table, and there have been friendly negotiations going on, or perhaps non-acrimonious might be a better way to say it. If we are not able to achieve some kind of settlement with the union, we face the process of arbitration. If we are not successful in arbitration, the only option we have as superintendents is layoffs, and no one likes the sound of that. No one will win through arbitration, so the shared-sacrifice approach has been used. I am talking about that all over town, because I believe if we could get people to accept a shorter work year for one or two years, whatever it takes, we could have a very minimal cut to everybody and avoid layoffs.

At the two extremes, if Clark County School District were cut \$150 million and we had to manage this just with layoffs, we would lose 2,300 people and would have to increase class size dramatically. If we tried to recover the full amount with a shortened work year, we would be reducing the school year by 17 days. Neither of those is a total solution, so we are hoping to have some kind of mix of a shortened work year along with other adjustments. Regardless of how we approach it or what agreement we get, we are going to have an impact on the number of jobs.

In regard to your question about substitutes, it is hard to speculate. If we have fewer teachers, one might assume we will have less need for substitutes. We currently average about 1,400 substitutes in our classrooms every day, and we draw from a pool of about

4,000 substitutes. If the workload increases dramatically, I suspect sick leave will also increase, which would increase the need for substitutes.

We have had good discussions with the teacher's association. We have not done so well with the administrator's association; they have not been willing to talk about any kind of concessions. In fact, they are still pursuing a salary increase to pay for the one-half percent cut in their PERS last year. That will go to arbitration.

SENATOR CEGAUSKE:

In your discussions with them, you were talking about sick leave and some of the other issues that are mounting up costs because you have substitutes. That is what I am looking at. Are there ways to not decrease the days students are in the classroom learning, to get the associations to look at actually giving up something and helping us out? In the years I have been here, we have given more money and we have grown education. Now our numbers are declining, but we need to do something as a whole. My hope is that the unions will come to the table and work with us. We are trying to get all the other agencies, everybody else in the State here, to be involved. Everyone goes after business for money, but we all have to suck it up and do it. We have to do it, but we can do it together. To keep coming and asking for money we do not have and have no way to get is not the answer. I would like to hear Washoe's comments as well.

DR. MORRISON:

I came to Washoe County School District committed to challenging the status quo. I have a board and a community who want to do that. Our associations have been good partners in that reform agenda. We are aggressively going after reforms in our district, and they have been true partners in that. We have not yet had a conversation about the budget in terms of whether they would be willing to open up the contracts. I have not asked them formally because they will not tell me until such time as we know the amount of the cut and what added flexibility we have been given. We have talked about working together; we have had many cooperative, collaborative meetings. I believe they will be good partners in looking at what needs to happen.

With regard to your question about substitutes, in Washoe County School District, we have 185 contractual days with our teachers. Our students go to school 180 days. There is a lot of conversation about bridging the budget gap by shortening the school year. If we shorten the school year, that entails furloughs. In Washoe County, we save \$1.5 million for every one furlough day. Contractually, however, you could shorten the school year to 170 days for students, but contractually I would still have an obligation to pay teachers for 185 days. If we had to, we could ask them for consideration, but they would have to be willing to open up contract negotiations.

SENATOR CEGAUSKE:

So in theory, through negotiations, we could look at some way for them to help. For example, we were looking at the possibility of not paying any money into the retirement fund of State employees, or we could come up with a system where we pay half and half. We could come up with something that is a cost savings through negotiations. Is that correct? We do not want anyone to be laid off, and we do not want the kids to have less time in school. Is there something through the benefits part of the contract that we could discuss? I am just talking about in theory.

DR. MORRISON:

The great thing about negotiations is that all things can go on the table. If people are resolved to work together, there are a number of different solutions that can occur. The important thing to remember is that whatever cuts happen to public education through this special session, ultimately it is a number that can be negotiated. If they will not renegotiate or open up contracts, then one of the few things we can do is increase class sizes. For every one student we increase class sizes, we save \$6 million, so you can imagine how much class sizes would need to increase to make up that \$40 million. That means layoffs of teachers, administrators and support staff.

SHARLA HALES (Nevada Association of School Boards):

I have a statewide perspective on this. Every relationship is going to be different in every district. There may be some in which the associations will be willing to talk, and there will be others in which they will not. By law, they will have to go through the negotiating process. But there will be many in which there will not be willing agreement to have a shared sacrifice.

SENATOR CARE:

I was not here when the Legislature endorsed or approved class size reduction, and I am aware of the debate since then about whether it works or does not. I am sure that as superintendents, you talk to your principals and teachers and tour classrooms frequently. I am wondering, after you have raised the specter of larger class sizes for grades 4 and above, if you can give us some sort of intuitive notion of what that will mean. I am not looking for something based on data, just on your observations. It may depend on the district or the type of school. Surely there must be some point at which a class has so many students it becomes a matter of crowd control, rather than offering instruction.

DR. RULFFES:

It is a workload issue as well as an academic issue. Maybe an anecdotal example would be good to put a face on it. We are really pushing on math improvement because we have done so poorly on a nationally-recognized assessment in that area. A math teacher called me recently, and she was crying because we were pushing so hard to improve math, while at the same time we were increasing the expectation for No Child Left Behind and the standards for the high school proficiency exam had been increased, and yet we were adding more students to the class. She has from 35 to 40 students in each of her five classes, so she is dealing with 175 to 200 different faces every day, trying to make improvements. You can see the workload impact on someone like that who was already overburdened and is now potentially being expected to do more. What was the other part of your question?

SENATOR CARE:

How populated can a class become before it is no longer an effective endeavor to instruct? I know there is no firm number; it is going to vary depending on who answers the question.

DR. MORRISON:

First, let me compliment the wisdom of Nevada's lawmakers for investing in early childhood education. As you look at research across the country, for every dollar you invest in early childhood education, you recoup \$17 in savings from prisons you do not need to build, social services you do not need to provide and drug treatment centers you do not need to build. It is the best investment out there. One of the hardest things about being a supervisor right now is having to come before you to ask for permission to increase class size in the early childhood grades, because we know the value of it.

I do not know the answer to your question. Realistically, it depends on our students. The reason early childhood education is the greatest gift we can give the children of Nevada is because increasingly we are seeing students coming to us bearing the impact of poverty, mobility and English as a second language. Consider a class of 25 students. If all 25 students come to class on the first day of the first grade ready to learn; all of them, because of full-day kindergarten, reading at a first-grade level; and many of them already reading on a second-grade level, 1:25 is an excellent ratio. If those 25 students did not start in Nevada; many of them unable to recognize letters; many of them speaking English as a second language, and we know it is best not to pull them out to teach them English, but to keep them in the classroom with an ESL teacher co-teaching the class; some with IEPs that by law require us to do certain things to differentiate their instruction; most of them at a first-grade reading level or below, 1:25 is absolutely not the best ratio.

Unfortunately, teachers have a tendency, across the country, to give the least to those students who come to school with the least. Not that we want to increase anybody's class size, but it would make more sense to increase class sizes in classes that are already rigorous, with students who are prepared and ready to learn on day one, and to keep the size of classes where students

who are impacted by poverty, mobility, language and IEPs extremely low. Why is that important? Because it is about a promise to a child. It is about a promise to raise the bar for all children, believe that all students can learn, and differentiate to their needs to make sure they are learning. We can do that in small classes much better than in large classes.

DR. RULFFES:

Our best test scores are in grades 1 through 4. I believe that is because class sizes are low enough for the students to get individual attention, especially where there are language issues.

The other issue I would like you to be aware of is that when the State committed to class-size reduction in grades 1 through 3, the Clark County School District built dozens of schools based on that formula. We now have classrooms that are designed to accommodate 16 students. If we try to increase that, we might get maybe two or three more desks in there, but no more. We have a major facility issue with increasing grades 1 through 3 by any significant number. There is no way we can get 20, 25 or 30 students in one of those classrooms. While increasing class size may be a solution on one hand, it becomes a major problem for us on another hand.

SENATOR HORSFORD:

For the Clark County School District in particular, in the last session, there was approximately \$313 million in reduced State support to K-12. What was the impact of those cuts? What was reduced or eliminated? How did you approach those budget cuts? What will this additional shortfall do, and how are you approaching it this time?

DR. RULFFES:

The first \$130 million, to be fair, was money you had allocated for improvements that were never implemented, because the cuts came before we got the improvements up and running.

SENATOR HORSFORD:

What were those items? Some of us may not recall what was funded that got eliminated, so please expand on that.

DR. RULFFES:

There were dollars for performance pay, for a model to be developed and used. There were dollars for increased numbers of full-day kindergarten. There were empowerment dollars based on a model we had tried and which had been very successful.

DR. MORRISON:

There were also extended learning opportunity after-school programs and grants that specifically went to interventions for students. Those were the programs that had the most impact. In the last three years in Washoe County School District, we have cut \$44 million from our budget. One of the questions I have gotten a lot recently is why it looks like every other State department got cut and K-12 increased in terms of State commitments. It is important for the public to understand that through the wisdom of the lawmakers in Nevada, there are some legal protections to our public schools. When local revenues drop, there is a constitutional obligation to offset that. The reason K-12 increased from 34 percent of the budget to 39 percent is not because we got new dollars, but because local revenues such as the LSST and property tax decreased. The property tax is extremely concerning to us because if it decreases, you have to help us with one-third of that shortfall, but we have to make up the other two-thirds. And right now, we know what is happening with property values across Nevada. As we look at what is happening in Washoe County, Clark County and all across our Great State, it is very concerning to look at what that could mean in the future.

DR. RULFFES:

Cutting the school improvement money was one of the most difficult for us to eliminate. We had a lot of evidence that it had been working around the State in all districts. That was money based on the empowerment concept that went directly to the school, and the school designed some kind of school improvement based on the population they were serving. We had pretty

good results from that, which is one of the reasons we continued to pursue the empowerment model.

With the next \$120 million we cut, we eliminated block scheduling in our high schools; this essentially said we would reduce the number of periods and elective classes available to students. We cut administrative functions and support 12 to 13 percent. We reduced school staffing 3 percent, and that in itself led to some class size increases, because in many cases principals then determined they would have fewer teachers in order to maintain reading specialists, computer specialists and that sort of thing. The final result was that we eliminated programs like AVID and some of the supplemental help like special tutoring for students who could not pass the high school proficiency exam.

SENATOR HORSFORD:

Under the options you are exploring, based on the amount of \$175 million of reduced basic support from the State, you talked about decreasing the length of the school year. As I understand it, the savings would be \$13 million for each school day.

DR. RULFFES:

I believe that was a State-wide number. I have addressed it in terms of reducing one work day, which is different than reducing one school day. Most districts have some work days beyond the 180 days. This is a really important issue. We have 180 days for students, then I have 4 additional teachers' days, and Washoe has 5. If we eliminated one of those teacher days Statewide, it would save \$13 million; it would save Clark County \$9 million. That is not just teachers; it is all employees.

SENATOR HORSFORD:

But how many work days would have to be decreased in order to get to \$175 million?

DR. RULFFES:

That would take 17 days. I have a number in negotiations I do not want to disclose right now, but it is not 17. Our preference is not to reduce student instructional days.

SENATOR HORSFORD:

So your approach is to try to get agreement on what you consider work days. Are those professional development and additional contracted day?

DR. RULFFES:

Yes.

SENATOR HORSFORD:

If you were to try to balance the proposed cut of \$175 million just using class size, it would mean six additional students in each classroom in every grade. Is that correct?

DR. MORRISON:

It depends on how much is cut and what flexibility we have. The best way to approach this is a combination of tactics. If you just increase class size, it would mean layoffs. We might look at salary concessions, a shortened school year, a shortened work year or some sort of furlough. This is going to be the issue that each of the 17 school districts has to cobble together. In Washoe, we will look at our fund balances responsibly, but we have been reducing them the last three years as we dealt with the \$44 million shortfall. We also look ahead to the challenges with the shortfall we will face in the next biennium, which is currently estimated at \$2.3 billion for the State. We are looking at reducing central services and administrators because that is the most appropriate place to go. For all the districts, regardless of size, 90 percent of the costs tend to be our people. That is appropriate, because people are the best tool we have to raise the bar and close the achievement gap.

One other thing that is important to put out there is that a big portion of the money we get is through federal grants, which are very prescriptive. You get the money based on doing what the

grant purports to do, and you cannot use it to supplant a lack of funding in other areas. We cannot use federal funds to avoid laying off 1,000 teachers, for example. If we are able to get funding through the Race to the Top program, we cannot use it to supplant local or State funding. It has to be used for educational reform.

MS. HALES:

Earlier today, Keith Rheault told me that to increase classes in grades 1 through 3 by one student would save \$21 million and would require laying off 306 teachers.

SENATOR HORSFORD:

You have to multiply that by 10, right?

MS. HALES:

Yes, and that is just grades 1 through 3.

SENATOR MCGINNIS:

We are going to challenge you with less money. With regard to class size, you do not have any flexibility in grades 1 through 3, is that correct?

DR. MORRISON:

At this time, no. Right now, we can only increase grades 4 through 12.

SENATOR MCGINNIS:

Do you have the ability to shorten the school year now?

DR. MORRISON:

We can shorten the number of days children attend school. By contract, we still must pay our employees based on the contractual days they are entitled to. If you shorten the school year for students to 178 days, we still have to pay teachers for 185 days, unless through contract negotiations we are able to negotiate that.

SENATOR MCGINNIS:

You also mentioned furloughs. We are going to challenge you, but if we gave you these other tools, it would make it easier for you to negotiate some of these things to try to make it less onerous on the students.

DR. MORRISON:

I do not know about the tools. Whatever is passed here legislatively, we will sit down with our employees and talk to them about it and see what we can do. I have already shared all of our numbers with our employee associations. The concept of "shared sacrifice" is very important.

I hope the public can understand the difficulties here. We are often challenged to run our school districts like businesses, and I am open to that. We are going to be very aggressive in looking at performance management, setting rigorous targets in our school districts to engage in improvement. But one of the things quality businesses do is invest in their employees. As they face budget shortfalls, one of the last things they do is take away the ability to build the capacity of their employees. It might be easy for someone who does not understand what we trying to do in education to say we should do away with the teacher days. But those are the days we have to build the capacity of our teachers. At the end of the day, the most important aspect of closing the achievement gap is to have quality teachers.

SENATOR HORSFORD:

I want to clarify something. The question I heard was, "Is there flexibility in class size as part of that?" It is my understanding that there is, through the waiver process through the State Department of Education, and most districts have taken that approach. Is that correct?

DR. RULFFES:

Yes. The State Department of Education can grant a waiver. I have submitted and been approved for waivers in the past.

SENATOR HORSFORD:

So it is not that it cannot be done.

SENATOR TOWNSEND:

There has been agreement between the administration, our staff and the group you are in front of today that \$175 million is the reduction. You can argue percentages all day, but you are interested in hard dollars, and I respect that. Dr. Morrison, I believe you said it would be about \$25 million to Washoe. Is that correct?

DR. MORRISON:

Yes. A 10-percent reduction in Washoe County through the rest of this year and next year to the biennium would mean about \$25 million.

SENATOR TOWNSEND:

Using that figure, if all things were to start on a fresh sheet of paper, what does that equate to across the board? Is that a 1-percent cut in salaries to everybody? Is it a 5-percent loss? Do you have any idea what that would be? I would ask the same question of Dr. Rulffes.

DR. MORRISON:

That would be around a 7-percent salary reduction, keeping in mind that we also face the loss of local revenue and negotiated roll-ups, for a total cut of \$40 million to \$42 million. It could be a class-size increase of 6 students per classroom in grades 1 through 4; it could be furlough days. There are all sorts of ways we would have to cobble together to get the numbers. Probably it will end up being a combination of those things.

SENATOR TOWNSEND:

So you are asking for flexibility to be able to work within the current confines of what you have, which is your negotiated agreements, and trying to manage your challenges. Some of us have been here a long time, and we have been party to many of the mandates we have placed on you. Senator McGinnis actually served on a school board, and he constantly reminds us on the floor that whatever we pass is one more mandate. We probably should have listened to him a number of times.

We are just trying to figure if, with the money involved, there are ways we can help you work with the teachers and other staff you have. You are telling me that if you just went across the board, for \$25 million it would be 7 percent cuts for everybody who works there. Is that a fair statement?

DR. MORRISON:

First, I came from the Washington, D.C., recently, and I have heard a lot about unfunded mandates. A lot of the budget issues we have to deal with come from unfunded mandates that occur at the national level. This makes the job of trying to improve the quality of instruction difficult.

The answer to your question is yes. What both my colleague and I are asking, on behalf of all 17 districts, is for the minimum amount of cuts and the maximum amount of flexibility you can afford us. Everybody wants to know what we are going to cut, but I will not answer that question until I know those two things: what is the size of the cut, and what is the flexibility we will have. We owe it to our employees, parents and students to be proactive and focused on improving results. Once we know those two factors, we will go out into the public, meet with employee associations and make decisions.

In our line of work, there is a tendency to say that we will try to keep cuts away from the classroom. We need to stop saying that because it makes taxpayers wonder if the cuts are taking money we did not need in the first place. These are going to be real cuts, and we know they will

have an impact. But we are committed to that reform agenda in Washoe County, and we are going to push for better results. It will be challenging, but the commitment is there, and we take it very seriously.

DR. RULFFES:

If I had the authority to make the decision, here is a hypothetical or theoretical answer. I built it on the basis that I prefer not to lay off any teachers, and I have a turnover rate of 700 to 800 vacancies. Here is how I would try to get to \$150 million. First, I would reduce the work year by at least four days. That equates to a salary cut of about 2 percent for everyone in the district. That has to be bargained. Second, I would ask for a delay in implementing the step increases, not the educational increments, but the step increases. That would only apply to people who have not reached the top of the salary schedule. There is some unfairness in that, but that would be another approach. Those two things alone would amount to around \$64 million, so we still have a long way to go, and that is assuming those could be negotiated or achieved through arbitration. Then I would increase class sizes in grades 1 through 3 by two students; in our case, that is almost \$31 million. That would cost 540 positions. I would commit the fund balance of under expenditures this year because we have been cutting and hoarding every dollar we can to see us through next year. We were hoping it would be next biennium, but it appears now it will be next year. That would amount to about \$40 million. I would adjust administrative and support ratios and try to achieve another \$10 million to \$12 million by making major reductions in administrative staff. It would not just be central staff, because we have already done that, but also school-based staff. Finally, to balance it out, we would have to do an additional reduction of at least 1 percent in all school staffing. We did 3 percent this year, and this would be a further 1 percent. That is what it would take to get to \$150 million.

We believe, if the number is accurate for the State cuts, that we will have a total of almost \$200 million in cuts because our local revenues are also down. We are struggling with the same lowered revenues you are struggling with. It is a portion of the property tax that you do not offset if it goes down. We estimate that could be as much as \$50 million. So even with all these adjustments, we still would have more reductions to make. That is why we plead on bended knee to treat us as you did last session. You did everything you could to protect K-12 education.

SENATOR TOWNSEND:

The reason I asked the question was that it is important for teachers, parents, taxpayers and anybody listening to this meeting on the Internet to understand the magnitude of the problem. If the budget was a Rubik's cube, we could give it to everybody in here and we would finally get all the colors on the right side, but it is not that simple. It is so much bigger and more complex than anyone who stops you in the grocery store imagines. I thank you for being so forthright with us because it gives us a sense of the magnitude of the challenge.

SENATOR RAGGIO:

Dr. Morrison, you said a 10-percent cut would result in the loss of \$25 million in State funding, and then you said that would result in an actual loss of \$40 million. How does that occur?

DR. MORRISON:

The additional \$15 million would be cuts to negotiated agreements, anticipated drop from this year, and student enrollment, and as well as the loss of some local revenue. For example, we have to make up two-thirds of the property tax loss. With all of those things together, we are looking at another \$15 million to \$18 million.

SENATOR RAGGIO:

Will this additional \$15 million cut occur regardless of the State cut?

DR. MORRISON:

Yes. Even if you do not cut us at all, we would still face a \$15 million to \$17 million shortfall.

SENATOR RAGGIO:

Just for clarification, Dr. Rulffes, you said the 10-percent cut equates to \$150 million in Clark County, is that right?

DR. RULFFES:

Yes. The 10-percent cut would be less than \$150 million.

SENATOR RAGGIO:

The overall 10-percent reduction in Washoe County is \$25 million. I am trying to compare apples to apples. What is the same reduction or loss of State funding in your district?

DR. RULFFES:

That would be \$111 million.

SENATOR WASHINGTON:

My question to both superintendents has to do with the decrease in your enrollment. Can you tell me what that equates to as far as percentages and loss of the DSA per student?

JIM WELLS (Deputy Superintendent, Administrative and Fiscal Services, Department of Education):

Could you repeat the question?

SENATOR WASHINGTON:

I was looking at Dr. Rheault's handout regarding the DSA, and I noticed weighted enrollment was consistent from FY 2008 through FY 2011. Both superintendents mentioned that they would be losing additional money because of declines in enrollment. What is the percentage of that loss based on the reduction of enrollment per student?

MR. WELLS:

What we are seeing across the board is a decline in enrollment. The statutes provide for a one-year "hold harmless" provision.

SENATOR WASHINGTON:

Is that a one-year or a three-year provision?

MR. WELLS:

It is a one-year hold harmless. It is the greater of the students in the current school year or the previous school year, unless that decline is greater than 5 percent, in which case it is two years. Of our 17 school districts, 13 of them, including both Clark and Washoe this year, are under hold harmless provisions, meaning that next year they will see fewer hard dollars than they saw this year.

SENATOR WASHINGTON:

What does that equate to, in either percentages or hard dollars?

MR. WELLS:

This year, the hold harmless provision is about \$22 million Statewide.

SENATOR WASHINGTON:

That is for one year, correct?

MR. WELLS:

Yes. That is what it is costing us. Next year, should enrollment continue to decline, the State basically would not pay out.

SENATOR WASHINGTON:

So you would not have to pay that \$22 million.

MR. WELLS:

Right, but the school districts, on the other hand, would not receive it.

SENATOR WASHINGTON:

Right, but they would not have the enrollment either. Is that correct?

MR. WELLS:

Yes.

SENATOR WASHINGTON:

What would be the cost per student in the DSA? What percent does that work out to?

MR. WELLS:

The way we handle hold harmless is that we pay the full dollar amount for that hold harmless student. It is not a percentage of that particular student. I do not have the percentage of what we pay out off the top of my head, but it is \$22 million for FY 2010. Next year we would not pay that, because next year's enrollment is based on the lower of next year's count day or the current year, which is already lower. We are projecting right now that there will not be an increase in enrollment; we are projecting basically flat enrollment or decreases. If there continue to be decreases like we saw this year, that hold harmless provision would still factor in, but it would still be \$22 million less than it is this year.

SENATOR WASHINGTON:

Can we get a list of those districts that are currently on the hold harmless clause and how many years they are out?

MR. WELLS:

We have that available, and I will get that to you.

SENATOR WASHINGTON:

Superintendents, if this hold harmless clause is \$22 million statewide, what would be the actual cause and effect on the class size reduction or all-day kindergarten, based on the reduction in enrollment? Do you have a guesstimate?

DR. MORRISON:

I am not sure there is a direct correlation to full-day kindergarten or class-size reduction. We are seeing most of the decline in enrollment not in the early years, but in the upper elementary school, middle school and high school. For us, as we look at next year, about \$5 million of that \$15 million shortfall is through our anticipated loss through class size.

SENATOR WASHINGTON:

So you would not have that anyway because of the decrease in enrollment.

DR. MORRISON:

Correct.

SENATOR WASHINGTON:

Is it actually \$15 million, or is it actually \$10 million because you would lose the \$5 million because of the hold harmless clause?

DR. MORRISON:

I believe it is still \$4.5 million less than we had anticipated. Even if everything else stays the same, we will have to let some teachers go because we have fewer students.

SENATOR WASHINGTON:

I appreciate that, but if you are having a decline in enrollment, you will need less staff.

DR. MORRISON:

We will have to let staff go, yes.

SENATOR WASHINGTON:

One additional question. Senator Raggio brought this up earlier, and this is dealing with charter schools. It was about \$600,000, and I made a note that those funds were actually State-sponsored charter school funds. You are going to sweep all that in, and then basically not provide the support service they need. How is that actually going to work? Those charter schools that are sponsored by the school districts still get to keep their funds and still get the support services they need.

MR. WELLS:

That \$600,000 is a sweep of reserves for funds we had collected over the course of the two or three years that we have held in reserve. If you remember, this last session we changed the provision to collect those fees on a quarterly basis as opposed to collecting them in arrears. The problem with collecting them in arrears is that we could not fund anything during the year; we always had to pay for it out of General Funds and other department resources, and then we collected those fees at the end of the year. At the IFC in November, we were approved to create an Office of Charter Schools within our department to provide technical assistance. There were three staff members who were included. We have budgeted for how much we know those positions will cost, assuming we get them through the hiring freeze, and how much we can collect in the current year and how much we propose to collect in FY 2011 through current sponsorship fees. We believe we have sufficient fees to run that office, to open FY 2012 and to still revert that \$600,000.

SENATOR WASHINGTON:

I appreciate what you are saying, and hopefully that is true. I have not been part of the IFC, so this is the first time I am getting a clear answer to the sweep of that \$600,000. I understand why we did what we did to support those State-sponsored charter schools. My concern is that we could fall back into the same situation. It is a small amount of money, but \$600,000 provides a lot of support for the 10 charter schools that are state-sponsored. That is a lot of additional support they may need, especially dealing with Special Education and some other ancillary needs.

MR. WELLS:

One of the three positions approved is a Special Education consultant to do just that: provide technical assistance to the charter schools that are sponsored by the State Board. There was another position that would deal with accountability and those kind of issues within that. We believe that, given the structure of what that office is set forth to do at this point, we have sufficient money, even reverting the \$600,000.

SENATOR HORSFORD:

Please get that information to Senator Washington so he has an opportunity to review it. If you give it to our staff, we will make it available to all the members of the Committee.

SENATOR COFFIN:

I have been in the Senate since we instituted class-size reduction. I was dismayed when the Governor's first announcement was interpreted to mean he wanted to get rid of class-size reductions and full-day kindergarten and make a lot of modifications. That was changed, and it was correctly stated that he wanted to give local school governing boards flexibility, which was much better. A majority of the 63 legislators support class-size reductions and full-day kindergarten and would throw themselves under a bus to keep them. But there are few of us left who helped start class-size reduction, and I think it is important to get a few words in on this.

Both of you responded to the questions from Senator Care in a roundabout way, but you got to the essence in favor of continuing class-size reduction.

When we started it in 1989, it was controversial, and it was controversial in 1991 because we were still getting started. It was kind of partisan in the beginning, but as it began to mellow, it became something more universally accepted until there was virtually no opposition and it was bipartisan. The point is in the beginning, we just put it on the books. The school districts were not ready for it. Then in 1991, we found that in order for the schools to comply, they had to do a lot of team teaching. We worked very hard over the years. As you have mentioned, Dr. Morrison, you are now familiar with the construction program that was started; you know now that all the classrooms that have been built in these elementary schools are too small for large classes.

We made compromises in 1993 because of a real shortage of money, and frankly we never fully funded the statute we had passed in 1989 and modified in 1993. The disappointing thing was we could not get cohort studies or longitudinal studies out of the districts. We tried and tried, and it always came back at us: "If you pay for it, we will do it." We were never very long on money around here, so we were short on getting it done. The thing is that I am speaking up for this program as someone who has seen it work, and you will hear teachers say it works. But all we have is anecdotal information for this State after 20 years. I do not know if there is anyone who will quarrel with its effectiveness, and I do not know anyone with any credibility who will say it is a waste of money. As you said, Dr. Rulffes, if you bump the ratio up to 1:18, you lose 540 teachers and save \$30 million. If it boils down to that, God help us. We would be neglecting the kids, the littlest ones, the ones who are at the prime learning age. We have them in a really good learning environment K-4, and I do not want to see us lose that. I do not want to trade away anything for it.

My preference would be to shorten the school year by a lot. I do not want to see any of these programs killed, and I do not want to see these teachers fired, and I do not want to see them have their pay cut. I would rather preserve programs and keep things intact by shortening the school year. It makes a lot of sense. I know Hawaii has been listed as a bad example, but it did not work primarily for their Special Education children.

Give me your opinion on shortening the district year by 10 or 12 days, including the days after the 180 days. That is a broad stroke, but we may have to do that.

DR. RULFFES:

My answer is also based on a lot of history. We have fought for years to increase the instructional time, so it is a tough pill for me to swallow to say we should shorten the instructional year. We believe some of the reforms that came through the Empowerment Program were because we lengthened the school day and the school year. If we shorten the work year in a way that does not impact the instructional program, that is something the Legislature could consider. It is certainly something I am taking to the negotiation table. It is a middle ground between shortening the work year and shortening the school year. I have a tough time endorsing shortening the school year.

SENATOR COFFIN:

But you are willing to endorse cutting programs or changing programs. You were talking about weakening the class-size reduction program. You could avoid that if you had a shorter school year.

DR. RULFFES:

I would approach it with a temporary waiver to the State Board of Education rather than tampering with the fundamental concept of reduced class size for grades 1 through 3. I believe the Board would honor that, given the financial conditions that currently exist.

SENATOR COFFIN:

A temporary waiver?

DR. RULFFES:

All waivers are on a one-year basis with the Board. As Senator Horsford indicated, that is available to us now.

DR. MORRISON:

Like you, Senator Coffin, we are huge advocates of early childhood instruction. The reduced class size and the full-day kindergarten are a tremendous gift to the children of Nevada. I am often asked why Nevada ranks so low in terms of results. One of the things I look at is early childhood instruction. Nevada has very little pre-kindergarten instruction. Why is it important, and why are we not anxious to reduce those class-size reductions and full-day kindergarten? If any of our testimony indicated that we are in favor of that, we are not. But we are having to make choices. I am a big believer in people as well as programs, and if you have to start looking at it, people make the difference as opposed to programs. I do not look at full-day kindergarten or class-size reduction as programs per se. I look at them as a commitment and promise to our children.

The reality is in Nevada, even when we have lower enrollment, we are seeing rabid increases in poverty, mobility and ESL needs. If we reduce our commitment to those early childhood years, we are not going to be putting kids on a path to graduation. Everyone in this room wants to see graduation rates increase. People ask me how we can increase graduation rates, and I tell them we need to have full-day kindergarten and a greater commitment to pre-kindergarten in our poverty schools. Graduation truly begins in kindergarten. The concern we have is that we want to make our Nevada students competitive across the country and across the world, and we owe them that. They are competing with students from China and India who go to school more than 220 days a year. Our children go to school for 6 1/2 hours a day; their school day is 9 hours. If you shorten the school year, the gap widens.

At the end of the day, it is people and programs. We are going to be asked to make a cut; we understand that, and we want to do it responsibly and proactively.

SENATOR COFFIN:

I am only advocating it on a temporary basis. We are now coming out of the recession nationally, though it is slow. I see this change as a one-year thing. It is an emergency, and that is how you save your programs. I suspect that with the attitude in the districts because of the emergency, all those subjects would get taught in that compressed period of time.

SENATOR HORSFORD:

Dr. Rulffes, please follow up with Senator Cegavske and supply her with the information regarding the number of full-time substitute teachers in the Clark County School District. I would also like you to work with the state superintendent on this issue on increased class size. One of the concerns several of us have expressed is that teachers are not certified necessarily in elementary and secondary both; they are K-8 or above. While I fully appreciate the large class sizes in the upper grades, if the teachers who end up getting eliminated due to transition K-8 because of the increased class sizes are not certified to teach in the upper grades, you have done a double disservice.

We need to be clear to the public and to the parents that even with class-size flexibility, the net effect across all grades will probably be more students in each classroom than today. We need to be straightforward that this approach is not going to solve our overcrowding problem in the majority of our schools throughout the state.

I thank you for continuing to work with us on those issues as we work towards a solution, and we appreciate you being here to provide your perspective.

KEN BURHMANN (Washoe Education Association):

I am the president of the Washoe Education Association and a 43-year veteran teacher of senior high school college-bound English. I am a native Nevadan from Elko. I am a product of the Nevada school system, and I am very proud to be a product of that system.

I am here today to encourage this body to do everything it can to prevent the Governor's proposed education cuts. It is our hope that this body will find the appropriate funding to help

secure a bright future for every student in Washoe and across the State. Large corporations and mining have a vested interest in our education system and will hopefully come to the table and provide the necessary support to keep class size low and graduation rates high.

Washoe County is just one of several local affiliates who have the ability to bargain contracts regarding pay, benefits and working conditions. The conversations that are shared with the school district are beneficial for all parties, and you have our word that we will continue to work hard with the school district to make sure these conversations take place. Each school district is different and has specific challenges that are met head-on at the bargaining table. I look forward to working with this body in doing everything we can to provide the best education possible for our students, even in this poor economic climate.

RUBEN MURILLO (Clark County Education Association):

I am a Special Education teacher from the Clark County School District. I am also the president of the Clark County Education Association, with 12,800 members.

A teacher's working conditions are a student's learning conditions. Whatever impacts teachers in the classroom directly impacts students in the classroom. Teachers enter the profession for many reasons, but mostly it is because of the love of children, seeing them grow and shaping their future. We do not get into education to get rich. We also do not get into education to be put in the poorhouse, and that is a struggle. I have worked at Macy's along with teaching for 23 years because I could not afford to live on my \$17,500 teacher's salary.

We are here to ask you to minimize the cuts to education because these cuts will result in increased class sizes, potential layoffs and the elimination of programs. Eventually, it is the students who suffer. I am asked what teachers are willing to sacrifice and what we have sacrificed already. I asked my colleagues this question, and they came up with a list. A lot of them spent their own money to supplement materials, pay for field trips or pay for other activities the class requires that the budget has already eliminated. Studies show the average is about \$1,200 per teacher. Large class sizes are another sacrifice. There are high schools in Clark County where you have 40 and sometimes 50 children in a classroom, and the caseloads are horrendous. There are some half-day kindergartens in Clark County where the rooms have 35 students twice a day, once in the morning and once in the afternoon. We pay for the increments in our salaries, funding our bachelor's and master's degrees. A pay cut imposed on teachers is seen by us as an attack on teachers.

Let me tell you what we have done collaboratively when it comes to collective bargaining. In a 30-year history of bargaining in Nevada, the CCSD and CCEA have led the State when it comes to school reform and working collaboratively. We were the ones who came to the school district and wanted to talk about the empowerment concept. Based on that, we have language in our contract that addresses alternative compensation and pay-for-performance. We have even reconstituted several schools based on the need, but it was bargained. It came to fruition by working collectively. We are also working together with the Obama administration's school improvement grants.

We sit at the table, along with the administrators and the support staff, to talk about what kind of models we can work with, how we can best work together so the students benefit. Before I became president of CCEA, our bargaining was not a good thing, relying on arbitration and such. We have reformed the way that we bargained and have gone to interest-based bargaining. We worked together to reduce staff to 97 percent. We have a process in our contract that allows for the teachers at a school to apply for a waiver for one year. We have language for reduction in force for surplus and for the transfer of teachers in a fair manner.

When it comes to school reform, we like to think we are up there with those in the country who are doing school reform. Dr. Rulfes and I were invited to Washington, D.C., in December to meet with U.S. Secretary of Education Arne Duncan and eight other school districts from across the country to talk about collaboration and school reform. Next week, I will be going to New York City to help make a presentation on our empowerment process. During the course of the year, we also have a contracts maintenance committee that meets quarterly to talk about the issues that cannot wait until the contract is open.

We feel we have done a great job in terms of minimizing the impact of collective bargaining on our students and the district. We ask that regardless of what happens here, we be allowed to

work with the district and to bargain what would be best for the school district, employees and students.

MARK COLEMAN (Clark County Association of School Administrators and Professional Technical Employees):

We are very aware of the seriousness of the situation the Clark County School District faces. We know there is pain, and that the pain needs to be shared. As long as the pain is going to be shared, we are more than willing to sit down and mutually discuss and resolve how to share that pain to help the district get through these difficult times. We are reasonable people, and we believe there are reasonable people at the district level. We believe we can resolve those issues.

We would like to ask that you not make any changes to NRS 288. We believe those issues can be resolved by sitting down to discuss and mutually resolve those issues.

SENATOR HORSFORD:

Chancellor Klaich, I would like a summary of your comments, and then we would like to have you back tomorrow morning for more.

DAN KLAICH (Chancellor, Nevada System of Higher Education):

I do not envy you the task in front of you. I followed Mr. Wilden in the Assembly earlier and mentioned that I would not be presenting alternatives that ask people to choose between eyeglasses and dentures or take away life-sustaining drugs. At the same time, the decisions you make regarding higher education directly impact Mr. Wilden's job. As education increases, the demand on those social services decreases, so cuts to higher education will inordinately push people into Mr. Wilden's realm, or possibly into Mr. Skolnik's realm at the Department of Corrections. You essentially have a choice here. We talk a lot about economic diversification in Nevada, and I do not know how it can be done with any further cuts to higher education.

We want to be a partner in this. We understand that you have a difficult job ahead of you. We understand that any sense of doing business as usual is out of context in this situation, and we are prepared to pledge to you that there are no sacred cows, no items we will not look at. We will do everything we can to spend every dollar you give to us with the maximum efficiency. However, I firmly believe that significant cuts to higher education, particularly on the heels of the disproportionately high cut to higher education in the 2009 Session, are going to lead to a self-fulfilling prophecy of what this State and the economy of this State is going to look like.

On the motion of Senator Wiener and second by Senator Breeden, the committee did rise, return and report back to the Senate.

Motion carried.

SENATE IN SESSION

At 6:23 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, February 23, 2010

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 1.

LUCINDA BENJAMIN
Assistant Chief Clerk of the Assembly

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Care, the privilege of the floor of the Senate Chamber for this day was extended to Jenny Care.

Senator Horsford moved that the Senate adjourn until Wednesday, February 24, 2010, at 9 a.m.

Motion carried.

Senate adjourned at 6:24 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate

UNION LABEL